Resolution extending for six months and modifying interim zoning controls enacted in Resolution Nos. 430-19 and 539-19 to require a Conditional Use Authorization and specified findings for a proposed change of use from a Residential Care Facility; 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.

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

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

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

WHEREAS, Over 40% of San Francisco’s seniors live without adequate support networks, in part because their families cannot find affordable housing in the City or because
they do not have children, and that this need is especially acute among LGBTQ seniors; and

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

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

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

WHEREAS, The circumstances that caused the Board to adopt the interim controls in
Resolution No. 430-19 and to modify those controls in Resolution No. 539-19 continue to
exist, with preliminary data provided by the Human Services Agency showing the loss of an
additional 11 assisted living facilities as of January 2021, accounting for a loss of 226 assisted
living facility beds in facilities of fewer than 100 beds; and

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

- Two Conditional Use applications have been filed for the removal of a
  Residential Care Facility, with one application seeking to convert a previously
  closed facility with five assisted living beds into a single-family home having
  been withdrawn, and the second application to convert a facility with six
  assisted living beds that had closed in 2015 into two residential units currently
  pending before the Planning Commission;

- Three Residential Care Facilities for people living with HIV/AIDS managed by
  the Mayor’s Office of Housing and Community Development are being
  considered for delicensing and conversion to affordable group housing
  buildings, but have not yet filed Conditional Use applications for conversion;

- Two applications have been approved to create new Residential Care Facilities,
  and two applications have been approved to expand existing facilities for a total
  increase of 107 assisted living beds approved; and

- Residential Care Facilities are considered an Institutional Use that is permitted
  in Residential zoning districts, with the exception of the RH-1 and RH-2 zoning
  districts, where new Residential Care Facilities of seven or more beds are
  Conditionally permitted; are not permitted in PDR districts; are not permitted on
  the ground floor in the North Beach and Folsom Street Neighborhood
  Commercial Districts and Regional Commercial Districts, and are Conditionally
  permitted on the upper floors in those districts; and are Conditionally permitted
  in the Pacific Avenue Neighborhood Commercial District; and
WHEREAS, The Department of Public Health, the Human Services Agency, the Department of Aging and Adult Services, and the San Francisco Long-Term Care Coordinating Council continue to actively assess the current availability of Residential Care Facilities in San Francisco for aging populations and those in need of long-term mental health care; to develop strategies to establish additional, economically sustainable Residential Care Facilities for City residents; and to consider potential zoning amendments as one of the policy approaches to address these issues; and

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

WHEREAS, Planning Code Section 306.7(h) authorizes the body that imposed the interim controls to extend the interim controls up to a time period not to exceed 24 months; and

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

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

WHEREAS, The Board finds that the extension and modification of these interim controls is consistent with the General Plan, in that the controls satisfy Objective 4 to “foster a housing stock that meets the needs of all residents across lifecycles” and that they do not conflict with any other aspects of the General Plan; and
WHEREAS, The Board finds that the extension and modification of these interim zoning controls advances Planning Code Section 101.1(b)’s Priority Policy No. 2, “That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods,” and Priority Policy No. 3, “That the City’s supply of affordable housing be preserved and enhanced,” in that these interim zoning controls seek to control the conversion of Residential Care Facility Uses, which would provide City policy-makers with the opportunity to develop legislative proposals that would allow seniors and other populations with needs to find affordable housing options in San Francisco, thus preserving the cultural and economic diversity of the City’s neighborhoods; and the Board also finds that these interim zoning controls do not have an effect on and therefore are consistent with Priority Policy Nos. 1, 4, 5, 6, 7, and 8 of Planning Code Section 101.1; and

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

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

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

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

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

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

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

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

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

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

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By /s/ Victoria Wong
VICTORIA WONG
Deputy City Attorney
Resolution extending for six months and modifying interim zoning controls enacted in Resolution Nos. 430-19 and 539-19 to require a Conditional Use Authorization and specified findings for a proposed change of use from a Residential Care Facility; 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.

March 15, 2021 Land Use and Transportation Committee - CONTINUED

March 22, 2021 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

March 22, 2021 Land Use and Transportation Committee - CONTINUED AS AMENDED

April 05, 2021 Land Use and Transportation Committee - RECOMMENDED

April 06, 2021 Board of Supervisors - ADOPTED
   Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 210147

I hereby certify that the foregoing Resolution was ADOPTED on 4/6/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

4.16.21
Date Approved