

1 [Secondary 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 unit limited to 750 square feet of gross**

6 **floor area within an existing structure on a lot within 1250 feet of a Primary Transit**

7 **Street or Transit Center and also within 1250 feet of a Neighborhood Commercial or**

8 **Commercial zoning district, on a lot containing a qualified historical building or**

9 **where the unit is specifically designed and constructed for the elderly or persons**

10 **with physical disabilities, to prohibit the owner from legalizing an illegal unit**

11 **pursuant to the provisions of this ordinance, and providing that the secondary unit**

12 **shall not be subject to the Rent Ordinance but requiring that a secondary unit in a**

13 **multi-family building shall be subject to affordability requirements; by amending**

14 **Sections 135(d), Table 151 of Section 151 and 307(g) to establish the amount of**

15 **open space and parking required for these secondary units; ~~and~~ by amending the**

16 **San Francisco Traffic Code by adding Section 308.5.1 to prohibit issuance of a**

17 **residential parking permit to the occupant of a secondary unit; by adding new**

18 **Section 106.4.1.3 to the San Francisco Building Code to require site inspection**

19 **prior to issuance of a building permit for the secondary unit to verify that no**

20 **unpermitted unit exists on the property and prohibiting the issuance of a building**

21 **permit or certificate of occupancy for the second unit if an unpermitted unit has**

22 **operated on the property within the previous ten years, unless that unit was legally**

23 **demolished prior to January 1, 2003; and by amending Section 37.9 of the San**

24 **Francisco Administrative Code to require relocation assistance for persons**

25 **required to vacate illegal units; and adopting findings.**

1                   Note:           Additions are *single-underline italics Times New Roman*;  
2                                   deletions are ~~*strikethrough italics Times New Roman*~~.  
3                                   Board amendment additions are double underlined.  
4                                   Board amendment deletions are ~~strikethrough normal~~.

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

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

7           (a)    The City and County of San Francisco currently has a severe housing  
8 shortage, in particular a shortage of affordable units and units for persons with disabilities.  
9 Based on the United States Census and population estimates from the Association of Bay  
10 Area Governments (ABAG), San Francisco's population grew by 33,265 people in the  
11 five-year period from 1995 to 2000, reaching 776,733 by the year 2000. ABAG estimates  
12 growth rates that would bring the City's population to 798,600 by 2005 and to 809,200 by  
13 2010, an increase of 32,467 additional persons that would have to be housed over the  
14 next 10 years.

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

18           (c)   State law mandates that the City update the Housing Element of its General  
19 Plan every five years. According to the Data and Needs Analysis recently developed by  
20 the Planning Department as Part One of the City's 2001 revision of the City's Residence  
21 Element, during the decade of the 1990s, the City experienced a population growth rate  
22 of 7.3% (52,774 new people) and a job growth rate of about 9.6% (55,250 new jobs).  
23 However, during approximately the same period of time, the City produced only 11,200  
24 net new housing units, down noticeably from the previous 10-year figure of almost 15,000  
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1 units, and many of these new units came in the form of live/work units which are  
2 unsuitable for family housing. ABAG estimates a growth of 55,990 new jobs between  
3 2000 and 2010 and an additional 55,180 new jobs by the year 2020.

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

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

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

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

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

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

9 (j) Secondary units in existing homes also benefit low- and moderate-income  
10 homeowners by generating extra income to help them make mortgage payments and  
11 qualify for home loans.

12 (k) A secondary unit can offer safe, semi-independent, and inexpensive  
13 housing for elderly or disabled relatives, returning adult children, and childcare or in-home  
14 health care workers.

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

19 (m) The Data and Needs Analysis referred to in paragraph (c) above identifies a  
20 need for over 3,000 units accessible to the persons with physical disabilities and 1,500 units  
21 for the elderly. Allowing owners to add secondary units which are elderly and handicapped  
22 accessible will enable the City to meet more of the needs of these population groups.

23 (n) Because it is expensive and may not be feasible to add an independently  
24 accessible parking space into an existing building, the Planning Code's requirement for  
25 one parking space for each new dwelling unit can be expected to decrease the amount of

1 additional housing that could be added to the City's housing supply through the addition  
2 of secondary units. By waiving the parking requirement for secondary units, the Board of  
3 Supervisors finds that the critical need to increase the City's housing supply for the  
4 reasons stated above far outweighs the need for parking availability for automobiles.

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

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

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

24 (r) Imposing an affordability requirement for secondary units in multi-family  
25 buildings furthers the City's General Plan goals by increasing the supply of affordable housing

1 in San Francisco, and helps to meet San Francisco's state-mandated share of affordable  
2 housing. The development of affordable housing on the same site as market-rate housing  
3 benefits the City because it: (1) increases social and economic integration of housing in the  
4 City and encourages the distribution of affordable housing throughout all neighborhoods,  
5 resulting in social, cultural, and economic benefits; (2) provides a healthy job and housing  
6 balance; and (3) provides more affordable housing close to employment centers which in turn  
7 may have a positive economic impact by reducing commuting and labor costs, and may have  
8 a positive environmental impact by reducing commutes and traffic congestion.

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

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

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1 to increase the supply of housing affordable to qualifying households, and for the expenses of  
2 the Mayor's Office of Housing related to increasing such housing.

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

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

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

22 Section 3. To the extent that this ordinance's definition of secondary units includes  
23 an additional unit in a multi-family residential building, the Board of Supervisors intends to  
24 exceed the second unit requirements of California Government Code Section 65852.2  
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1 and to subject these additional secondary units to the City's procedure for processing  
2 permits as provided in this ordinance and elsewhere in the City's Municipal 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 UNITS. (a) A secondary unit is defined as an additional, self-  
8 contained dwelling of no more than 750 square feet of gross floor area within an existing  
9 structure on the same lot as an existing residential building. Addition of the secondary unit will  
10 not change the official zoning classification of the lot. One secondary unit, in addition to the  
11 number permitted in the zoning district, may be installed in RH, RM and RC zoning districts as  
12 follows:

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

17 (2) A secondary unit is permitted on a lot containing a qualified historical building.  
18 After installation of the secondary unit, the building shall be subject to the standards and  
19 procedures for alteration of Significant Buildings set forth in Sections 1111 through 1111.6 of this  
20 Code and, if determined by the Department of Building Inspection to be appropriate, may use the  
21 provisions of the State Historical Building Standards Code. For purposes of this section, a  
22 "qualified historical building" is a building listed on or determined to be eligible for listing on an  
23 official Federal or State register, inventory, or survey or on a local survey or inventory of  
24 historically and architecturally significant structures endorsed by the San Francisco Board of  
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1 Supervisors. The alteration must meet the standards of Article 11 for alteration of a Significant  
2 Building.

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

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

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

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

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

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

18 (5) The owner of an illegal unit may not use the provisions of this Section 207.2 to  
19 legalize the unit. Prior to approval of a building permit for the secondary unit, the  
20 Department of Building Inspection shall inspect the site to ensure that an unpermitted  
21 dwelling unit does not exist on the property. No building permit or certificate of occupancy  
22 for the secondary unit shall be issued if evidence indicates that an unpermitted unit has  
23 operated in the building in the prior ten years, unless the unpermitted unit was  
24 demolished pursuant to a building permit prior to January 1, 2003. Records of the  
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1 Building Department, Planning Department, Rent Arbitration Board, or other applicable  
 2 entity shall be reviewed for evidence of the operation of an unpermitted unit.

3 (c) A secondary unit permitted under this Section 207.2 and Section 209.1(n) or  
 4 (o) or (l) of this Code, where the final inspection and approval of the construction work for  
 5 that unit under Building Code Section 108.5.6 is issued on or after the effective date of  
 6 this ordinance, shall not be subject to the provisions of Administrative Code Chapters 37  
 7 and 37A (the “Residential Rent Stabilization and Arbitration Ordinance” or “Rent  
 8 Ordinance”). Prior to renting any such unit, the owner or landlord shall inform the  
 9 prospective tenant in writing that the unit is not subject to the Rent Ordinance.

10 (d) In multi-family buildings, the secondary unit shall be subject to the  
 11 “maximum annual rent” and “Notice of Special Restrictions” under Section 315 et seq. of  
 12 this Code. If the owner does not choose to subject the unit to affordability restrictions, the  
 13 owner may pay an in lieu fee under the procedure established in Section 315.6, except  
 14 that the amount of the in-lieu fee shall be either \$5,000 or the amount specified in Section  
 15 315.6, whichever is less.

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

18 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
	P	P	P	P	P	P	P	P	P	P	P	P
		P	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.  
 (b) Other one-family dwelling.  
 (c) Two-family dwelling with the second dwelling unit limited to 600 square feet of net floor area.

1			P	P	P	P	P	P	P	P	P	P	P	(d) Other two-family dwelling.
2	C	C	NA	P	P	P	P	P	P	P	P	P	P	(e) Three-family dwelling.
3				NA	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.
4														
5			C	NA	NA	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.
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8				C	NA	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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10					P	NA	NA	NA	P	NA	NA	NA	NA	(i) Dwelling at a density ratio not exceeding one dwelling unit for each 800 square feet of lot area.
11														
12						P	NA	NA		P	NA	NA	NA	(j) Dwelling at a density ratio not exceeding one dwelling unit for each 600 square feet of lot area.
13							P	NA			P	NA	NA	(k) Dwelling at a density ratio not exceeding one dwelling unit for each 400 square feet of lot area.
14								P				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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1	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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10	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 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 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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14													
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16	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 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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*(p) In addition to the dwelling or dwellings otherwise permitted by subsections (a), (b), and (d) through (m) above, one secondary 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.*

7 Section 7. The San Francisco Planning Code is hereby amended by amending  
8 Section 135(d), to read as follows:

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

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

19 (1) For dwellings other than SRO dwellings, except as provided in  
20 Paragraph (d)(3) below, the minimum amount of usable open space to be provided for  
21 use by each dwelling unit shall be as specified in the second column of the table if such  
22 usable open space is all private. Where common usable open space is used to satisfy all  
23 or part of the requirement for a dwelling unit, such common usable open space shall be  
24 provided in an amount equal to 1.33 square feet for each one square foot of private  
25 usable open space specified in the second column of the table. In such cases, the

1 balance of the required usable open space may be provided as private usable open  
2 space, with full credit for each square foot of private usable open space so provided.

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

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

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

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

23 **Table 151**  
24 **OFF-STREET PARKING SPACES REQUIRED**  
25 **Use or Activity** **Number of Off-Street Parking Spaces**  
**Required**

1	Dwelling, except as specified below, and except in the Bernal Heights Special Use District as provided in Section 242	One for each dwelling unit.
2	Dwelling, RC-4, RSD and C-3 Districts, except in the Van Ness Special Use District	One for each four dwelling unit.
3	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.
4	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.
5		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.
6	SRO units	0.8 for each guest bedroom.
7		One for each 16 guest bedrooms where the number of guest bedrooms exceeds 23, plus one for the manager's dwelling unit, if any.
8	Hotel, inn or hostel in NC Districts	One for each guest unit, plus one for the manager's dwelling unit, if any.
9	Hotel, inn or hostel in districts other than NC	One for each vehicle or structure in such park, plus one for the manager's dwelling unit if any.
10		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.
11	Motel	One for each 10 residents, where the number of residents exceeds nine.
12	Mobile home park	One for each 25 children to be accommodated at any one time, where the number of such children exceeds 24.
13		One for each six classrooms.
14	Hospital or other inpatient medical institution	One for each two classrooms.
15		One for each two classrooms.
16		One for each 20 seats by which the number of seats in the main auditorium exceeds 200.
17	Residential care facility	
18	Child care facility	
19		
20	Elementary school	
21	Secondary school	
22	Post-secondary educational institution	
23	Church or other religious institutions	
24		
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1	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.
2	Stadium or sports arena	One for each 15 seats.
3	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.
4	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.
5	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.
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9	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.
10	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.
11	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.
12		
13	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.
14		
15		
16	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.
17	Mortuary	Five.
18	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.
19	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.
20		
21	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.
22		
23	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.
24		
25		



1 Secondary units

No off-street parking is required for secondary units permitted by Section 207.2 and Section 209.1(n), (o) and (p) of this Code.

2  
3  
4 Section 9. The San Francisco Planning Code is hereby amended by amending  
5 Section 307(g), to read as follows:

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

14 Section 10. The San Francisco Traffic Code is hereby amended by adding Section  
15 308.5.1 , to read as follows:

16 SEC. 308.5.1 PROHIBITING ISSUANCE OF PERMITS TO TENANTS OF SECONDARY  
17 UNITS PERMITTED BY PLANNING CODE SECTION 207.2 AND SECTION 209.1(N) AND (O).

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

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

1           106.4.1.3. Secondary Units under Section 207.2 of the San Francisco Planning  
2 Code.

3           106.4.1.3.1. Site inspection. Prior to approval of a building permit for a secondary  
4 unit authorized by Section 207.2 of the San Francisco Planning Code, the Department  
5 shall inspect to site to ensure that an unpermitted dwelling unit does not exist on the  
6 property. The permit applicant shall pay the standard hourly inspection fee as set forth in  
7 Table 1-G of this Code.

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

15           Section 12. The San Francisco Administrative Code is hereby amended by  
16 amending Section 37.2, to read as follows:

17           SEC. 37.9. EVICTIONS.

18           Notwithstanding Section 37.3, this Section shall apply as of August 24,  
19 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

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

22           (1) The tenant:

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

1 (i) Except that a tenant's nonpayment of a charge prohibited by Section  
2 919.1 of the Police Code shall not constitute a failure to pay rent; and

3 (ii) Except that, commencing August 10, 2001, to and including February  
4 10, 2003, a landlord shall not endeavor to recover or recover possession of a rental unit  
5 for failure of a tenant to pay that portion of rent attributable to a capital improvement  
6 passthrough certified pursuant to a decision issued after April 10, 2000, where the capital  
7 improvement passthrough petition was filed prior to August 10, 2001, and a landlord shall  
8 not impose any late fee(s) upon the tenant for such non-payment of capital improvement  
9 costs; or

10 (B) Habitually pays the rent late; or

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

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

25

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

6           (4)    The tenant is using or permitting a rental unit to be used for any  
7 illegal purpose; or

8           (5)    The tenant, who had an oral or written agreement with the landlord  
9 which has terminated, has refused after written request or demand by the landlord to  
10 execute a written extension or renewal thereof for a further term of like duration and under  
11 such terms which are materially the same as in the previous agreement; provided, that  
12 such terms do not conflict with any of the provisions of this Chapter; or

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

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

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

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

21           (ii)   For the use or occupancy of the landlord's grandparents,  
22 grandchildren, parents, children, brother or sister, or the landlord's spouse, or the  
23 spouses of such relations, as their principal place of residency for a period of at least 36  
24 months, in the same building in which the landlord resides as his or her principal place of  
25 residency, or in a building in which the landlord is simultaneously seeking possession of a

1 rental unit under Section 37.9(a)(8)(i). For purposes of this Section 37.9(a)(8)(ii), the term  
2 spouse shall include domestic partners as defined in San Francisco Administrative Code  
3 Sections 62.1 through 62.8.

4 (iii) For purposes of this Section 37.9(a)(8) only, as to landlords who  
5 become owners of record of the rental unit on or before February 21, 1991, the term  
6 "landlord" shall be defined as an owner of record of at least 10 percent interest in the  
7 property or, for Section 37.9(a)(8)(i) only, two individuals registered as domestic partners  
8 as defined in San Francisco Administrative Code Sections 62.1 through 62.8 whose  
9 combined ownership of record is at least 10 percent. For purposes of this Section  
10 37.9(a)(8) only, as to landlords who become owners of record of the rental unit after  
11 February 21, 1991, the term "landlord" shall be defined as an owner of record of at least  
12 25 percent interest in the property or, for Section 37.9(a)(8)(i) only, two individuals  
13 registered as domestic partners as defined in San Francisco Administrative Code  
14 Sections 62.1 through 62.8 whose combined ownership of record is at least 25 percent.

15 (iv) A landlord may not recover possession under this Section 37.9(a)(8)  
16 if a comparable unit owned by the landlord is already vacant and is available, or if such a  
17 unit becomes vacant and available before the recovery of possession of the unit. If a  
18 comparable unit does become vacant and available before the recovery of possession,  
19 the landlord shall rescind the notice to vacate and dismiss any action filed to recover  
20 possession of the premises. Provided further, if a noncomparable unit becomes available  
21 before the recovery of possession, the landlord shall offer that unit to the tenant at a rent  
22 based on the rent that the tenant is paying, with upward or downward adjustments  
23 allowed based upon the condition, size, and other amenities of the replacement unit.  
24 Disputes concerning the initial rent for the replacement unit shall be determined by the  
25 Rent Board. It shall be evidence of a lack of good faith if a landlord times the service of

1 the notice, or the filing of an action to recover possession, so as to avoid moving into a  
2 comparable unit, or to avoid offering a tenant a replacement unit.

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

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

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

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

23 (10) The landlord seeks to recover possession ~~in good faith~~ in order to  
24 demolish or to otherwise permanently remove the rental unit from housing use and has  
25 obtained all the necessary permits ~~on or~~ before the date upon which notice to vacate is

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

21 (11) The landlord seeks in good faith to remove temporarily the unit from  
22 housing use in order to be able to carry out capital improvements or rehabilitation work  
23 and has obtained all the necessary permits on or before the date upon which notice to  
24 vacate is given, and does so without ulterior reasons and with honest intent. Any tenant  
25 who vacates the unit under such circumstances shall have the right to reoccupy the unit

1 at the prior rent adjusted in accordance with the provisions of this Chapter. The tenant will  
2 vacate the unit only for the minimum time required to do the work. On or before the date  
3 upon which notice to vacate is given, the landlord shall advise the tenant in writing that  
4 the rehabilitation or capital improvement plans are on file with the Central Permit Bureau  
5 of the Department of Building Inspection and that arrangements for reviewing such plans  
6 can be made with the Central Permit Bureau. In addition to the above, no landlord shall  
7 endeavor to recover possession of any unit subject to a RAP loan as set forth in Section  
8 37.2(m) of this Chapter except as provided in Section 32.69 of the San Francisco  
9 Administrative Code. The tenant shall not be required to vacate pursuant to this Section  
10 37.9(a)(11), for a period in excess of three months; provided, however, that such time  
11 period may be extended by the Board or its Administrative Law Judges upon application  
12 by the landlord. The Board shall adopt rules and regulations to implement the application  
13 procedure. Any landlord who seeks to recover possession under this Section 37.9(a)(11)  
14 shall pay the tenant actual costs up to \$1,000 for moving and relocation expenses not  
15 less than 10 days prior to recovery of possession; or

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

23 (13) The landlord wishes to withdraw from rent or lease all rental units  
24 within any detached physical structure and, in addition, in the case of any detached  
25 physical structure containing three or fewer rental units, any other rental units on the



1 same lot, and complies in full with Section 37.9A with respect to each such unit; provided,  
2 however, that a unit classified as a residential unit under Chapter 41 of this Code which is  
3 vacated under this Section 37.9(a)(13) may not be put to any use other than that of a  
4 residential hotel unit without compliance with the provisions of Section 41.9 of this Code;  
5 or

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

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

14 (c) A landlord shall not endeavor to recover possession of a rental unit  
15 unless at least one of the grounds enumerated in Section 37.9(a) or (b) above is the  
16 landlord's dominant motive for recovering possession and unless the landlord informs the  
17 tenant in writing on or before the date upon which notice to vacate is given of the grounds  
18 under which possession is sought and that advice regarding the notice to vacate is  
19 available from the Residential Rent Stabilization and Arbitration Board, before  
20 endeavoring to recover possession. A copy of all notices to vacate except three-day  
21 notices to vacate or pay rent and a copy of any additional written documents informing the  
22 tenant of the grounds under which possession is sought shall be filed with the Board  
23 within 10 days following service of the notice to vacate. The District Attorney shall  
24 determine whether the units set forth on the list compiled in accordance with Section  
25 37.6(k) are still being occupied by the tenant who succeeded the tenant upon whom the

1 notice was served. In cases where the District Attorney determines that Section 37.9(a)(8)  
2 has been violated, the District Attorney shall take whatever action he deems appropriate  
3 under this Chapter or under State law.

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

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

20 (f) Whenever a landlord wrongfully endeavors to recover possession or  
21 recovers possession of a rental unit in violation of Sections 37.9 and/or 37.10 as enacted  
22 herein, the tenant or Board may institute a civil proceeding for injunctive relief, money  
23 damages of not less than three times actual damages, (including damages for mental or  
24 emotional distress), and whatever other relief the court deems appropriate. In the case of  
25 an award of damages for mental or emotional distress, said award shall only be trebled if

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:

25

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  
25 statement within the 30 day period shall be deemed an admission that the tenant is not

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

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

15 Section 13. SEVERABILITY. If any part or provision of this ordinance, or the  
16 application thereof to any person or circumstance, is held invalid, the remainder of this  
17 ordinance, including the application of such part or provision to other persons or  
18 circumstances, shall not be affected thereby and shall continue in full force and effect. To  
19 this end, provisions of this ordinance are severable.

20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney  
22

23 By: \_\_\_\_\_  
24 JUDITH A. BOYAJIAN  
25 Deputy City Attorney