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

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

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

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

(a) General Plan and Planning Code Findings.

(1) On November 21, 2013, the Planning Commission, in Resolution No. 19028, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 130988, and is incorporated herein by reference.

(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
set forth in Planning Commission Resolution No. 19028, which reasons are incorporated herein by reference as though fully set forth.

(b) Environmental Findings. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 130998 and is hereby adopted by this Board and incorporated herein by reference.

(c) General Findings.

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

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

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

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

(5) The State of California recently passed Assembly Bill 1616, which established regulations for cottage food operations and required cities and counties to permit cottage food operations in residential dwellings.
Accordingly, this Board seeks to amend the Planning Code to permit cottage food operations as a permitted accessory use to dwelling units.

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

**SEC. 102.37. COTTAGE FOOD OPERATION**

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

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

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

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

(b) The use of more than \( \frac{1}{4} \) of the total floor area of the dwelling unit, except in the case of accessory off-street parking and loading or Neighborhood Agriculture as defined by Section 102.35;

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

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

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

(d) Residential occupancy by persons other than those specified in the definition of family in this Code;
(e) In RH-1(D), RH-1 and RH-1(S) Districts, the provision of any room for a roomer or boarder with access other than from within the dwelling unit;

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

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

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

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

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

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

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.
Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

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

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

By:  MARLENA G. BYRNE
Deputy City Attorney

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

December 09, 2013 Land Use and Economic Development Committee - RECOMMENDED AS COMMITTEE REPORT

December 10, 2013 Board of Supervisors - PASSED, ON FIRST READING
Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

December 17, 2013 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 130998

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 12/17/2013 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved