

BOARD of SUPERVISORS



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October 28, 2019

**File No. 191085**

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On October 22, 2019, Supervisor Mandelman introduced the following proposed legislation:

**File No. 191085**

**Resolution modifying interim zoning controls established in Resolution No. 430-19, which require a Conditional Use authorization for Residential Care Facilities, to clarify that those interim zoning controls apply to certain Residential Care Facilities, including facilities lacking required permits; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning

1 [Interim Zoning Controls - Conditional Use Authorization for Conversion of Unpermitted  
2 Residential Care Facilities]

3 **Resolution modifying interim zoning controls established in Resolution No. 430-19,**  
4 **which require a Conditional Use authorization for Residential Care Facilities, to clarify**  
5 **that those interim zoning controls apply to certain Residential Care Facilities, including**  
6 **facilities lacking required permits; affirming the Planning Department's determination**  
7 **under the California Environmental Quality Act; and making findings of consistency**  
8 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

9  
10 WHEREAS, In Resolution No. 430-19, the Board of Supervisors approved interim  
11 controls regarding Residential Care Facilities for 18 months, to require a Conditional Use  
12 authorization and specified findings for any proposed change of use from a Residential Care  
13 Facility; and

14 WHEREAS, Planning Code, Section 306.7, authorizes the Board of Supervisors to  
15 impose interim zoning controls to provide time for the orderly completion of a planning study  
16 and the adoption of appropriate legislation, and to ensure that the legislative scheme which  
17 may be ultimately adopted is not undermined during the planning and legislative process by  
18 changes of use or approval actions which will conflict with that scheme; and

19 WHEREAS, Residential Care Facilities, as defined in Planning Code, Sections 102 and  
20 890.50(e) and established with or without the benefit of any permits required under City law,  
21 provide lodging, board, and care for 24 hours or more to persons in need of specialized aid by  
22 State-licensed personnel, and include board and care homes, family care homes, long-term  
23 nurseries, orphanages, rest homes or homes for the treatment of addictive, contagious or  
24 other diseases, or psychological disorders; and

1           WHEREAS, The Department of Public Health, the Human Services Agency, the  
2 Department of Aging and Adult Services, and the San Francisco Long-Term Care  
3 Coordinating Council are actively assessing the current availability of Residential Care  
4 Facilities in San Francisco for aging populations and those in need of long-term mental health  
5 care; developing strategies to establish additional, economically sustainable Residential Care  
6 Facilities for City residents; and considering potential zoning amendments as one of the policy  
7 approaches to address these issues; and

8           WHEREAS, It is necessary for the City to further study and assess the establishment  
9 and sustainability of Residential Care Facilities as a critical component of the City's ability to  
10 serve populations with additional, long-term needs, as part of the City's future development;  
11 and

12           WHEREAS, San Francisco has the highest percentage of seniors and adults with  
13 disabilities of any urban area in California, and the number of seniors is steadily increasing,  
14 especially those over the age of 85; and

15           WHEREAS, Over 40% of San Francisco's seniors live without adequate support  
16 networks, in part because their families cannot find affordable housing in the City or because  
17 they do not have children; and

18           WHEREAS, In January 2019, the San Francisco Long-Term Care Coordinating  
19 Council's Assisted Living Workgroup issued a report regarding affordable assisted living in the  
20 City, which is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, and which  
21 found:

- 22           • There are 101 assisted living facilities with a total of 2,518 assisted living beds  
23           and since 2012, the City has lost 43 assisted living facilities which had provided  
24           243 assisted living facility beds;

- 1 • The number of assisted living facilities in the City has decreased, and the  
2 decrease has primarily occurred through the closure of small facilities,  
3 particularly the board and care homes with six or fewer beds, that are generally  
4 more affordable;
- 5 • Assisted living facilities in the City face economic challenges, such as slim profit  
6 margins and difficulty in finding employees that make it difficult for them to  
7 continue to operate; and
- 8 • There is unmet need for affordable assisted living facility placements, and that  
9 as of January 2019, available waitlist data indicates that at least 103 persons  
10 require such placements; and

11 WHEREAS, The Board of Supervisors (“Board”) has considered the impact on the  
12 public health, safety, and general welfare if the interim zoning controls proposed in this  
13 resolution are not imposed; and

14 WHEREAS, The Board has determined that the public interest will best be served by  
15 imposition of these interim zoning controls at this time, to ensure that any legislative scheme  
16 that may ultimately be adopted to regulate conversion of Residential Care Facility Uses will  
17 not be undermined during the planning and legislative process; and

18 WHEREAS, The Board finds that these interim controls are consistent with the General  
19 Plan, in that they satisfy Objective 4 to “foster a housing stock that meets the needs of all  
20 residents across lifecycles” and that they do not conflict with any other aspects of the General  
21 Plan; and

22 WHEREAS, The Board finds that these interim zoning controls advance Planning  
23 Code, Section 101.1(b)’s Priority Policy No. 2, “That existing housing and neighborhood  
24 character be conserved and protected in order to preserve the cultural and economic diversity  
25 of our neighborhoods,” and Priority Policy No. 3, “That the City’s supply of affordable housing

1 be preserved and enhanced,” in that these interim zoning controls seek to control the  
2 conversion of Residential Care Facility Uses, which would provide City policy-makers with the  
3 opportunity to develop legislative proposals that would allow seniors and other populations  
4 with needs to find affordable housing options in San Francisco, thus preserving the cultural  
5 and economic diversity of the City’s neighborhoods; and the Board also finds that these  
6 interim zoning controls do not have an effect on and therefore are consistent with Priority  
7 Policy Nos. 1, 4, 5, 6, 7, and 8 of Planning Code, Section 101.1; and

8 WHEREAS, The Planning Department has determined that the actions contemplated in  
9 this resolution comply with the California Environmental Quality Act (Pub. Res. Code Sections  
10 21000 *et seq.*), which determination is on file with the Clerk of the Board in File No. \_\_\_\_\_  
11 and is incorporated herein by reference, and the Board affirms this determination; now,  
12 therefore, be it

13 RESOLVED, That any proposed change of use from a Residential Care Facility, as  
14 defined in Sections 102 and 890.50(e) of the Planning Code, shall require Conditional Use  
15 Authorization while these interim zoning controls are in effect, if the Residential Care Facility  
16 (a) is properly licensed by the State of California, (b) provides services using personnel that  
17 are properly licensed by the State of California, (c) is or has been licensed to provide care for  
18 six or more people within the three years immediately prior to submitting any application to  
19 change the use, and (d) was established with or without the benefit of any permits required  
20 under City law; and be it

21 FURTHER RESOLVED, That, in addition to the findings required pursuant to Planning  
22 Code, Section 303, any consideration of a Conditional Use Authorization for a change of use  
23 from a Residential Care Facility to another use shall take into account the following factors:

24 1) Any findings by the Department of Public Health, the Human Services Agency,  
25 the Department of Aging and Adult Services, or the San Francisco Long-Term Care

1 Coordinating Council regarding the capacity of the existing Residential Care Facility Use, the  
2 population served, and the nature and quality of services provided;

3 2) The impact of the change of use on the neighborhood and community;

4 3) Whether there are sufficient available beds at a licensed Residential Care  
5 Facility within a one-mile radius of the site; and

6 4) Whether the Residential Care Facility Use to be converted will be relocated or  
7 replaced with another Residential Care Facility Use; and be it

8 FURTHER RESOLVED, That these interim controls shall remain in effect for 18  
9 months from the effective date of Resolution No. 430-19, or until the adoption of permanent  
10 legislation, whichever first occurs; and be it

11 FURTHER RESOLVED, That these interim zoning controls become effective when the  
12 Mayor signs this resolution, the Mayor returns the resolution unsigned, or the Board overrides  
13 the Mayor's veto of the resolution.

14  
15 APPROVED AS TO FORM:

16 DENNIS J. HERRERA  
17 City Attorney

18 By



19 ANDREW SHEN  
20 Deputy City Attorney

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