

1 [Planning and Administrative Codes - Construction of In-Law Units in Existing Residential
2 Buildings or Auxiliary Structures on the Same Lot; Rent Control]

3 **Ordinance amending the Planning Code to allow the construction of an additional**
4 **dwelling unit or units within the existing envelope of a residential building or auxiliary**
5 **structure on the same lot (In-Law Units) on any parcel in the Castro Street**
6 **Neighborhood Commercial District and within 1,750 feet of the District boundaries,**
7 **excluding any lot within 500 feet of Block No. 2623, Lot Nos. 116 through 154; and**
8 **authorizing the Zoning Administrator to waive density and other Planning Code**
9 **requirements in order to create the In-Law Units; amending the Administrative Code, to**
10 **provide that an In-Law Unit constructed with a waiver of Code requirements shall be**
11 **subject to the provisions of the San Francisco Residential Rent Stabilization and**
12 **Arbitration Ordinance if the existing building, or any existing dwelling unit, is already**
13 **subject to the Rent Ordinance; making environmental findings, and findings of**
14 **consistency with the General Plan, and the eight priority policies of Planning Code,**
15 **Section 101.1, and directing the Clerk to send a copy of this Ordinance to the California**
16 **Department of Housing and Community Development, in accordance with State law.**

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18 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
19 **Additions to Codes** are in *single-underline italics Times New Roman font*.
20 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
21 **Board amendment additions** are in double-underlined Arial font.
22 **Board amendment deletions** are in ~~strikethrough Arial font~~.
23 **Asterisks (* * * *)** indicate the omission of unchanged Code
24 subsections or parts of tables.

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

Section 1. General and Environmental Findings.

1 (a) The Planning Department has determined that the actions contemplated in this
2 ordinance comply with the California Environmental Quality Act (California Public Resources
3 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
4 Supervisors in File No. _____ and is incorporated herein by reference.

5 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
6 findings that the actions contemplated in this ordinance are consistent, on balance, with the
7 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
8 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
9 Board of Supervisors in File No. _____, and is incorporated herein by reference.

10 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
11 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
12 in Planning Commission Resolution No. _____ and the Board incorporates such reasons
13 herein by reference. A copy of Planning Commission Resolution No. _____ is on file with the
14 Board of Supervisors in File No. _____.

15 Section 2. Specific Findings.

16 1. San Francisco has long had a housing shortage. The housing market continues to
17 be tight and housing costs are beyond the reach of many households.

18 2. Policy 1.5 of the City's 2009 Housing Element states that adding new units in
19 existing residential buildings represents a simple and cost-effective method of expanding the
20 City's housing supply.

21 3. In Section 65852.150 of the California Government Code, the State Legislature
22 finds and declares that second units are a valuable form of housing in California. Permitting
23 the creation of in-law units in existing residential buildings within the Castro Street
24 Neighborhood Commercial District and nearby will provide additional housing without
25 changing the built character of this established, already dense, and transit-rich neighborhood.

1 It also “greens” San Francisco by efficiently using existing buildings and allowing more
2 residents to live within walking distance of transit, shopping, and services.

3 Section 3. The Planning Code is hereby amended by amending Section 715.1 and the
4 Section 715 Zoning Control Table, to read as follows:

5 **SEC. 715.1. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

6 The Castro Street District is situated in Eureka Valley, close to the geographic center of
7 San Francisco between the Mission District, Twin Peaks, and Upper Market Street. The
8 physical form of the district is a crossing at Castro and 18th Streets, the arms of which contain
9 many small, but intensely active commercial businesses. The multi-purpose commercial
10 district provides both convenience goods to its immediate neighborhood as well as
11 comparison shopping goods and services on a specialized basis to a wider trade area.
12 Commercial businesses are active both in the daytime and late into the evening and include a
13 number of gay-oriented bars and restaurants, as well as several specialty clothing and gift
14 stores. The district also supports a number of offices in converted residential buildings.

15 The Castro Street District controls are designed to maintain existing small-scale
16 development and promote a balanced mix of uses. Building standards permit small-scale
17 buildings and uses and protect rear yards above the ground story and at residential levels. In
18 new buildings, most commercial uses are permitted at the ground and second stories. Special
19 controls are necessary to preserve the existing equilibrium of neighborhood-serving
20 convenience and specialty commercial uses. In order to maintain convenience stores and
21 protect adjacent residential livability, controls authorize some additional eating and drinking
22 establishments with a conditional use, permit self-service specialty food establishments, and
23 permit with certain limitations new late-night uses, adult and other entertainment, and financial
24 service uses. The continuous retail frontage is maintained by prohibiting most automobile and
25 drive-up uses.

Housing development in new buildings is encouraged above the second story. Existing housing units are protected by limitations on demolitions and upper-story conversions.

“In-Law Units,” which are also known as Secondary Units, are allowed in the Castro Street Neighborhood Commercial District and on a lot within 1,750 feet of the District boundaries, excluding any lot within 500 feet of Block 2623, Lots 116 through 154. For purposes of this Section, an In-Law Unit is defined as an additional dwelling unit that (1) is permitted to be constructed within the envelope of an existing building zoned for residential use or within the envelope of an existing auxiliary structure on the same lot and (2) will be constructed with a waiver from the Zoning Administrator of the density limits and/or the parking, rear yard, and open space standards of this Code pursuant to the Special Provisions in Table 715 and Section 307(l).

**SEC. 715. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

			Castro Street
No.	Zoning Category	§ References	Controls
BUILDING STANDARDS			
715.10	Height and Bulk Limit	§§ 102.12, 105, 106, 250-252, 260, 261.1, 263.20, 270, 271	40-X, 65B; additional 5 feet for parcels with active ground floor uses; see Section 263.20. See Zoning Map Height Sculpting on Alleys:

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			§ 261.1
715.11	Lot Size [Per Development]	§§ 121.1, 790.56	P up to 4,999 sq. ft.; C 5,000 sq. ft & above § 121.1
715.12	Rear Yard	§§ 130, 134, 136	Required at the second story and above and at all residential levels § 134(a) (e)
715.13	Street Frontage	§ 145.1	Required
715.14	Awning	§ 790.20	P § 136.1(a)
715.15	Canopy	§ 790.26	P § 136.1(b)
715.16	Marquee	§ 790.58	P § 136.1(c)
715.17	Street Trees		Required § 138.1
COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
715.20	Floor Area Ratio	§§ 102.9, 102.11, 123	3.0 to 1 § 124(a) (b)
715.21	Use Size	§§ 121.2, 790.50, 790.130	P to 1,999 sq. ft.;

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	[Non-Residential]		C 2,000 sq. ft. to 3,999 sq. ft.; NP # 4,000 sq. ft. & above
715.22	Off-Street Parking, Commercial/Institutional	§§ 150, 153 - 157, 159 - 160, 204.5	Generally, none required if occupied floor area is less than 5,000 sq. ft. §§ 151, 161(g)
715.23	Off-Street Freight Loading	§§ 150, 153 - 155, 204.5	Generally, none required if gross floor area is less than 10,000 sq. ft. §§ 152, 161(b)
715.24	Outdoor Activity Area	§ 790.70	P if located in front; C if located elsewhere § 145.2(a)
715.25	Drive-Up Facility	§ 790.30	
715.26	Walk-Up Facility	§ 790.140	P if recessed 3 ft.; C if not recessed § 145.2(b)

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715.27	Hours of Operation	§ 790.48			P 6 a.m. - 2 a.m.;	C 2 a.m. - 6 a.m.
715.30	General Advertising Sign	§§ 262, 602 - 604, 608, 609				
715.31	Business Sign	§§ 262, 602 - 604, 608, 609			P #	§ 607.1(f)2
715.32	Other Signs	§§ 262, 602 - 604, 608, 609			P #	§ 607.1(c) (d) (g)
No.	Zoning Category	§ References			Castro Street	
					Controls by Story	
		§ 790.118	1st	2nd	3rd+	
715.36	Residential Conversion	§ 317	P	C		
715.37	Residential Demolition	§ 317	P	C	C	
Retail Sales and Services						
715.40	Other Retail Sales and Services [Not Listed Below]	§ 790.102	P	P		
715.41	Bar	§ 790.22				
715.43	Limited-Restaurant	§ 790.90	P			
715.44	Restaurant	§ 790.91	C			
715.45	Liquor Store	§ 790.55	C			
715.46	Movie Theater	§ 790.64	P			

1	715.47	Adult Entertainment	§ 790.36	C		
2	715.48	Other Entertainment	§ 790.38	C		
3	715.49	Financial Service	§ 790.110	C	C	
4	715.50	Limited Financial Service	§ 790.112	C		
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6	715.51	Medical Service	§ 790.114	P	P	C
7	715.52	Personal Service	§ 790.116	P	P	C
8	715.53	Business or Professional Service	§ 790.108	P	P	C
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10	715.54	Massage Establishment	§ 790.60, § 1900 Health Code	C #	C #	
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13	715.55	Tourist Hotel	§ 790.46	C	C	C
14	715.56	Automobile Parking	§§ 156, 160, 790.8	C	C	C
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16	715.57	Automotive Gas Station	§ 790.14			
17	715.58	Automotive Service Station	§ 790.17			
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19	715.59	Automotive Repair	§ 790.15			
20	715.60	Automotive Wash	§ 790.18			
21	715.61	Automobile Sale or Rental	§ 790.12			
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23	715.62	Animal Hospital	§ 790.6	C		
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1	715.63	Ambulance Service	§ 790.2			
2	715.64	Mortuary	§ 790.62			
3	715.65	Trade Shop	§ 790.124	P	C	
4	715.66	Storage	§ 790.117			
5	715.68	Fringe Financial	§ 790.111			
6		Service				
7	715.69	Tobacco	§ 790.123	C		
8		Paraphernalia				
9		Establishments				
10	715.69B	Amusement Game	§ 790.4			
11		Arcade (Mechanical				
12		Amusement Devices)				
13	715.69C	Neighborhood	§ 102.35(a)	P	P	P
14		Agriculture				
15	715.69D	Large-Scale Urban	§ 102.35(b)	C	C	C
16		Agriculture				
17	Institutions and Non-Retail Sales and Services					
18	715.70	Administrative Service	§ 790.106			
19	715.80	Hospital or Medical	§ 790.44			
20		Center				
21	715.81	Other Institutions,	§ 790.50	P	C	C
22		Large				
23	715.82	Other Institutions,	§ 790.51	P	P	P
24		Small				
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1	715.83	Public Use	§ 790.80	C	C	C
2	715.84	Medical Cannabis Dispensary	§ 790.141	P		
3	RESIDENTIAL STANDARDS AND USES					
4	715.90	Residential Use	§ 790.88	P	P	P
5	715.91	Residential Density, Dwelling Units	§§ 207, 207.1, 790.88(a)	Generally, 1 unit per 600 sq. ft. lot area § 207.4#		
6	715.92	Residential Density, Group Housing	§§ 207.1, 790.88(b)	Generally, 1 bedroom per 210 sq. ft. lot area § 208		
7	715.93	Usable Open Space [Per Residential Unit]	§§ 135, 136	Generally, either 80 sq. ft. if private, or 100 sq. ft. if common § 135(d)#		
8	715.94	Off-Street Parking, Residential	§§ 150, 153 - 157, 159 - 160, 204.5	Generally, 1 space for each dwelling unit §§ 151, 161(a) (g)#		
9	715.95	Community Residential Parking	§ 790.10	C	C	C

**SPECIFIC PROVISIONS FOR CASTRO STREET
NEIGHBORHOOD COMMERCIAL DISTRICT**

Article 7 Code Section	Other Code Section	Zoning Controls
§ 715.21	§ 121.1	Use Size shall generally not exceed 4,000 square feet except that an Institution, Other Large as defined in Section 790.50 that is operated by a non-profit and is neighborhood-serving may exceed 4,000 sq. ft. by Conditional Use Authorization.
§ 715.31 § 715.32	§ 608.10	<p style="text-align: center;">UPPER MARKET STREET SPECIAL SIGN DISTRICT</p> <p>Boundaries: Applicable only for the portions of the Castro Street NCD as mapped on Sectional Map SSD</p> <p>Controls: Special restrictions and limitations for signs</p>
§ 715.44	§ 790.91	<p style="text-align: center;">CASTRO STREET LIQUOR LICENSES FOR RESTAURANTS</p> <p>Boundaries: Applicable to the Castro Street Neighborhood Commercial District</p> <p>Controls: A Restaurant Use may only add ABC license types 47, 49 or 75 as a conditional use on the ground level if, in addition to the criteria set forth in Section 303, the Planning Commission finds that the restaurant is operating as a Bona Fide Eating Place, as defined in Section 790.142 of this Code. Should a restaurant fail to operate as a Bona Fide Eating Place for any length of time, the conditional use authorization shall be subject to immediate revocation.</p>
.54	§ 790.60, § 1900	<p style="text-align: center;">MESSAGE ESTABLISHMENT</p> <p>Controls: Massage shall generally be subject to Conditional Use authorization. Certain exceptions to the Conditional Use requirement for</p>

<p>1 2 3 4</p>	<p>Health Code</p>	<p>massage are described in Section 790.60(c). When considering an application for a conditional use permit pursuant to this subsection, the Planning Commission shall consider, in addition to the criteria listed in Section 303(c), the additional criteria described in Section 303(o).</p>
<p>5 6 7 8 9 10 11 12</p>	<p>§ § 715.68 249.35</p>	<p style="text-align: center;">FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)</p> <p>Boundaries: The FFSRUD and its 1/4 mile buffer includes, but is not limited to, the Castro Street Neighborhood Commercial District.</p> <p>Controls: Within the FFSRUD and its 1/4 mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its 1/4 mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).</p>
<p>13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>§ 715</p>	<p style="text-align: center;"><u>IN-LAW UNITS</u></p> <p><u>Boundaries:</u> <i>The Castro Street NCD and on a lot within 1,750 feet of the District boundaries, excluding any lot within 500 feet of Block 2623, Lots 116 through 154.</i></p> <p><u>Controls:</u> <i>An “In-Law Unit,” as defined in Section 715, is permitted to be constructed within an existing building zoned for residential use or within an existing and authorized auxiliary structure on the same lot under the following conditions:</i></p> <p style="padding-left: 40px;"><i>(1) An In-Law Unit shall be constructed entirely within the existing building envelope.</i></p> <p style="padding-left: 40px;"><i>(2) For buildings that have no more than 10 existing dwelling units, one In-Law Unit is permitted; for buildings that have more than 10 existing dwelling units, two In-Law Units are permitted.</i></p>

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	<p><u>(3) An In-Law Unit shall not exceed 750 square feet of habitable space.</u></p> <p><u>(4) An In-Law Unit shall not be constructed using space from an existing dwelling unit.</u></p> <p><u>(5) Pursuant to the provisions of Section 307(l) of this Code, an In-Law Unit may receive a waiver of the density limits and/or parking, rear yard, and open space standards of this Code from the Zoning Administrator; provided, however, that if the existing building or any existing dwelling unit within the building is subject to the provisions of the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the San Francisco Administrative Code), the property owner shall submit to the Department (i) a proposed agreement demonstrating that the In-Law Unit(s) are not subject to the Costa Hawkins Rental Housing Act (California Civil Code Section 1954.50) because, under Section 1954.52(b), the owner has entered into this agreement with the City in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. ("Agreement") and (ii) if the Planning Director determines necessary, an Affidavit containing information about the direct financial contribution or other form of assistance provided to the property owner. The property owner and the Planning Director (or his designee), on behalf of the City, will execute the Agreement, which shall be reviewed and approved by the City Attorney's Office. The Agreement shall be approved prior to the City's issuance of the First Construction Document, as defined in Section 107A.13.1 of the San Francisco Building Code.</u></p>
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1 Section 4. The Planning Code is hereby amended by amending Section 307, to read as
2 follows:

3 **SEC. 307. OTHER POWERS AND DUTIES OF THE ZONING ADMINISTRATOR.**

4 In addition to those specified in Sections 302 through 306, and Sections 316 through
5 316.6 of this Code, the Zoning Administrator shall have the following powers and duties in
6 administration and enforcement of this Code. The duties described in this Section shall be
7 performed under the general supervision of the Director of Planning, who shall be kept
8 informed of the actions of the Zoning Administrator.

9 (a) **Rules, Regulations and Interpretations.** The Zoning Administrator shall,
10 consistent with the expressed standards, purposes and intent of this Code and pursuant to its
11 objectives, issue and adopt such rules, regulations and interpretations as are in the Zoning
12 Administrator's opinion necessary to administer and enforce the provisions of this Code. Such
13 rules and regulations, and any such interpretations that will be of general application in future
14 cases, shall be made a part of the permanent public records of the Planning Department. The
15 Zoning Administrator shall respond to all written requests for determinations regarding the
16 classification of uses and the interpretation and applicability of the provisions of this Code.

17 (b) **Compliance with This Code.** The Zoning Administrator shall have authority to take
18 appropriate actions to secure compliance with this Code, through review of permit
19 applications, surveys and record-keeping, enforcement against violations as described in
20 Section 176, and other means.

21 (c) **Inspection of Premises.** In the performance of any prescribed duties, the Zoning
22 Administrator and employees of the Planning Department authorized to represent the Zoning
23 Administrator shall have the right to enter any building or premises for the purposes of
24 investigation and inspection; provided, that such right of entry shall be exercised only at
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1 reasonable hours, and that in no case shall entry be made to any building in the absence of
2 the owner or tenant thereof without the written order of a court of competent jurisdiction.

3 (d) **Code Maintenance.** The Zoning Administrator shall periodically review and study
4 the effectiveness and appropriateness of the provisions of this Code, for the purpose of
5 recommending necessary changes to the Director of Planning and the Planning Commission.

6 (e) **Exercise of Powers and Duties by Others.** In cases where absence, incapacity,
7 vacancy of the office, conflict of interest or other sufficient reasons prevent action by the
8 Zoning Administrator, the Director of Planning may designate any officer or employee of the
9 Department to carry out any function of the Zoning Administrator so affected.

10 (f) **Cooperation With Other Departments.** The Zoning Administrator shall furnish to
11 the various departments, officers and employees of the City vested with the duty or authority
12 to issue permits or licenses (including but not limited to the Department of Public Works,
13 Department of Public Health, Police Department and Fire Department) such information as
14 will insure the proper administration of this Code and of all the rules, regulations,
15 interpretations and other determinations of the Planning Department relative thereto. It shall
16 be the duty of said departments, officers and employees to cooperate with the Zoning
17 Administrator in the performance of the Zoning Administrator's duties, and to assist in the
18 enforcement of the provisions of this Code.

19 (g) **Exceptions from Certain Specific Code Standards through Administrative**
20 **Review in the Chinatown Mixed Use Districts and the South of Market Mixed Use**
21 **Districts.** The Zoning Administrator may allow complete or partial relief from parking, rear
22 yard, open space and wind and shadow standards as authorized in the applicable sections of
23 this Code, when modification of the standard would result in a project better fulfilling the
24 criteria set forth in the applicable section. The procedures and fee for such review shall be the
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1 same as those which are applicable to variances, as set forth in Sections 306.1 through 306.5
2 and 308.2.

3 (h) **Exceptions from Certain Specific Code Standards through Administrative**
4 **Review in the Eastern Neighborhoods Mixed Use Districts.** In the Eastern Neighborhoods
5 Mixed Use Districts, the Zoning Administrator may allow complete or partial relief from certain
6 standards specifically identified below and elsewhere in this Code when modification of the
7 standard would result in a project fulfilling the criteria set forth below and in the applicable
8 section.

9 (1) **Applicability.** For projects not subject to Section 329, relief may be provided
10 for the following requirements: rear yard; non-residential open space; off-street loading
11 requirements; and off-street parking limits up to the maximum quantities described in Section
12 151.1. Relief may also be provided for dwelling unit exposure requirements for buildings which
13 are designated landmark buildings or contributory buildings within designated historic districts
14 per Article 10 of this Code, and/or buildings recorded with the State Historic Preservation
15 Office as eligible for the California Register, when the following criteria are met: (i) literal
16 enforcement of Section 140 would result in the material impairment of the historic resource;
17 and (ii) the project complies with the Secretary of the Interior's Standards, (36 C.F.R. § 67.7
18 (2001)) and/or Section 1006 and any related Article 10 appendices of this Code.

19 (2) **Procedures.** The review of a modification requested under this Section shall
20 be conducted as part of, and incorporated into, a related building permit application or other
21 required project authorizations; no additional fee shall be required. Under no circumstances
22 shall such modification provide relief from any fee, including those related to usable open
23 space pursuant to Sections 135(j) and 135.3(d). The provisions of this Subsection (h) shall not
24 preclude such additional conditions as may be deemed necessary by the Zoning
25 Administrator to further the purposes of this Section or other Sections of this Code.

1 **(i) Criteria for the Reduction or Modification of Off-Street Parking Requirements.**

2 In approving a reduction or modification of off-street requirements authorized by this Code,
3 the Zoning Administrator or the Planning Commission shall consider and apply the following
4 criteria:

5 (1) the reduction in the parking requirement is justified by the reasonably
6 anticipated automobile usage by residents of and visitors to the project; and

7 (2) the reduction in the parking requirement will not be detrimental to the health,
8 safety, convenience, or general welfare of persons residing in or working in the vicinity; and

9 (3) the minimization of conflict of vehicular and pedestrian movements; and

10 (4) the availability of transportation modes other than the automobile; and

11 (5) the pattern of land use and character of development in the vicinity; and

12 (6) such other criteria as the Zoning Administrator deems appropriate in the
13 circumstances of the particular case.

14 **(j) Conversion from Student Housing to Non-Student Residential Use.** If a

15 residential project no longer qualifies as Student Housing as defined in Planning Code Section
16 102.36, the Zoning Administrator may allow the conversion of the Student Housing to any
17 permitted residential use in the zoning district in which the Student Housing is located upon
18 determination that the converted Student Housing has complied with any applicable
19 Inclusionary Affordable Housing Requirements as outlined in Planning Code Section
20 415.3(c)(5)(C)(iii), and that all other Planning Code requirements applicable to that residential
21 use have been met or modified through appropriate procedures.

22 **(k) Waiver or Modification of Required Bicycle Parking.** The Zoning Administrator

23 shall conduct the review of any administrative waiver under Section 307(k) as part of, and
24 incorporate into, a related building permit application or other required project authorization
25 and shall not require an additional fee or application.

1 (1) Waiver or Modification of Class 1 Bicycle Parking Requirements.

2 (A) **Alternative Locations.** The Zoning Administrator may grant approval that
3 Class 1 bicycle parking be located on an offsite lot, under certain circumstances. Uses subject
4 to Section 155.2 may apply for alternative locations approval only when off-street automobile
5 parking does not exist on the subject lot. Existing City-owned buildings subject to 155.3 may
6 apply for alternative locations approval when compliance with subsection 155.3(b) may not be
7 feasible because of demonstrable hardship including when off-street automobile parking does
8 not exist on the subject lot. In acting upon all these cases, the Zoning Administrator shall be
9 guided by the following criteria:

10 (i) Such alternative facilities shall be well lit and secure.

11 (ii) The alternative facility bicycle entrance shall be no more than 500 feet
12 from the entrance of the primary building, unless there are no feasible locations within a 500
13 foot radius that can be provided. However, in no event shall an alternative location be
14 approved that is farther from the entrance of the building than the closest automobile parking
15 garage.

16 (B) **Temporary Exemptions.** The Zoning Administrator may issue a temporary
17 exemption for bicycle parking subject to Section 155.3 of this Code for one year, under the
18 following circumstances:

19 (i) For required Class 1 bicycle parking requirements in City-owned and
20 leased buildings, if no feasible alternative parking facility exists nearby that can be approved
21 pursuant to Subsection (k)(1)(A) above, or securing an alternative location would be unduly
22 costly and pose a demonstrable hardship on the Landlord or on the City where the City owns
23 the building. In order to obtain this exemption, the Responsible City Official shall certify to the
24 Zoning Administrator in writing that the Landlord or the City where the City owns the building,
25 will not prohibit Employees from storing a bicycle in a Workspace provided that such bicycles

1 are stored in a way that the Fire Code is not violated and that the normal business of the
2 building is not disrupted. The Responsible City Official shall provide the required bicycle
3 parking within one year of the issuance of such exemption, or shall obtain a new exemption
4 for each year until such bicycle parking is provided.

5 (ii) For required bicycle parking in non-accessory automobile garages or
6 lots with 500 or more spaces. In order to obtain this exemption, the Responsible City Official
7 shall provide to the Zoning Administrator in writing an analysis demonstrating that the demand
8 for bicycle parking in that location is less than the amount required by Section 155.3 of this
9 Code. This exemption may only be provided for any required bicycle parking above fifty Class
10 2 spaces. The exemptions for these garages may be issued for up to one year. The
11 Responsible City Official shall provide the required bicycle parking within one year of the
12 issuance of such exemption, or shall obtain a new exemption for each year until such bicycle
13 parking is provided.

14 (2) **Temporary Exemptions, Waiver or Modification of Required Class 2**
15 **Bicycle Parking.** Temporary exemptions for Class 2 bicycle parking shall be granted as
16 allowed in subsection 1(B) above. The Zoning Administrator may administratively waive some
17 or all of the Class 2 bicycle parking requirement in any case when all of findings (A)-(D) are
18 affirmatively met for some or all of the Class 2 requirements:

19 (A) No off-street auto parking is provided on-site in a garage or lot;

20 (B) No on-site publicly-accessible open space is provided where it would
21 be appropriate to locate some or all of the required Class 2 bicycle parking as allowed per
22 Section 155.1(b)(2) of this Code;

23 (C) The provision of on-site Class 2 bicycle parking is not desirable or
24 feasible based on the physical character, pedestrian circulation, historic character or urban
25 design of the building and block;

1 (D) The San Francisco Municipal Transportation Agency, Department of
2 Public Works, or other relevant agency will not grant approval to install Class 2 bicycle racks
3 in the public right-of-way adjacent to the subject lot sufficient to meet the requirements
4 because the bicycle rack would: (i) interfere with utilities or the general public welfare or (ii)
5 adversely affect the design and configuration of existing or planned streetscape
6 improvements.

7 (E) In Lieu Fee in Case of Waiver or Variance for Class 2 Parking. For
8 each required Class 2 bicycle parking space that the Zoning Administrator waives as a result
9 of a variance per Section 305 or waives in accordance with subsection (D)(ii) above, the
10 project sponsor shall pay an in lieu bicycle parking fee as provided by Section 430 et seq. of
11 this Code.

12 **(l) Exceptions from Certain Specific Code Standards through Administrative Review**
13 **in the Castro Street Neighborhood Commercial District and within 1,750 feet of the District**
14 **boundaries, excluding any lot within 500 feet of Block 2623, Lots 116 through 154.**

15 The Zoning Administrator may allow complete or partial relief from the density limits and from
16 the parking, rear yard, and open space requirements of this Code when modification of the requirement
17 would facilitate the construction of an In-Law Unit, as defined in Section 715.1 of this Code. The
18 exposure requirements of Section 140 may be satisfied through windows facing a 15 foot by 15 foot
19 rear yard. In considering any request for complete or partial relief from these Code requirements, the
20 Zoning Administrator shall facilitate the construction of such In-Law Units to the extent feasible and
21 shall consider any criteria elsewhere in this Section 307 that he or she determines to be applicable.

22 Section 5. The Administrative Code is hereby amended by amending Section 37.2, to
23 read as follows:

24 * * * *

1 (r) **Rental Units.** All residential dwelling units in the City and County of San Francisco
2 together with the land and appurtenant buildings thereto, and all housing services, privileges,
3 furnishings and facilities supplied in connection with the use or occupancy thereof, including
4 garage and parking facilities.

5 Garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks,
6 patios, or gardens on the same lot, or kitchen facilities or lobbies in single room occupancy
7 (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not be severed
8 from the tenancy by the landlord without just cause as required by Section 37.9(a). Any
9 severance, reduction or removal permitted under this Section 37.2(r) shall be offset by a
10 corresponding reduction in rent. Either a landlord or a tenant may file a petition with the Rent
11 Board to determine the amount of the rent reduction.

12 The term "rental units" shall not include:

13 (1) Housing accommodations in hotels, motels, inns, tourist houses, rooming and
14 boarding houses, provided that at such time as an accommodation has been occupied by a
15 tenant for 32 continuous days or more, such accommodation shall become a rental unit
16 subject to the provisions of this Chapter; provided further, no landlord shall bring an action to
17 recover possession of such unit in order to avoid having the unit come within the provisions of
18 this Chapter. An eviction for a purpose not permitted under Section 37.9(a) shall be deemed
19 to be an action to recover possession in order to avoid having a unit come within the
20 provisions of this Chapter;

21 (2) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a
22 majority of the residents or dwelling units solely owned by a nonprofit public benefit
23 corporation governed by a board of directors the majority of which are residents of the
24 dwelling units and where it is required in the corporate by-laws that rent increases be
25 approved by a majority of the residents;

1 (3) Housing accommodation in any hospital, convent, monastery, extended care
2 facility, asylum, residential care or adult day health care facility for the elderly which must be
3 operated pursuant to a license issued by the California Department of Social Services, as
4 required by California Health and Safety Chapters 3.2 and 3.3; or in dormitories owned and
5 operated by an institution of higher education, a high school, or an elementary school;

6 (4) Except as provided in Subsections (A), (B) and (C), dwelling units whose rents
7 are controlled or regulated by any government unit, agency or authority, excepting those
8 unsubsidized and/or unassisted units which are insured by the United States Department of
9 Housing and Urban Development; provided, however, that units in unreinforced masonry
10 buildings which have undergone seismic strengthening in accordance with Building Code
11 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
12 ordinance is not in conflict with the seismic strengthening bond program or with the program's
13 loan agreements or with any regulations promulgated thereunder;

14 (A) For purposes of Sections 37.2, 37.3(a)(10)(A), 37.4, 37.5, 37.6, 37.9, 37.9A,
15 37.10A, 37.11A and 37.13, and the arbitration provisions of Sections 37.8 and 37.8A
16 applicable only to the provisions of Sections 37.3(a)(10)(A), the term "rental units" shall
17 include units occupied by recipients of tenant-based rental assistance where the tenant-based
18 rental assistance program does not establish the tenant's share of base rent as a fixed
19 percentage of a tenant's income, such as in the Section 8 voucher program and the "Over-
20 FMR Tenancy" program defined in 24 CFR Section 982.4;

21 (B) For purposes of Sections 37.2, 37.3(a)(10)(B), 37.4, 37.5, 37.6, 37.9, 37.9A,
22 37.10A, 37.11A and 37.13, the term "rental units" shall include units occupied by recipients of
23 tenant-based rental assistance where the rent payable by the tenant under the tenant-based
24 rental assistance program is a fixed percentage of the tenant's income; such as in the Section
25

1 8 certificate program and the rental subsidy program for the Housing Opportunities for
2 Persons with Aids ("HOPWA") program (42 U.S.C. Section 12901 et seq., as amended);

3 (C) The term "rental units" shall include units in a building for which tax credits
4 are reserved or obtained pursuant to the federal low income housing tax credit program
5 (LIHTC, Section 42 of the Internal Revenue Code, 26 U.S.C. Section 42), that satisfy the
6 following criteria:

7 (i) Where a tenant's occupancy of the unit began before the applicable
8 LIHTC regulatory agreement was recorded; and,

9 (ii) Where the rent is not controlled or regulated by any use restrictions
10 imposed by the City and County of San Francisco, the San Francisco Redevelopment
11 Agency, the State of California Office of Housing and Community Development, or the United
12 States Department of Housing and Urban Development.

13 Nothing in this Section 37.2(r)(4)(C) precludes a landlord from seeking an exemption
14 from rent regulation on the basis of substantial rehabilitation under Section 37.2(r)(6).

15 This Section 37.2(r)(4)(C) definition of "rental unit" shall apply to any unit where the
16 qualifying tenant (see Section 37.2(r)(4)(C)(i)) is in possession of the unit on or after the
17 effective date of this ordinance (Ord. No. 281-06), including but not limited to any unit where
18 the tenant has been served with a notice to quit but has not vacated the unit and there is no
19 final judgment against the tenant for possession of the unit as of the effective date of this
20 ordinance (Ord. No. 281-06).

21 (D) The term "rental units" shall include In-Law Units constructed pursuant to Section
22 715.1 of the Planning Code and the Section 715 Zoning Control Table and that have received a waiver
23 of the density limits and/or the parking, rear yard, and open space standards from the Zoning
24 Administrator pursuant to Planning Code Section 307(l), provided that the building containing the In-
25 Law Unit(s) or any unit within the building is already subject to this Chapter.

1 (5) Rental units located in a structure for which a certificate of occupancy was first
2 issued after the effective date of this ordinance; (A) except as provided for certain categories
3 of units and dwellings by Section 37.3(d) and Section 37.9A(b) of this Chapter, (B) except as
4 provided in a development agreement entered into by the City under San Francisco
5 Administrative Code Chapter 56; and (C) except as provided for foreclosed units and
6 dwellings by Section 37.9D.

7 (6) Dwelling units in a building which has undergone substantial rehabilitation after
8 the effective date of this ordinance; provided, however, that RAP rental units are not subject to
9 this exemption; and except as provided for foreclosed units and dwellings by Section 37.9D.

10 (7) Dwellings or units otherwise subject to this Chapter 37, to the extent such
11 dwellings or units are partially or wholly exempted from rent increase limitations by the Costa-
12 Hawkins Rental Housing Act (California Civil Code Sections 1954.50, et seq.) and/or San
13 Francisco Administrative Code Section 37.3(d).

14 * * * *

15 Section 6. This section is uncodified. The Director of the Department of Building
16 Inspection shall determine whether equivalencies from the provisions of the San Francisco
17 Building Code can be developed in order to facilitate the construction of the In-Law Units
18 defined in Planning Code Section 715, shall prepare one or more Administrative Bulletins to
19 define and implement the code equivalencies, and shall coordinate with the Zoning
20 Administrator in the development of any joint Administrative Bulletins that the Planning and
21 Building Departments determine are necessary or desirable in order to implement the policy
22 and provisions of this ordinance. Any Administrative Bulletins developed jointly or by either
23 Department shall be completed within one year of the effective date of this ordinance.

24 Section 7. Effective Date. This ordinance shall become effective 30 days after
25 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

3 Section 8. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
4 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
5 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
6 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
7 additions, and Board amendment deletions in accordance with the "Note" that appears under
8 the official title of the ordinance.

9 Section 9. Severability. If any section, subsection, sentence, clause, phrase, or word of
10 this Section is for any reason held to be invalid or unconstitutional by a decision of any court
11 of competent jurisdiction, such decision shall not affect the validity of the remaining portions of
12 the Section. The Board of Supervisors hereby declares that it would have passed this Section
13 and each and every section, subsection, sentence, clause, phrase, and word not declared
14 invalid or unconstitutional without regard to whether any other portion of this Section would be
15 subsequently declared invalid or unconstitutional.

16 Section 10. Directions to Clerk. The Clerk is hereby directed to submit a copy of
17 this ordinance to the California Department of Housing and Community Development within
18 60 days following adoption pursuant to Section 65852.2(h) of the California Government
19 Code.

20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: _____
23 JUDITH A. BOYAJIAN
24 Deputy City Attorney

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