

1 [Secondary Ancillary Units.]  
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3 Ordinance amending the San Francisco Planning Code by repealing Section 207.2  
4 [Second Units] in its entirety, adding a new Section 207.2, and amending Section  
5 209.1 to authorize one additional secondary ancillary unit limited to 750 square feet  
6 of gross floor area within an existing structure on a lot within 1250 feet of a Primary  
7 Transit Street or Transit Center (as shown on the Transit Map in the Transportation  
8 Element of the San Francisco General Plan) and also within 1250 feet of a  
9 Neighborhood Commercial or Commercial zoning district, on a lot containing a  
10 qualified historical building or where the unit is specifically designed and  
11 constructed for the elderly or persons with physical disabilities, to provide that this  
12 ordinance is not intended to supersede prohibitions against ancillary units in  
13 private agreements binding homeowners, to prohibit subdivision of the main unit  
14 and the ancillary unit, to prohibit the owner from legalizing an illegal unit pursuant  
15 to the provisions of this ordinance, and providing that the secondary ancillary unit  
16 shall not be subject to the Rent Ordinance but requiring that a secondary an  
17 ancillary unit in a multi-family building shall be subject to affordability  
18 requirements; by amending Sections 135(d), Table 151 of Section 151 and 307(g) to  
19 establish the amount of open space and parking required for these secondary  
20 ancillary units; by amending the San Francisco Traffic Code by adding Section  
21 308.5.1 to prohibit issuance of a residential parking permit to the occupant of a  
22 secondary an ancillary-unit; by adding new Section 106.4.1.3 to the San Francisco  
23 Building Code to require site inspection prior to issuance of a building permit for  
24 the secondary ancillary unit to verify that no unpermitted unit exists on the  
25 property and prohibiting the issuance of a building permit or certificate of

1 occupancy for the ~~second~~ ancillary unit if an unpermitted unit has operated on the  
2 property within the previous ten years, unless that unit was legally demolished  
3 prior to January 1, 2003; and by amending Section 37.9 of the San Francisco  
4 Administrative Code to provide that an ancillary unit constructed within an existing  
5 unit exempt from rent control shall continue to be exempt from rent control, to  
6 require that notice to vacate a unit required to be removed or demolished by a City  
7 agency shall not be given to the tenant until the landlord receives the City's notice  
8 requiring demolition or removal, and to require relocation assistance for persons  
9 required to vacate illegal units; and adopting findings.

10 Note: Additions are *single-underline italics Times New Roman*;  
11 deletions are *strikethrough italics Times New Roman*.  
12 Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

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

14 Section 1. Findings. The Board of Supervisors makes the following findings in support  
15 of this legislation:

16 (a) The City and County of San Francisco currently has a severe housing  
17 shortage, in particular a shortage of affordable units and units for persons with disabilities.  
18 Based on the United States Census and population estimates from the Association of Bay  
19 Area Governments (ABAG), San Francisco's population grew by 33,265 people in the  
20 five-year period from 1995 to 2000, reaching 776,733 by the year 2000. ABAG estimates  
21 growth rates that would bring the City's population to 798,600 by 2005 and to 809,200 by  
22 2010, an increase of 32,467 additional persons that would have to be housed over the  
23 next 10 years.

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1 (b) By 2000, there were 329,700 households in San Francisco. ABAG  
2 estimates that the number of households in the City will continue to increase at an  
3 average of 1,303 new households per year until it reaches a projected 342,730 in 2010.

4 (c) State law mandates that the City update the Housing Element of its General  
5 Plan every five years. According to the Data and Needs Analysis recently developed by  
6 the Planning Department as Part One of the City's 2001 revision of the City's Residence  
7 Element, during the decade of the 1990s, the City experienced a population growth rate  
8 of 7.3% (52,774 new people) and a job growth rate of about 9.6% (55,250 new jobs).  
9 However, during approximately the same period of time, the City produced only 11,200  
10 net new housing units, down noticeably from the previous 10-year figure of almost 15,000  
11 units, and many of these new units came in the form of live/work units which are  
12 unsuitable for family housing. ABAG estimates a growth of 55,990 new jobs between  
13 2000 and 2010 and an additional 55,180 new jobs by the year 2020.

14 (d) Because job growth has outpaced housing development, and housing  
15 demand remains high in San Francisco, rents in the City have increased dramatically over  
16 the past decade. While renters occupy 65% of housing units in the City, the Department  
17 estimates that almost 80% of San Francisco households could not afford the average  
18 monthly asking rent for a market-rate two-bedroom apartment in 1999.

19 (e) As pointed out in the Department's Data and Needs Analysis, the high cost  
20 of housing leads to numerous troublesome effects including overwhelming rent burden as  
21 more of a household's income is needed to go toward rents, household overcrowding as  
22 more people squeeze into smaller affordable units or to share costs, an increase in  
23 workers per household needed to pay mortgage or meet monthly rent payments,  
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1 increased commuter traffic from San Francisco job holders who cannot afford to live in the  
2 City, and an increase in the homeless population.

3 (f) As required by state law, ABAG has determined that San Francisco's share  
4 of the regional housing need for 1999 through June 2006 is 20,374 units, or 2,717 units  
5 per year. San Francisco would need a total annual housing production rate of 2,852 units  
6 through June 2006 to achieve a 5% vacancy rate over the City's housing need.

7 (g) The Data and Needs Analysis states that both market-rate and affordable  
8 housing developers have reported that acquiring sites for housing in San Francisco is a  
9 challenge. One of the Department's recommendations for increasing the housing supply  
10 is to allow an increase in housing densities in appropriate areas. The Department has  
11 estimated that as many as 15,660 units can be constructed on sites bordering transit-  
12 preferential streets and neighborhood commercial districts.

13 (h) Allowing homeowners in San Francisco's transit intensive and shopping  
14 areas to add ~~secondary~~ ancillary rental units to their property is one of the most promising  
15 strategies for increasing the supply of housing in the City without significantly changing the  
16 aesthetic character of the City's neighborhoods.

17 (i) Because ~~secondary~~ ancillary units require no additional land and use  
18 existing structures and infrastructure, ancillary ~~secondary~~ units added to existing homes  
19 are generally more affordable than traditional rental units because they can be installed  
20 for one-third the cost; in addition, homeowners often charge less rent in order to get and  
21 keep good tenants.

22 (j) ~~Secondary~~ Ancillary units in existing homes also benefit low- and moderate-  
23 income homeowners by generating extra income to help them make mortgage payments  
24 and qualify for home loans.

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1           (k)     ~~A secondary~~ An ancillary unit can offer safe, semi-independent, and  
2 inexpensive housing for elderly or disabled relatives, returning adult children, and  
3 childcare or in-home health care workers.

4           (l)     Allowing owners of historic buildings to add ~~secondary~~ ancillary units will  
5 facilitate retention of these buildings, thereby furthering the policies of the City's General  
6 Plan and Planning Code Section 101.1, Priority Policy 7, while at the same time adding  
7 needed units to the housing supply.

8           (m)    The Data and Needs Analysis referred to in paragraph (c) above identifies a  
9 need for over 3,000 units accessible to ~~the~~ persons with physical disabilities and 1,500 units  
10 for the elderly. Allowing owners to add ~~secondary~~ ancillary units that are elderly and  
11 handicapped accessible will enable the City to meet more of the needs of these population  
12 groups. While the Board acknowledges that the Planning Department may not be able to  
13 monitor continued occupancy of these units by the elderly or persons with physical disabilities,  
14 it is important to increase the amount of accessible housing available to serve these  
15 populations.

16           (n)    Because it is expensive and may not be feasible to add an independently  
17 accessible parking space into an existing building, the Planning Code's requirement for  
18 one parking space for each new dwelling unit can be expected to decrease the amount of  
19 additional housing that could be added to the City's housing supply through the addition  
20 of ~~secondary~~ ancillary units. By waiving the parking requirement for ~~secondary~~ ancillary  
21 units, the Board of Supervisors finds that the critical need to increase the City's housing  
22 supply for the reasons stated above far outweighs the need for parking availability for  
23 automobiles.

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1           (o)     By constructing small secondary ancillary units along transit corridors and  
2 near neighborhood commercial districts, it is anticipated that many of the tenants of these  
3 units will not own automobiles. However, prohibiting tenants of secondary ancillary units  
4 from obtaining a residential parking area permit will further discourage automobile  
5 ownership by tenants of secondary ancillary units.

6           (p)     It is estimated that over 20,000 units of housing have been constructed in  
7 the City without permits. This legislation precludes legalization of those units as  
8 secondary ancillary units. However, an unintended result of the legislation may be the  
9 displacement of residents in illegal units as owners seek to clear the units for subsequent  
10 creation of legal ancillary units. Given housing market conditions, those tenants  
11 displaced from housing units without adequate relocation assistance suffer extraordinary  
12 hardships, including potential homelessness.

13           (q)     It is the public policy of this state and of the City to promote the balanced  
14 development of housing to address the needs of all sectors of the community, including  
15 those who cannot afford market-rate housing. Maintaining economic and social diversity  
16 is an important benefit to the entire community and economy. While new secondary  
17 ancillary units will address the needs of a portion of the housing market, development of  
18 the units without controls on rents will not primarily address the acute need for housing for  
19 very-low and low income individuals and seniors.

20           (r)     Imposing an affordability requirement for secondary ancillary units in multi-family  
21 buildings furthers the City's General Plan goals by increasing the supply of affordable housing  
22 in San Francisco, and helps to meet San Francisco's state-mandated share of affordable  
23 housing. The development of affordable housing on the same site as market-rate housing  
24 benefits the City because it: (1) increases social and economic integration of housing in the  
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1 City and encourages the distribution of affordable housing throughout all neighborhoods,  
2 resulting in social, cultural, and economic benefits; (2) provides a healthy job and housing  
3 balance; and (3) provides more affordable housing close to employment centers which in turn  
4 may have a positive economic impact by reducing commuting and labor costs, and may have  
5 a positive environmental impact by reducing commutes and traffic congestion.

6 The development of market-rate secondary ancillary units in multi-family buildings,  
7 however, encourages new residents to move to the City. These new residents place  
8 demands on services provided by both public and private sectors. Some of the public and  
9 private sector employees needed to provide services to the new residents require affordable  
10 housing. Because affordable housing is in short supply in the City, many of these new  
11 employees will be forced to live in less than adequate housing within the City, pay a  
12 disproportionate share of their incomes to live in adequate housing within the City, or  
13 commute ever-increasing distances to their jobs from housing located outside the City. These  
14 circumstances undermine the City's General Plan and strain the City's ability to accept and  
15 service new market-rate housing development.

16 To avoid overburdening private property owners with the task of providing affordable  
17 housing in the City, the affordability requirement for secondary ancillary units will apply in  
18 multi-family buildings, but not to secondary ancillary units in single-family residences. In  
19 addition, a property owner developing a secondary an ancillary unit may choose to make the  
20 unit affordable or pay an in lieu fee. The in lieu fee shall be set at less than the fee required  
21 for larger, new, market-rate residential developments established under Planning Code  
22 Section 315.6. The in lieu fee shall be used to increase the supply of housing affordable to  
23 qualifying households, and for the expenses of the Mayor's Office of Housing related to  
24 increasing such housing.

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1           The owners of multi-unit buildings who choose to construct an additional unit under this  
2 Ordinance receive material economic benefits because they will not be required to comply  
3 with general Planning Code requirements and, in many cases, would be precluded from  
4 constructing an additional unit under current Code requirements.

5           (s)    The City and County of San Francisco currently experiences a high level of  
6 automobile congestion that degrades air quality, threatens pedestrian safety, and detracts  
7 from the character and function of residential neighborhoods. Also, many neighborhoods  
8 in the City suffer from an imbalance of supply and demand for on-street parking, in which  
9 inadequate on-street parking spaces exist to serve residents. Limiting the creation of  
10 secondary ancillary units primarily to areas that are highly accessible to public transit or  
11 that are designed for elderly and disabled individuals will minimize the use of automobiles  
12 by secondary ancillary unit occupants and hence limit the negative impacts of automobile  
13 congestion and on-street parking.

14           Section 2. This ordinance is adopted pursuant to Planning Code Section 302 and,  
15 ~~F~~for all of the reasons set forth above, ~~this legislation~~ is consistent with the Priority  
16 Policies of Planning Code Section 101.1 and, more specifically, with Priority Policy 2 (that  
17 existing housing and neighborhood character be conserved and protected in order to  
18 preserve the cultural and economic diversity of our neighborhoods), Priority Policy 3 (that  
19 the City's supply of affordable housing be preserved and enhanced), and Priority Policy 7  
20 (that landmarks and historic buildings be preserved).

21           Section 3. To the extent that this ordinance's definition of secondary ancillary units  
22 includes an additional unit in a multi-family residential building, the Board of Supervisors  
23 intends to exceed the second unit requirements of California Government Code Section  
24 65852.2 and to subject these additional secondary ancillary units to the City's procedure  
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1 for processing permits as provided in this ordinance and elsewhere in the City's Municipal  
2 Code.

3 Section 4. The San Francisco Planning Code is hereby amended by repealing in  
4 its entirety Section 207.2 concerning Second Units.

5 Section 5. The San Francisco Planning Code is hereby amended by adding new  
6 Section 207.2, to read as follows:

7 SEC. 207.2 SECONDARY ANCILLARY UNITS. (a) A secondary An ancillary unit is  
8 defined as an additional, self-contained dwelling of no more than 750 square feet of gross floor  
9 area within an existing structure on the same lot as an existing residential building. Addition of  
10 the secondary ancillary unit will not change the official zoning classification of the lot. One  
11 secondary ancillary unit, in addition to the number permitted in the zoning district, may be  
12 installed in RH, RM and RC zoning districts as follows:

13 (1) A secondary An ancillary unit is permitted on a lot which is within 1250 feet of a  
14 Primary Transit Street or Transit Center, as shown on the Transit Map in the Transportation  
15 Element of the San Francisco General Plan as amended from time to time, and also within 1250 feet  
16 of an area zoned Neighborhood Commercial or Commercial; or

17 (2) A secondary An ancillary unit is permitted on a any lot containing a qualified  
18 historical building. After installation of the secondary unit, the building shall be subject to  
19 the standards and procedures for alteration of Significant Buildings set forth in Sections  
20 4111 through 4111.6 of this Code and, if determined by the Department of Building  
21 Inspection to be appropriate, may use the provisions of the State Historical Building  
22 Standards Code. For purposes of this Section 207.2, a "qualified historical building" is a  
23 building listed on or determined to be eligible for listing on an official Federal or State register,  
24 inventory, or survey or on a local survey or inventory of historically and architecturally significant  
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1 structures endorsed by the San Francisco Board of Supervisors; or ~~The alteration must meet~~  
2 ~~the standards of Article 11 for alteration of a Significant Building.~~

3 (3) ~~A secondary~~ An ancillary ~~unit that is specifically designed for and occupied by~~  
4 ~~the elderly or persons with physical disabilities, and is constructed in conformance with the~~  
5 ~~disabled access requirements of Section 101.17.9.1 of the California Building Code and in~~  
6 ~~addition includes a path of travel into the building that is accessible to a wheelchair user, is~~  
7 ~~permitted on any lot.~~

8 (4) This Section 207.2 and the provisions of Section 209.1 (n), (o) and (p) are  
9 not intended to supersede prohibitions against ancillary units in private agreements  
10 binding homeowners.

11 (b) The secondary ancillary unit shall be installed by obtaining a building permit and  
12 shall comply with the following provisions:

13 (1) The minimum amount of usable open space required for the secondary ancillary unit  
14 shall be as set forth in Section 135(d)(4) of this Code.

15 (2) Required off-street parking requirements shall be as set forth in Article 1.5 of this  
16 Code.

17 (3) No secondary ancillary units may be legally established without obtaining a  
18 building permit and all necessary approvals pursuant to this Section 207.2.

19 (4) Secondary Ancillary units may only be installed in an existing residential building  
20 or in an existing ancillary structure on the same lot; installation of the secondary ancillary unit  
21 may not expand the envelope of the structure either horizontally or vertically.

22 (5) Installation of an ancillary unit in a qualified historical building must meet the  
23 standards of Article 11 of this Code for alteration of a Significant Building. After  
24 installation of the ancillary unit, the entire building shall be subject to the standards and  
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1 procedures for alteration of Significant Buildings set forth in Sections 1111 through 1111.6  
2 of this Code and, if determined by the Department of Building Inspection to be  
3 appropriate, may use the provisions of the State Historical Building Standards Code.

4 (6) A lot with an ancillary unit may not be subdivided in a manner that would  
5 allow for the main dwelling unit and the ancillary unit to be located on separate lots; the  
6 main dwelling unit and the ancillary unit may not be sold or financed separately pursuant  
7 to any condominium plan, housing cooperative, or similar form of separate ownership.

8 (7) The owner of an illegal unit may not use the provisions of this Section 207.2 to  
9 legalize the unit. Prior to approval of a building permit for the ~~secondary~~ ancillary unit, the  
10 Department of Building Inspection shall inspect the site to ensure that an unpermitted dwelling  
11 unit does not exist on the property. No building permit or certificate of occupancy for the  
12 ~~secondary~~ ancillary unit shall be issued if evidence indicates that an unpermitted unit has  
13 operated in the building in the prior ten years, unless the unpermitted unit was demolished  
14 pursuant to a building permit prior to January 1, 2003. Records of the Building Department,  
15 Planning Department, Residential Rent Stabilization and Arbitration Board, or other applicable  
16 entity shall be reviewed for evidence of the operation of an unpermitted unit.

17 (c) ~~A secondary~~ An ancillary unit permitted under this Section 207.2 and Section  
18 209.1(n), ~~or (o) or (l)~~ (p) of this Code, where the final inspection and approval of the construction  
19 work for that unit under Building Code Section 108.5.6 is issued on or after the effective date of  
20 this ordinance, shall not be subject to the provisions of Administrative Code Chapters 37 and 37A  
21 (the “Residential Rent Stabilization and Arbitration Ordinance” or “Rent Ordinance”). Prior to  
22 renting any such unit, the owner or landlord shall inform the prospective tenant in writing that the  
23 unit is not subject to the Rent Ordinance.

1 (d) In multi-family buildings, the secondary ancillary unit shall be subject to the  
 2 “maximum annual rent” and “Notice of Special Restrictions” under Section 315 et seq. of this  
 3 Code. If the owner does not choose to subject the unit to affordability restrictions, the owner may  
 4 pay an in lieu fee under the procedure established in Section 315.6, except that the amount of the  
 5 in-lieu fee shall be either \$5,000 or the amount specified in Section 315.6, whichever is less. The  
 6 \$5,000 in-lieu fee shall be adjusted annually in an amount not to exceed the growth in the  
 7 Housing component of the Consumer Price Index, All Urban Consumers, San Francisco-  
 8 Oakland-San Jose, CA, as published from time to time by the U.S. Department of Labor.

9 Section 6. The San Francisco Planning Code is hereby amended by amending  
 10 Section 209.1, to read as follows:

11 SEC. 209.1. DWELLINGS.

	RH-1	RH-1(S)	RH-2	RH-3	RM-1	RM-2	RM-3	RM-4	RC-1	RC-2	RC-3	RC-4	
P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	(a) One-family dwelling having side yards as required by Section 133 of this Code.
	P	P	P	P	P	P	P	P	P	P	P	P	(b) Other one-family dwelling.
		P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	(c) Two-family dwelling with the second dwelling unit limited to 600 square feet of net floor area.
			P	P	P	P	P	P	P	P	P	P	(d) Other two-family dwelling.
	C	C	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	(e) Three-family dwelling.
			C	NA	NA	NA	NA	NA	NA	NA	NA	NA	(f) Dwelling at a density ratio up to one dwelling unit for each 3,000 square feet of lot area, but no more than three dwelling units per lot, if authorized as a conditional use by the City Planning Commission.
				C	NA	NA	NA	NA	NA	NA	NA	NA	(g) Dwelling at a density ratio up to one dwelling unit for each 1,500 square feet of lot area, if authorized as a conditional use by the City Planning Commission.

1					C	NA	NA	NA	NA	NA	NA	NA	NA	(h) Dwelling at a density ratio up to one dwelling unit for each 1,000 square feet of lot area, if authorized as a conditional use by the City Planning Commission.
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3						P	NA	NA	NA	P	NA	NA	NA	(i) Dwelling at a density ratio not exceeding one dwelling unit for each 800 square feet of lot area.
4							P	NA	NA		P	NA	NA	(j) Dwelling at a density ratio not exceeding one dwelling unit for each 600 square feet of lot area.
5								P	NA			P	NA	(k) Dwelling at a density ratio not exceeding one dwelling unit for each 400 square feet of lot area.
6									P				P	(l) Dwelling at a density ratio not exceeding one dwelling unit for each 200 square feet of lot area; provided, that for purposes of this calculation a dwelling unit in these districts containing no more than 500 square feet of net floor area and consisting of not more than one habitable room in addition to a kitchen and a bathroom may be counted as equal to ¾ of a dwelling unit.
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14	P	P	P	P	P	P	P	P	P	P	P	P	P	(m) Dwelling specifically designed for and occupied by senior citizens or physically handicapped persons, at a density ratio or number of dwelling units not exceeding twice the number of dwelling units otherwise permitted above as a principal use in the district. Such dwellings shall be limited to such occupancy for the actual lifetime of the building by the requirements of State or Federal programs for housing for senior citizens or physically handicapped persons, or otherwise by design features and by legal arrangements approved as to form by the City Attorney and satisfactory to the Department of City Planning.
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1	P	P	P	P	P	P	P	P	P	P	P	P	P	(n) <u>In addition to the dwelling or dwellings otherwise permitted by subsections (a), (b), and (d) through (m) above, one secondary ancillary unit limited to 750 square feet of net gross floor area in an existing structure on a lot within 1250 feet of a Primary Transit Street or Transit Center, as shown on the Transit Map in the Transportation Element of the San Francisco General Plan as amended from time to time, and also within 1250 feet of a Neighborhood Commercial or Commercial zoning district, as authorized by Section 207.2 of this Code.</u>
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9	P	P	P	P	P	P	P	P	P	P	P	P	P	(o) <u>In addition to the dwelling or dwellings otherwise permitted by subsections (a), (b), and (d) through (m) above, one secondary ancillary unit limited to 750 square feet of gross floor area in an existing structure on a lot containing a qualified historical building, as authorized by Section 207.2 of this Code.</u>
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14	P	P	P	P	P	P	P	P	P	P	P	P	P	(p) <u>In addition to the dwelling or dwellings otherwise permitted by subsections (a), (b), and (d) through (m) above, one secondary ancillary unit specifically designed for and occupied by the elderly or persons with physical disabilities and limited in size to 750 square feet of gross floor area, as authorized by Section 207.2 of this Code.</u>
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20 Section 7. The San Francisco Planning Code is hereby amended by amending  
 21 Section 135(d), to read as follows:

22 (d) Amount Required. Usable open space shall be provided for each building in  
 23 the amounts specified herein and in Table 135 for the district in which the building is  
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1 located; provided, however, that in the Rincon Hill Special Use District, Residential Sub-  
2 district, open space shall be provided in the amounts specified in Section 249.1(c)(4).

3 In Neighborhood Commercial Districts, the amount of usable open space to  
4 be provided shall be the amount required in the nearest Residential District, but the  
5 minimum amount of open space required shall be in no case greater than the amount set  
6 forth in Table 135 for the district in which the building is located. The distance to each  
7 Residential District shall be measured from the midpoint of the front lot line or from a point  
8 directly across the street therefrom, whichever requires less open space.

9 (1) For dwellings other than SRO dwellings, except as provided in  
10 Paragraph (d)(3) below, the minimum amount of usable open space to be provided for  
11 use by each dwelling unit shall be as specified in the second column of the table if such  
12 usable open space is all private. Where common usable open space is used to satisfy all  
13 or part of the requirement for a dwelling unit, such common usable open space shall be  
14 provided in an amount equal to 1.33 square feet for each one square foot of private  
15 usable open space specified in the second column of the table. In such cases, the  
16 balance of the required usable open space may be provided as private usable open  
17 space, with full credit for each square foot of private usable open space so provided.

18 (2) For group housing structures and SRO units, the minimum amount of  
19 usable open space provided for use by each bedroom shall be the amount required for a  
20 dwelling unit as specified in Paragraph (d)(1) above. For purposes of these calculations,  
21 the number of bedrooms on a lot shall in no case be considered to be less than one  
22 bedroom for each two beds. Where the actual number of beds exceeds an average of two  
23 beds for each bedroom, each two beds shall be considered equivalent to one bedroom.

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1 (3) For dwellings specifically designed for and occupied by senior  
2 citizens or physically handicapped persons, as defined and regulated by Section 209.1(m)  
3 of this Code, the minimum amount of usable open space to be provided for use by each  
4 dwelling unit shall be ½ the amount required for each dwelling unit as specified in  
5 Paragraph (d)(1) above.

6 (4) For secondary ancillary units permitted by Section 207.2 and Section  
7 209.1(n), (o) or and (p) of this Code, the minimum amount of usable open space to be provided for  
8 use by each secondary ancillary unit shall be 1/2 the amount required for each dwelling unit as  
9 specified in Paragraph (d)(1) above. The Zoning Administrator may grant an exception pursuant  
10 to Planning Code Section 307(g) to reduce or eliminate the amount of required open space for a  
11 secondary an ancillary unit added to an existing structure to the extent that physical constraints  
12 of the structure and site seriously constrain the ability to provide the full amount of required  
13 space.

14 Section 8. The San Francisco Planning Code is hereby amended by amending  
15 Section 151, Table 151, to read as follows:

<b>Table 151</b>	
<b>OFF-STREET PARKING SPACES REQUIRED</b>	
<b>Use or Activity</b>	<b>Number of Off-Street Parking Spaces Required</b>
Dwelling, except as specified below, and except in the Bernal Heights Special Use District as provided in Section 242	One for each dwelling unit.
Dwelling, RC-4, RSD and C-3 Districts, except in the Van Ness Special Use District	One for each four dwelling unit.
Dwelling, specifically designed for and occupied by senior citizens or physically handicapped persons, as defined and regulated by Section 209.1(m) of this Code	One-fifth the number of spaces specified above for the district in which the dwelling is located.

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1	Group housing of any kind	One for each three bedrooms or for each six beds, whichever results in the greater requirement, plus one for the manager's dwelling unit if any, with a minimum of two spaces required.
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3	SRO units	In the South of Market base area, one for each 20 units, plus one for the manager's dwelling unit, if any, with a minimum of two spaces.
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5	Hotel, inn or hostel in NC Districts	0.8 for each guest bedroom.
6	Hotel, inn or hostel in districts other than NC	One for each 16 guest bedrooms where the number of guest bedrooms exceeds 23, plus one for the manager's dwelling unit, if any.
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8	Motel	One for each guest unit, plus one for the manager's dwelling unit, if any.
9	Mobile home park	One for each vehicle or structure in such park, plus one for the manager's dwelling unit if any.
10	Hospital or other inpatient medical institution	One for each 16 guest excluding bassinets or for each 2,400 square feet of gross floor area devoted to sleeping rooms, whichever results in the greater requirement, provided that these requirements shall not apply if the calculated number of spaces is no more than two.
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14	Residential care facility	One for each 10 residents, where the number of residents exceeds nine.
15	Child care facility	One for each 25 children to be accommodated at any one time, where the number of such children exceeds 24.
16		
17	Elementary school	One for each six classrooms.
17	Secondary school	One for each two classrooms.
17	Post-secondary educational institution	One for each two classrooms.
18	Church or other religious institutions	One for each 20 seats by which the number of seats in the main auditorium exceeds 200.
19		
20	Theater or auditorium	One for each eight seats up to 1,000 seats where the number of seats exceeds 50 seats, plus one for each 10 seats in excess of 1,000.
21		
22	Stadium or sports arena	One for each 15 seats.
22	Medical or dental office or outpatient clinic	One for each 300 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
23		
24	Offices or studios of architects, engineers, interior designers and other design professionals and studios of graphic artists	One for each 1,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
25		

1	Other business office	One for each 500 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet, except one for each 750 square feet within the SSO District, where the occupied floor area exceeds 5,000 square feet.
2		
3	Restaurant, bar, nightclub, pool hall, dancehall, bowling alley or other similar enterprise	One for each 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
4	Retail space devoted to the handling of bulky merchandise such as motor vehicles, machinery or furniture	One for each 1,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
5	Greenhouse or plant nursery	One for each 4,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
6		
7	Other retail space	One for each 500 square feet of occupied floor area up to 20,000 where the occupied floor area exceeds 5,000 square feet, plus one for each 250 square feet of occupied floor area in excess of 20,000.
8		
9	Service, repair or wholesale sales space, including personal, home or business service space in South of Market Districts	One for each 1,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
10	Mortuary	Five.
11	Storage or warehouse space, and space devoted to any use first permitted in an M-2 District	One for each 2,000 square feet of occupied floor area, where the occupied floor area exceeds 10,000 square feet.
12	Arts activities and spaces except theater or auditorium spaces	One for each 2,000 square feet of occupied floor area, where the occupied floor area exceeds 7,500 square feet.
13		
14	Other manufacturing and industrial uses	One for each 1,500 square feet of occupied floor area, where the occupied floor area exceeds 7,500 square feet.
15		
16	Live/work units	One for each 2,000 square feet of occupied floor area, where the occupied floor area exceeds 7,500 square feet, except in RH or RM Districts, within which the requirement shall be one space for each live/work unit.
17		
18		
19		
20	<del>Secondary</del> <u>Ancillary units</u>	<u>No off-street parking is required for secondary ancillary units permitted by Section 207.2 and Section 209.1(n), (o) and (p) of this Code.</u>
21		
22		

23 Section 9. The San Francisco Planning Code is hereby amended by amending  
24 Section 307(g), to read as follows:

25

1           SEC. 307(g). Exceptions from Certain Specific Code Standards through  
2 Administrative Review. In the Chinatown Mixed Use Districts, ~~and~~ the South of Market  
3 Districts, and for secondary ancillary units authorized by Section 207.2, the Zoning  
4 Administrator may allow complete or partial relief from parking, rear yard, open space and  
5 wind and shadow standards as authorized in the applicable sections of this Code, when  
6 modification of the standard would result in a project better fulfilling the criteria set forth in  
7 the applicable section. The procedures and fee for such review shall be the same as  
8 those which are applicable to variances, as set forth in Sections 306.1 through 306.5 and  
9 308.2.

10           Section 10. The San Francisco Traffic Code is hereby amended by adding Section  
11 308.5.1, to read as follows:

12           SEC. 308.5.1 PROHIBITING ISSUANCE OF PERMITS TO TENANTS OF  
13 SECONDARY ANCIllARY UNITS PERMITTED BY PLANNING CODE SECTION 207.2 AND  
14 SECTION 209.1(N), AND (O) AND (P).

15           (a) Notwithstanding any other provisions of this Article, the Director of Parking and  
16 Traffic shall not issue any residential parking area permit pursuant to this Article to any vehicle  
17 registered to the tenant of a secondary an ancillary unit permitted by Planning Code Section  
18 207.2 and Sections 209.1(n), (o) and (p) of the San Francisco Planning Code.

19           Section 11. The San Francisco Building Code is hereby amended by adding  
20 Section 106.4.1.3, to read as follows:

21           106.4.1.3. Secondary Ancillary Units under Section 207.2 and Section 209.1(n), (o)  
22 and (p) of the San Francisco Planning Code.

23           106.4.1.3.1. Site inspection. Prior to approval of a building permit for a secondary an  
24 ancillary unit authorized by Section 207.2 and Section 209.1(n), (o) and (p) of the San

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1 Francisco Planning Code, the Department shall inspect the site to ensure that an unpermitted  
2 dwelling unit does not exist on the property. The permit applicant shall pay the standard hourly  
3 inspection fee as set forth in Table 1-G of this Code.

4 106.4.1.3.2. Building permit and certificate of occupancy. No building permit or certificate  
5 of occupancy for the secondary ancillary unit shall be issued if evidence indicates that an  
6 unpermitted unit has operated in the building in the prior ten years, unless the unpermitted unit  
7 was demolished pursuant to a building permit prior to January 1, 2003. Records of the Building  
8 Department, Planning Department, Residential Rent Stabilization and Arbitration Board, or  
9 other applicable entity shall be reviewed for evidence of the operation of an unpermitted unit.

10 Section 12. The San Francisco Administrative Code is hereby amended by  
11 amending Section 37.2 to add subsection (r)(8), to read as follows:

12 SEC. 37.2(r)(8)(1). An ancillary unit permitted under Section 207.2 and Sections  
13 209.1(n), (o), or (p) of the San Francisco Planning Code, where the final inspection and  
14 approval of the construction work for that unit under Building Code Section 108.5.6 is  
15 issued on or after the effective date of the ordinance authorizing such ancillary units, shall  
16 not be subject to the provisions of Administrative Code Chapters 37 and 37A (the  
17 “Residential Rent Stabilization and Arbitration Ordinance” or “Rent Ordinance”). Prior to  
18 renting any such unit, the owner or landlord shall inform the prospective tenant in writing  
19 that the unit is not subject to the Rent Ordinance.

20 (2) If an existing unit is exempt from the rent control provisions of the Rent  
21 Ordinance pursuant to California Civil Code Section 1954.52(a)(3)(A) and San Francisco  
22 Administrative Code Section 37.3(d)(1), and if an ancillary unit is permitted and  
23 constructed within that existing exempt unit as described in Section 37.2(r)(8)(1), then  
24 that pre-existing unit shall continue to be treated under the Rent Ordinance as if it were  
25

1 subject to Civil Code Section 1954.52(a)(3)(A) and San Francisco Administrative Code  
2 Section 37.3(d)(1). Such a pre-existing unit shall also continue to be treated under  
3 Administrative Code Section 37.9(i)(2) as “only one rental unit owned by the landlord in  
4 the building.”

5 Section 13 42. The San Francisco Administrative Code is hereby amended by  
6 amending Section ~~37.2~~ 37.9 to read as follows:

7 SEC. 37.9. EVICTIONS.

8 Notwithstanding Section 37.3, this Section shall apply as of August 24,  
9 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

10 (a) A landlord shall not endeavor to recover possession of a rental unit  
11 unless:

12 (1) The tenant:

13 (A) Has failed to pay the rent to which the landlord is lawfully entitled  
14 under the oral or written agreement between the tenant and landlord:

15 (i) Except that a tenant's nonpayment of a charge prohibited by Section  
16 919.1 of the Police Code shall not constitute a failure to pay rent; and

17 (ii) Except that, commencing August 10, 2001, to and including February  
18 10, 2003, a landlord shall not endeavor to recover or recover possession of a rental unit  
19 for failure of a tenant to pay that portion of rent attributable to a capital improvement  
20 passthrough certified pursuant to a decision issued after April 10, 2000, where the capital  
21 improvement passthrough petition was filed prior to August 10, 2001, and a landlord shall  
22 not impose any late fee(s) upon the tenant for such non-payment of capital improvement  
23 costs; or

24 (B) Habitually pays the rent late; or

25

1 (C) Gives checks which are frequently returned because there are  
2 insufficient funds in the checking account; or

3 (2) The tenant has violated a lawful obligation or covenant of tenancy  
4 other than the obligation to surrender possession upon proper notice or other than an  
5 obligation to pay a charge prohibited by Police Code Section 919.1, and failure to cure  
6 such violation after having received written notice thereof from the landlord, provided  
7 further that notwithstanding any lease provision to the contrary, a landlord shall not  
8 endeavor to recover possession of a rental unit as a result of subletting of the rental unit  
9 by the tenant if the landlord has unreasonably withheld the right to sublet following a  
10 written request by the tenant, so long as the tenant continues to reside in the rental unit  
11 and the sublet constitutes a one-for-one replacement of the departing tenant(s). If the  
12 landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the  
13 tenant's written request, the tenant's request shall be deemed approved by the landlord;  
14 or

15 (3) The tenant is committing or permitting to exist a nuisance in, or is  
16 causing substantial damage to, the rental unit, or is creating a substantial interference  
17 with the comfort, safety or enjoyment of the landlord or tenants in the building, and the  
18 nature of such nuisance, damage or interference is specifically stated by the landlord in  
19 writing as required by Section 37.9(c); or

20 (4) The tenant is using or permitting a rental unit to be used for any  
21 illegal purpose.

22 (5) The tenant, who had an oral or written agreement with the landlord  
23 which has terminated, has refused after written request or demand by the landlord to  
24 execute a written extension or renewal thereof for a further term of like duration and under  
25

1 such terms which are materially the same as in the previous agreement; provided, that  
2 such terms do not conflict with any of the provisions of this Chapter; or

3 (6) The tenant has, after written notice to cease, refused the landlord  
4 access to the rental unit as required by State or local law; or

5 (7) The tenant holding at the end of the term of the oral or written  
6 agreement is a subtenant not approved by the landlord; or

7 (8) The landlord seeks to recover possession in good faith, without  
8 ulterior reasons and with honest intent:

9 (i) For the landlord's use or occupancy as his or her principal residence  
10 for a period of at least 36 continuous months;

11 (ii) For the use or occupancy of the landlord's grandparents,  
12 grandchildren, parents, children, brother or sister, or the landlord's spouse, or the  
13 spouses of such relations, as their principal place of residency for a period of at least 36  
14 months, in the same building in which the landlord resides as his or her principal place of  
15 residency, or in a building in which the landlord is simultaneously seeking possession of a  
16 rental unit under Section 37.9(a)(8)(i). For purposes of this Section 37.9(a)(8)(ii), the term  
17 spouse shall include domestic partners as defined in San Francisco Administrative Code  
18 Sections 62.1 through 62.8.

19 (iii) For purposes of this Section 37.9(a)(8) only, as to landlords who  
20 become owners of record of the rental unit on or before February 21, 1991, the term  
21 "landlord" shall be defined as an owner of record of at least 10 percent interest in the  
22 property or, for Section 37.9(a)(8)(i) only, two individuals registered as domestic partners  
23 as defined in San Francisco Administrative Code Sections 62.1 through 62.8 whose  
24 combined ownership of record is at least 10 percent. For purposes of this Section  
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1 37.9(a)(8) only, as to landlords who become owners of record of the rental unit after  
2 February 21, 1991, the term "landlord" shall be defined as an owner of record of at least  
3 25 percent interest in the property or, for Section 37.9(a)(8)(i) only, two individuals  
4 registered as domestic partners as defined in San Francisco Administrative Code  
5 Sections 62.1 through 62.8 whose combined ownership of record is at least 25 percent.

6 (iv) A landlord may not recover possession under this Section 37.9(a)(8)  
7 if a comparable unit owned by the landlord is already vacant and is available, or if such a  
8 unit becomes vacant and available before the recovery of possession of the unit. If a  
9 comparable unit does become vacant and available before the recovery of possession,  
10 the landlord shall rescind the notice to vacate and dismiss any action filed to recover  
11 possession of the premises. Provided further, if a noncomparable unit becomes available  
12 before the recovery of possession, the landlord shall offer that unit to the tenant at a rent  
13 based on the rent that the tenant is paying, with upward or downward adjustments  
14 allowed based upon the condition, size, and other amenities of the replacement unit.  
15 Disputes concerning the initial rent for the replacement unit shall be determined by the  
16 Rent Board. It shall be evidence of a lack of good faith if a landlord times the service of  
17 the notice, or the filing of an action to recover possession, so as to avoid moving into a  
18 comparable unit, or to avoid offering a tenant a replacement unit.

19 (v) It shall be rebuttably presumed that the landlord has not acted in  
20 good faith if the landlord or relative for whom the tenant was evicted does not move into  
21 the rental unit within three months and occupy said unit as that person's principal  
22 residence for a minimum of 36 continuous months.

23 (vi) Once a landlord has successfully recovered possession of a rental  
24 unit pursuant to Section 37.9(a)(8)(i), then no other current or future landlords may  
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1 recover possession of any other rental unit in the building under Section 37.9(a)(8)(i). It is  
2 the intention of this Section that only one specific unit per building may be used for such  
3 occupancy under Section 37.9(a)(8)(i) and that once a unit is used for such occupancy, all  
4 future occupancies under Section 37.9(a)(8)(i) must be of that same unit, provided that a  
5 37.2(r)landlord may file a petition with the Rent Board, or at the landlord's option,  
6 commence eviction proceedings, claiming that disability or other similar hardship prevents  
7 him or her from occupying a unit which was previously occupied by the landlord.

8 (vii) If any provision or clause of this amendment to Section 37.9(a)(8) or the  
9 application thereof to any person or circumstance is held to be unconstitutional or to be  
10 otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect  
11 other chapter provisions, and clauses of this Chapter are held to be severable; or

12 (9) The landlord seeks to recover possession in good faith in order to sell  
13 the unit in accordance with a condominium conversion approved under the San Francisco  
14 subdivision ordinance and does so without ulterior reasons and with honest intent; or

15 (10) The landlord seeks to recover possession in good faith in order to  
16 demolish or to otherwise permanently remove the rental unit from housing use and has  
17 obtained all the necessary permits on or before the date upon which notice to vacate is  
18 given, and does so without ulterior reasons and with honest intent; and if the demolition or  
19 permanent removal is based upon a notice or order from a City agency requiring  
20 demolition or removal, that notice or order must be received by the landlord on or before  
21 the date upon which notice to vacate is given; provided that a landlord who seeks to  
22 demolish an unreinforced masonry building pursuant to Building Code Chapters 14 and  
23 15 must provide the tenant with the relocation assistance specified in Section 37.9A(f)  
24 below prior to the tenant's vacating the premises; where the landlord seeks to demolish or  
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1 otherwise permanently remove from rental housing use an illegal secondary ancillary unit  
2 installed without permit from rental housing use, each authorized occupant of the unpermitted  
3 unit (including any minor child) who has resided in the unit for 12 or more months as of the time  
4 the unit is vacated pursuant to notice, shall be entitled to receive relocation expenses of \$2,000, up  
5 to a maximum of \$6,000 per unit, in addition to all rights under any other provision of law.  
6 One-half of the relocation assistance payment shall be provided to each such authorized occupant  
7 at the time of service of the notice to vacate, and the remaining one-half payment shall be paid at  
8 the time and as a condition of within 72 hours after vacating the premises. A landlord who pays  
9 relocation costs as required by this subsection in conjunction with a notice to quit need not pay  
10 relocation costs with any further notices to quit for the same unit that are served within 180 days  
11 of the notice that included the required relocation payment. Commencing March 1, 2003, these  
12 relocation expenses shall increase annually at the rate of increase in the "rent of primary  
13 residence" expenditure category of the Consumer Price Index (CPI) for the preceding 12 months,  
14 as that data is made available by the United States Department of Labor. The remedies available  
15 under this Subsection 37.9(a)(10) shall be in addition to any other remedies that may be available  
16 to a tenant; or.

17 (11) The landlord seeks in good faith to remove temporarily the unit from  
18 housing use in order to be able to carry out capital improvements or rehabilitation work  
19 and has obtained all the necessary permits on or before the date upon which notice to  
20 vacate is given, and does so without ulterior reasons and with honest intent. Any tenant  
21 who vacates the unit under such circumstances shall have the right to reoccupy the unit  
22 at the prior rent adjusted in accordance with the provisions of this Chapter. The tenant will  
23 vacate the unit only for the minimum time required to do the work. On or before the date  
24 upon which notice to vacate is given, the landlord shall advise the tenant in writing that  
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1 the rehabilitation or capital improvement plans are on file with the Central Permit Bureau  
2 of the Department of Building Inspection and that arrangements for reviewing such plans  
3 can be made with the Central Permit Bureau. In addition to the above, no landlord shall  
4 endeavor to recover possession of any unit subject to a RAP loan as set forth in Section  
5 37.2(m) of this Chapter except as provided in Section 32.69 of the San Francisco  
6 Administrative Code. The tenant shall not be required to vacate pursuant to this Section  
7 37.9(a)(11), for a period in excess of three months; provided, however, that such time  
8 period may be extended by the Board or its Administrative Law Judges upon application  
9 by the landlord. The Board shall adopt rules and regulations to implement the application  
10 procedure. Any landlord who seeks to recover possession under this Section 37.9(a)(11)  
11 shall pay the tenant actual costs up to \$1,000 for moving and relocation expenses not  
12 less than 10 days prior to recovery of possession; or

13 (12) The landlord seeks to recover possession in good faith in order to  
14 carry out substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the  
15 necessary permits on or before the date upon which notice to vacate is given, and does  
16 so without ulterior reasons and with honest intent. Notwithstanding the above, no landlord  
17 shall endeavor to recover possession of any unit subject to a RAP loan as set forth in  
18 Section 37.2(m) of this Chapter except as provided in Section 32.69 of the San Francisco  
19 Administrative Code; or

20 (13) The landlord wishes to withdraw from rent or lease all rental units  
21 within any detached physical structure and, in addition, in the case of any detached  
22 physical structure containing three or fewer rental units, any other rental units on the  
23 same lot, and complies in full with Section 37.9A with respect to each such unit; provided,  
24 however, that a unit classified as a residential unit under Chapter 41 of this Code which is  
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1 vacated under this Section 37.9(a)(13) may not be put to any use other than that of a  
2 residential hotel unit without compliance with the provisions of Section 41.9 of this Code;  
3 or

4 (14) The landlord seeks in good faith to temporarily recover possession of  
5 the unit for less than 30 days solely for the purpose of effecting lead remediation or  
6 abatement work, as required by San Francisco Health Code Article 26. The relocation  
7 rights and remedies, established by San Francisco Administrative Code Chapter 72,  
8 including but not limited to, the payment of financial relocation assistance, shall apply to  
9 evictions under this Section 37.9(a)(14).

10 (b) A landlord who resides in the same rental unit with his or her tenant  
11 may evict said tenant without just cause as required under Section 37.9(a) above.

12 (c) A landlord shall not endeavor to recover possession of a rental unit  
13 unless at least one of the grounds enumerated in Section 37.9(a) or (b) above is the  
14 landlord's dominant motive for recovering possession and unless the landlord informs the  
15 tenant in writing on or before the date upon which notice to vacate is given of the grounds  
16 under which possession is sought and that advice regarding the notice to vacate is  
17 available from the Residential Rent Stabilization and Arbitration Board, before  
18 endeavoring to recover possession. A copy of all notices to vacate except three-day  
19 notices to vacate or pay rent and a copy of any additional written documents informing the  
20 tenant of the grounds under which possession is sought shall be filed with the Board  
21 within 10 days following service of the notice to vacate. The District Attorney shall  
22 determine whether the units set forth on the list compiled in accordance with Section  
23 37.6(k) are still being occupied by the tenant who succeeded the tenant upon whom the  
24 notice was served. In cases where the District Attorney determines that Section 37.9(a)(8)

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1 has been violated, the District Attorney shall take whatever action he deems appropriate  
2 under this Chapter or under State law.

3 (d) No landlord may cause a tenant to quit involuntarily or threaten to  
4 bring any action to recover possession, or decrease any services, or increase the rent, or  
5 take any other action where the landlord's dominant motive is retaliation for the tenant's  
6 exercise of any rights under the law. Such retaliation shall be a defense to any action to  
7 recover possession. In an action to recover possession of a rental unit, proof of the  
8 exercise by the tenant of rights under the law within six months prior to the alleged act of  
9 retaliation shall create a rebuttable presumption that the landlord's act was retaliatory.

10 (e) It shall be unlawful for a landlord or any other person who willfully  
11 assists the landlord to endeavor to recover possession or to evict a tenant except as  
12 provided in Section 37.9(a) and (b). Any person endeavoring to recover possession of a  
13 rental unit from a tenant or evicting a tenant in a manner not provided for in Section  
14 37.9(a) or (b) without having a substantial basis in fact for the eviction as provided for in  
15 Section 37.9(a) shall be guilty of a misdemeanor and shall be subject, upon conviction, to  
16 the fines and penalties set forth in Section 37.10A. Any waiver by a tenant of rights under  
17 this Chapter except as provided in Section 37.10A(g), shall be void as contrary to public  
18 policy.

19 (f) Whenever a landlord wrongfully endeavors to recover possession or  
20 recovers possession of a rental unit in violation of Sections 37.9 and/or 37.10 as enacted  
21 herein, the tenant or Board may institute a civil proceeding for injunctive relief, money  
22 damages of not less than three times actual damages, (including damages for mental or  
23 emotional distress), and whatever other relief the court deems appropriate. In the case of  
24 an award of damages for mental or emotional distress, said award shall only be trebled if  
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1 the trier of fact finds that the landlord acted in knowing violation of or in reckless disregard  
2 of Section 37.9 or 37.10A herein. The prevailing party shall be entitled to reasonable  
3 attorney's fees and costs pursuant to order of the court. The remedy available under this  
4 Section 37.9(f) shall be in addition to any other existing remedies which may be available  
5 to the tenant or the Board.

6 (g) The provisions of this Section 37.9 shall apply to any rental unit as  
7 defined in Sections 37.2(r)(4)(A) and 37.2(r)(4)(B), including where a notice to vacate/quit  
8 any such rental unit has been served as of the effective date of this Ordinance No. 250-98  
9 but where any such rental unit has not yet been vacated or an unlawful detainer judgment  
10 has not been issued as of the effective date of this Ordinance No. 250-98.

11 (h) With respect to rental units occupied by recipients of tenant-based  
12 rental assistance, the notice requirements of this Section 37.9 shall be required in  
13 addition to any notice required as part of the tenant-based rental assistance program,  
14 including but not limited to the notice required under 24 CFR Section 982.310(e)(2)(ii).

15 (i) The following additional provisions shall apply to a landlord who  
16 seeks to recover a rental unit by utilizing the grounds enumerated in Section 37.9(a)(8):

17 (1) A landlord may not recover possession of a unit from a tenant under  
18 Section 37.9(a)(8) if the landlord has or receives notice, any time before recovery of  
19 possession, that any tenant in the rental unit:

20 (A) Is 60 years of age or older and has been residing in the unit for 10  
21 years or more; or

22 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has  
23 been residing in the unit for 10 years or more, or is catastrophically ill within the meaning  
24 of Section 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:  
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1 (i) A “disabled” tenant is defined for purposes of this Section  
2 37.9(i)(1)(B) as a person who is disabled or blind within the meaning of the federal  
3 Supplemental Security Income/California State Supplemental Program (SSI/SSP), and  
4 who is determined by SSI/SSP to qualify for that program or who satisfies such  
5 requirements through any other method of determination as approved by the Rent Board;

6 (ii) A “catastrophically ill” tenant is defined for purposes of this Section  
7 37.9(i)(1)(B) as a person who is disabled as defined by Section 37.9(i)(1)(B)(i), and who is  
8 suffering from a life threatening illness as certified by his or her primary care physician.

9 (2) The foregoing provisions of Sections 37.9(i)(1)(A) and (B) shall not  
10 apply where there is only one rental unit owned by the landlord in the building, or where  
11 each of the rental units owned by the landlord in the same building where the landlord  
12 resides (except the unit actually occupied by the landlord) is occupied by a tenant  
13 otherwise protected from eviction by Sections 37.9(i)(1)(A) or (B) and where the landlord's  
14 qualified relative who will move into the unit pursuant to Section 37.9(a)(8) is 60 years of  
15 age or older.

16 (3) The provisions established by this Section 37.9(i) include, but are not  
17 limited to, any rental unit where a notice to vacate/quit has been served as of the date this  
18 amendment takes effect but where the rental unit has not yet been vacated or an unlawful  
19 detainer judgment has not been issued.

20 (4) Within 30 days of personal service by the landlord of a written  
21 request, or, at the landlord's option, a notice of termination of tenancy under Section  
22 37.9(a)(8), the tenant must submit a statement, with supporting evidence, to the landlord  
23 if the tenant claims to be a member of one of the classes protected by Section 37.9(i).  
24 The written request or notice shall contain a warning that a tenant's failure to submit a  
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1 statement within the 30 day period shall be deemed an admission that the tenant is not  
2 protected by Section 37.9(i). The landlord shall file a copy of the request or notice with the  
3 Rent Board within 10 days of service on the tenant. A tenant's failure to submit a  
4 statement within the 30 day period shall be deemed an admission that the tenant is not  
5 protected by Section 37.9(i). A landlord may challenge a tenant's claim of protected status  
6 either by requesting a hearing with the Rent Board or, at the landlord's option, through  
7 commencement of eviction proceedings, including service of a notice of termination of  
8 tenancy. In the Rent Board hearing or the eviction action, the tenant shall have the  
9 burden of proof to show protected status. No civil or criminal liability under Section 37.9(e)  
10 or (f) shall be imposed upon a landlord for either requesting or challenging a tenant's  
11 claim of protected status.

12 (5) This Section 37.9(i) is severable from all other sections and shall be  
13 of no force or effect if any temporary moratorium on owner/relative evictions adopted by  
14 the Board of Supervisors after June 1, 1998 and before October 31, 1998 has been  
15 invalidated by the courts in a final decision.

16 Section 14 43. SEVERABILITY. If any part or provision of this ordinance, or the  
17 application thereof to any person or circumstance, is held invalid, the remainder of this  
18 ordinance, including the application of such part or provision to other persons or  
19 circumstances, shall not be affected thereby and shall continue in full force and effect. To  
20 this end, provisions of this ordinance are severable.

21 APPROVED AS TO FORM:

22 DENNIS J. HERRERA, City Attorney

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24 By:

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JUDITH A. BOYAJIAN  
Deputy City Attorney

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