

1 [Planning Code - Cottage Food Operation Controls]

2

3 **Ordinance amending the Planning Code, by adding Section 102.37 and amending**
4 **Section 204.1, to allow Cottage Food Operation as an accessory use for dwelling units**
5 **and increase the allowable area for accessory uses in dwelling units; and making**
6 **environmental findings, and findings of consistency with the General Plan, and the**
7 **eight priority policies of Planning Code, Section 101.1.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. The Board of Supervisors of the City and County of San Francisco hereby
17 finds and determines that:

18 (a) General Plan and Planning Code Findings.
19 (1) (b) On _____, the Planning Commission, in Resolution No.
20 _____, adopted findings that the actions contemplated in this ordinance are consistent,
21 on balance, with the City’s General Plan and eight priority policies of Planning Code Section
22 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with
23 the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by
24 reference.

25 (2) Pursuant to Planning Code Section 302, the Board finds that the
proposed ordinance will serve the public necessity, convenience and welfare for the reasons

1 set forth in Planning Commission Resolution No. _____, which reasons are
2 incorporated herein by reference as though fully set forth.

3 (b) Environmental Findings. The Planning Department has determined that the
4 actions contemplated in this ordinance comply with the California Environmental Quality Act
5 (California Public Resources Code Section 21000 et seq.). Said determination is on file with
6 the Clerk of the Board of Supervisors in File No. _____ and is hereby adopted by
7 this Board and incorporated herein by reference.

8 (c) General Findings.

9 (1) The City wishes to support the growing movement in California for
10 community-based food production connecting food to local communities, small businesses,
11 and environmental sustainability, which has been referred to as “cottage food,” “artisan food,”
12 “slow food” or “locally-based food.”

13 (2) Increased opportunities for entrepreneur development through
14 microenterprises can help to supplement household incomes, prevent poverty and hunger,
15 and strengthen local economies.

16 (3) Small businesses played an important role in helping slow economies
17 recover and prosper as an engine of job creation. During the 1990s, small businesses
18 created the majority of new jobs, and now account for 65 percent of the United States
19 employment.

20 (4) San Francisco is a leader in the local food movement passing its urban
21 agriculture reforms in 2011 to respond to the increased demand to produce and procure
22 locally produced agricultural products.

23 (5) The State of California recently passed Assembly Bill 1616, which
24 established regulations for cottage food operations and required cities and counties to permit
25 cottage food operations in residential dwellings.

1 (6) Accordingly, this Board seeks to amend the Planning Code to permit
2 cottage food operations as a permitted accessory use to dwelling units.

3
4 Section 2. The Planning Code is hereby amended by adding Section 102.37 and
5 amending Section 204.1, to read as follows:

6 **SEC. 102.37. COTTAGE FOOD OPERATION**

7 An Accessory Use to a dwelling unit as defined in Section 113758 of the California Health and
8 Safety Code.

9
10 **SEC. 204.1. ACCESSORY USES FOR DWELLINGS IN ~~R-OR-NC~~ ALL DISTRICTS.**

11 No use shall be permitted as an accessory use to a dwelling unit in any ~~R-OR-NC~~ District
12 ~~which~~ that involves or requires any of the following:

13 (a) Any construction features or alterations not residential in character;

14 (b) The use of more than ~~1/4~~ 1/3 of the total floor area of the dwelling unit, except in
15 the case of accessory off-street parking and loading or Neighborhood Agriculture as defined
16 by Section 102.35;

17 (c) The employment of any person not a resident in the dwelling unit, ~~other than~~ with
18 the following exceptions:

19 (1) a domestic servant, gardener, janitor or other person concerned in the
20 operation or maintenance of the dwelling unit; or

21 (2) for a Cottage Food Operation, in addition to the foregoing exceptions, the
22 employment of one employee who is not a family member or resident of the dwelling unit.

23 (d) Residential occupancy by persons other than those specified in the definition of
24 family in this Code;

1 (e) In RH-1(D), RH-1 and RH-1(S) Districts, the provision of any room for a roomer
2 or boarder with access other than from within the dwelling unit;

3 (f) Addition of a building manager's unit, unless such unit meets all the normal
4 requirements of this Code for dwelling units;

5 (g) The maintenance of a stock in trade other than garden produce related to
6 Neighborhood Agriculture as defined by Section 102.35 or materials and products related to a
7 Cottage Food Operation; or

8 ~~(h)~~ The use of show windows or window displays or advertising to attract
9 customers or clients; or

10 ~~(h)(i)~~ The conduct of a business office open to the public other than for sales related
11 to garden produce of Neighborhood Agriculture as defined by Section 102.35 or to the finished
12 products of a Cottage Food Operation; or

13 ~~(i)(j)~~ A Medical Cannabis Dispensary as defined in Section 209.3(k) and 217(k) of
14 this Code.

15 Provided, however, that Subsection ~~(h)(i)~~ of this Section shall not exclude the
16 maintenance within a dwelling unit of the office of a professional person who resides therein, if
17 accessible only from within the dwelling unit; and provided, further, that Subsection ~~(g)(h)~~ shall
18 not exclude the display of signs permitted by Article 6 of this Code.

19
20 Section 3. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the "Note" that appears under
6 the official title of the ordinance.

7
8 Section 5. Undertaking for the General Welfare. In enacting and implementing this
9 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
10 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
11 would be liable in money damages to any person who claims that such breach proximately
12 caused injury.

13 Section 6. No Conflict with State or Federal Law. Nothing in this ordinance shall be
14 interpreted or applied so as to create any requirement, power, or duty in conflict with any
15 State or federal law.

16
17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

19 By: _____
20 MARLENA G. BYRNE
21 Deputy City Attorney

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