

1 [Interim Zoning Controls - Extending and Modifying Requirements for Conditional Use
2 Authorization for Conversion of Residential Care Facilities to Other Uses]

3 **Resolution extending for six months and modifying interim zoning controls enacted in**
4 **Resolution Nos. 430-19 and 539-19 to require a Conditional Use Authorization and**
5 **specified findings for a proposed change of use from a Residential Care Facility;**
6 **affirming the Planning Department’s determination under the California Environmental**
7 **Quality Act; and making findings of consistency with the General Plan, and the eight**
8 **priority policies of Planning Code, Section 101.1.**

9

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

15 WHEREAS, Residential Care Facilities, as defined in Planning Code Sections 102 and
16 890.50(e) and established with or without the benefit of any permits required under City law,
17 provide lodging, board, and care for 24 hours or more to persons in need of specialized aid by
18 State-licensed personnel, and include board and care homes, family care homes, long-term
19 nurseries, orphanages, rest homes or homes for the treatment of addictive, contagious or
20 other diseases, or psychological disorders; and

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

24 WHEREAS, Over 40% of San Francisco’s seniors live without adequate support
25 networks, in part because their families cannot find affordable housing in the City or because

1 they do not have children, and that this need is especially acute among LGBTQ seniors; and

2 WHEREAS, In January 2019, the San Francisco Long-Term Care Coordinating
3 Council's Assisted Living Workgroup issued a report regarding affordable assisted living in the
4 City, which is on file with the Clerk of the Board of Supervisors in File No. 210147, and which
5 found:

- 6 • As of August 2018 there were 101 assisted living facilities with a total of 2,518
7 assisted living beds and since 2012, the City had lost 43 assisted living facilities
8 which had provided 243 assisted living facility beds;
- 9 • The number of assisted living facilities in the City has decreased, and the
10 decrease has primarily occurred through the closure of small facilities,
11 particularly the board and care homes with six or fewer beds, that are generally
12 more affordable;
- 13 • Assisted living facilities in the City face economic challenges, such as slim profit
14 margins and difficulty in finding employees that make it difficult for them to
15 continue to operate; and
- 16 • There is unmet need for affordable assisted living facility placements, and that
17 as of January 2019, available waitlist data indicates that at least 103 persons
18 require such placements; and

19 WHEREAS, On October 1, 2019, the Board of Supervisors adopted Resolution No.
20 430-19, which imposed interim controls for an 18-month period to require Conditional Use
21 Authorization and specified findings for a proposed change of use from a Residential Care
22 Facility; and

23 WHEREAS, The circumstances that caused the Board to adopt the interim controls in
24 Resolution No. 430-19 and to modify those controls in Resolution No. 539-19 continue to
25 exist, with preliminary data provided by the Human Services Agency showing the loss of an

1 additional 11 assisted living facilities as of January 2021, accounting for a loss of 226 assisted
2 living facility beds in facilities of fewer than 100 beds; and

3 WHEREAS, The Planning Department issued a report dated January 29, 2021, which
4 found since the effective date of Resolution No. 430-19 on October 11, 2019:

- 5 • Two Conditional Use applications have been filed for the removal of a
6 Residential Care Facility, with one application seeking to convert a previously
7 closed facility with five assisted living beds into a single-family home having
8 been withdrawn, and the second application to convert a facility with six
9 assisted living beds that had closed in 2015 into two residential units currently
10 pending before the Planning Commission;
- 11 • Three Residential Care Facilities for people living with HIV/AIDS managed by
12 the Mayor’s Office of Housing and Community Development are being
13 considered for delicensing and conversion to affordable group housing
14 buildings, but have not yet filed Conditional Use applications for conversion;
- 15 • Two applications have been approved to create new Residential Care Facilities,
16 and two applications have been approved to expand existing facilities for a total
17 increase of 107 assisted living beds approved; and
- 18 • Residential Care Facilities are considered an Institutional Use that is permitted
19 in Residential zoning districts, with the exception of the RH-1 and RH-2 zoning
20 districts, where new Residential Care Facilities of seven or more beds are
21 Conditionally permitted; are not permitted in PDR districts; are not permitted on
22 the ground floor in the North Beach and Folsom Street Neighborhood
23 Commercial Districts and Regional Commercial Districts, and are Conditionally
24 permitted on the upper floors in those districts; and are Conditionally permitted
25 in the Pacific Avenue Neighborhood Commercial District; 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 continue to actively assess 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; to develop strategies to establish additional, economically sustainable Residential Care
6 Facilities for City residents; and to consider 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, Planning Code Section 306.7(h) authorizes the body that imposed the
13 interim controls to extend the interim controls up to a time period not to exceed 24 months;
14 and

15 WHEREAS, The Board of Supervisors (“Board”) has considered the impact on the
16 public health, safety, and general welfare if the interim zoning controls proposed in this
17 resolution are not extended and modified; and

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

22 WHEREAS, The Board finds that the extension and modification of these interim
23 controls is consistent with the General Plan, in that the controls satisfy Objective 4 to “foster a
24 housing stock that meets the needs of all residents across lifecycles” and that they do not
25 conflict with any other aspects of the General Plan; and

1 WHEREAS, The Board finds that the extension and modification of these interim
2 zoning controls advances Planning Code Section 101.1(b)'s Priority Policy No. 2, "That
3 existing housing and neighborhood character be conserved and protected in order to preserve
4 the cultural and economic diversity of our neighborhoods," and Priority Policy No. 3, "That the
5 City's supply of affordable housing be preserved and enhanced," in that these interim zoning
6 controls seek to control the conversion of Residential Care Facility Uses, which would provide
7 City policy-makers with the opportunity to develop legislative proposals that would allow
8 seniors and other populations with needs to find affordable housing options in San Francisco,
9 thus preserving the cultural and economic diversity of the City's neighborhoods; and the
10 Board also finds that these interim zoning controls do not have an effect on and therefore are
11 consistent with Priority Policy Nos. 1, 4, 5, 6, 7, and 8 of Planning Code Section 101.1; and

12 WHEREAS, The Planning Department has determined that the actions contemplated in
13 this resolution comply with the California Environmental Quality Act (Pub. Res. Code Sections
14 21000 *et seq.*), which determination is on file with the Clerk of the Board in File No. 210147
15 and is incorporated herein by reference, and the Board affirms this determination; now,
16 therefore, be it

17 RESOLVED, That the interim controls imposed by Resolution No. 430-19 and modified
18 by Resolution No. 539-19 are hereby extended and modified to revert to the interim controls
19 established by Resolution No. 430-19, and shall remain in effect until October 11, 2021, or
20 until the adoption of permanent legislation, whichever first occurs; and be it

21 FURTHER RESOLVED, That any proposed change of use from a Residential Care
22 Facility, as defined in Sections 102 and 890.50(e) of the Planning Code, shall require
23 Conditional Use Authorization while these interim zoning controls are in effect; and be it

24 FURTHER RESOLVED, That, in addition to the findings required pursuant to Planning
25 Code Section 303, any consideration of a Conditional Use Authorization for a change of use

1 from a Residential Care Facility to another use shall take into account the following factors:

2 1) Any findings by the Department of Public Health, the Human Services Agency, the
3 Department of Aging and Adult Services, or the San Francisco Long-Term Care Coordinating
4 Council regarding the capacity of the existing Residential Care Facility Use, the population
5 served, and the nature and quality of services provided;

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

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

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

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

14 FURTHER RESOLVED, The Clerk of the Board of Supervisors is hereby directed to
15 place a copy of this resolution in File No. 190908 for Resolution No. 430-19 and File No.
16 191085 for Resolution No. 539-19, and to make a notation cross-referencing this resolution
17 where Resolution Nos. 430-19 and 539-19 appear on the Board of Supervisors website as
18 legislation passed.

19 APPROVED AS TO FORM:

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21 DENNIS J. HERRERA
22 City Attorney

23 By /s/ Victoria Wong
24 VICTORIA WONG
25 Deputy City Attorney

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