

1 [Administrative, Housing Codes - Rent Increases, Evictions, and Refusals to Rent, Based on  
2 Number of Occupants]

3 **Ordinance amending Administrative, Code Chapter 37, known as the Residential Rent**  
4 **Stabilization and Arbitration Ordinance, to prohibit, with certain exceptions, rent**  
5 **increases based on the addition of occupants, even where a pre-existing rental**  
6 **agreement or lease permits such a rent increase; and to prohibit evictions based on the**  
7 **addition of occupants, if the landlord has unreasonably refused the tenant’s written**  
8 **request and the total number of occupants does not exceed the maximum number per**  
9 **sleeping room set by the Housing Code; and amending the Housing Code to prohibit**  
10 **refusal to rent based on the number of persons occupying a unit, as long as the unit**  
11 **complies with the Housing Code’s occupancy limits based on floor area.**

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

17

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

19 Section 1. The Administrative Code is hereby amended by revising Section 37.3, to  
20 read as follows:

21 **SEC. 37.3. RENT LIMITATIONS.**

22 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose rent  
23 increases upon tenants in occupancy only as provided below and as provided by Subsection  
24 37.3(d):

25

1 \* \* \* \*

2 (11) Additional occupants.

3 (A) Except as provided in Subsection (B), a landlord may not impose increases solely  
4 because a tenant has added an additional occupant to an existing tenancy, including, but not limited to,  
5 a newborn child or family member as defined in Section 401 of the Housing Code. The prohibition on  
6 increases mandated by this Subsection (A) shall apply notwithstanding a rental agreement or lease that  
7 specifically permits a rent increase for additional occupants, so long as (Ai) one or more of the  
8 occupants of the unit pursuant to the agreement with the owner remains an occupant in lawful  
9 possession of the unit, or (Bii) a lawful sublessee or assignee who resided in the unit prior to January  
10 1, 1996 remains in possession of the unit.

11 (B) A landlord may petition the Rent Board for a rent increase pursuant to Section  
12 37.8(e)(4) based on increased costs associated with the addition of occupants, and the Rent Board may  
13 grant the petition if it finds that an additional occupant causes an increase in costs.

14 (C) Rent increases otherwise permitted by California Civil Code Section 1954.53(d)(1)  
15 (as it may be amended from time to time) or any successor section are not prohibited or limited by this  
16 Section 37.3(a)(11).

17 \* \* \* \*

18 Section 2. The Administrative Code is hereby amended by revising Section 37.9, to  
19 read as follows:

20 **SEC. 37.9. EVICTIONS.**

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

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

24 \* \* \* \*

1 (2) The tenant has violated a lawful obligation or covenant of tenancy other than  
2 the obligation to surrender possession upon proper notice or other than an obligation to pay a  
3 charge prohibited by Police Code Section 919.1, and failure to cure such violation after having  
4 received written notice thereof from the landlord.

5 (A) Provided that notwithstanding any lease provision to the contrary, a landlord  
6 shall not endeavor to recover possession of a rental unit as a result of subletting of the rental  
7 unit by the tenant if the landlord has unreasonably withheld the right to sublet following a  
8 written request by the tenant, so long as the tenant continues to reside in the rental unit and  
9 the sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails  
10 to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written  
11 request, the tenant's request shall be deemed approved by the landlord.

12 (B) Provided further that where a rental agreement or lease provision limits the  
13 number of occupants or limits or prohibits subletting or assignment, a landlord shall not  
14 endeavor to recover possession of a rental unit as a result of the addition to the unit of a  
15 tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic  
16 partner (as defined in Administrative Code Chapter 62 Sections 62.1 through 62.8) of such  
17 relatives, or as a result of the addition of the spouse or domestic partner of a tenant, so long  
18 as the maximum number of occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not  
19 exceeded, if the landlord has unreasonably refused a written request by the tenant to add  
20 such occupant(s) to the unit. If the landlord fails to respond to the tenant in writing within  
21 fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be  
22 deemed approved by the landlord. A landlord's reasonable refusal of the tenant's written  
23 request may not be based on the proposed additional occupant's lack of creditworthiness, if  
24 that person will not be legally obligated to pay some or all of the rent to the landlord. A  
25 landlord's reasonable refusal of the tenant's written request may be based on, but is not

1 limited to, the ground that the total number of occupants in a unit exceeds (or with the  
2 proposed additional occupant(s) would exceed) the lesser of (i) or (ii):

3 (i) Two persons in a studio unit, three persons in a one-bedroom unit, four  
4 persons in a two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-  
5 bedroom unit; or

6 (ii) The maximum number permitted in the unit under state law and/or other  
7 local codes such as the Building, Fire, Housing and Planning Codes, ~~or~~

8 (C) Provided further that where a rental agreement or lease provision limits the number  
9 of occupants or limits or prohibits subletting or assignment, a landlord shall not endeavor to recover  
10 possession of a rental unit as a result of the addition by the tenant of additional occupants to the rental  
11 unit, so long as:

12 (i) the total number of occupants occupying a room for sleeping purposes does  
13 not exceed the superficial floor area standards prescribed in Housing Code Section 503(b), and

14 (ii) the landlord has unreasonably refused a written request by the tenant to add  
15 such occupant(s) to the unit. If the landlord fails to respond to the tenant in writing within fourteen  
16 (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by  
17 the landlord. For the purposes of this subsection (C)(ii), the landlord's refusal of the tenant's written  
18 request shall not be reasonable if it is based on the proposed additional occupant's lack of  
19 creditworthiness, if that person will not be legally obligated to pay rent to the landlord; or

20 (3) \* \* \* \*

21  
22 Section 3. The Housing Code is hereby amended by revising Section 503, to read as  
23 follows:

24 **SEC. 503. ROOM DIMENSIONS.**

1 (a) Ceiling Heights. Unless legally constructed as such, no habitable room shall have  
2 a ceiling height less than seven feet six inches. Any room, other than a habitable room, shall  
3 have a ceiling height of not less than seven feet.

4 (b) Superficial Floor Area. Every dwelling unit and congregate residence shall have  
5 at least one room which shall have not less than 120 square feet of superficial floor area.  
6 Every room which is used for both cooking and living or both living and sleeping purposes  
7 shall have not less than 144 square feet of superficial floor area. Every room used for sleeping  
8 purposes shall have not less than 70 square feet of superficial floor area. When more than  
9 two persons occupy a room used for sleeping purposes the required superficial floor area  
10 shall be increased at the rate of 50 square feet for each occupant in excess of two. Guest  
11 rooms with cooking shall contain the combined required superficial areas of a sleeping room  
12 and a kitchen, but not less than 144 square feet. Other habitable rooms shall be not less than  
13 70 square feet.

14 Notwithstanding any provision of this Section, children under the age of six shall not  
15 be counted for purposes of determining whether a family with minor children complies with the  
16 provisions of this Code.

17 (c) Width. No habitable room except a kitchen shall be less than seven feet in width.  
18 Rooms used as guest rooms with cooking shall have a 10-foot minimum width.

19 (d) Housing Access. To promote access to affordable housing ~~by families~~, it shall be  
20 unlawful for the owner, lessor, lessee, sublessee, real estate broker, assignee, or other  
21 person having the rights of ownership, the right of possession, or other right to rent or lease  
22 any dwelling unit or any agent or employee of such person to refuse to rent or lease, or  
23 otherwise deny, a dwelling unit to ~~a family, as defined in Section 401 of this Code,~~ any person on  
24 the basis of the actual or potential number of occupants if the total number of persons  
25 occupying a room for sleeping purposes does not violate the minimum superficial floor area

1 standards prescribed in Subsection (b) of this Section 503. The protections of this subsection (d)  
2 shall apply to prospective tenants at the commencement of a lease or other rental agreement, and to  
3 current tenants under an existing lease or other rental agreement who seek to share the leased  
4 premises with an additional occupant or occupants.

5 (e) Remedies. A violation of Subsection (d) of this Section shall be subject to the  
6 civil remedies specified in Section 204(e) of this Code.

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8 Section 4. It is the intent of the Board of Supervisors that the provisions of Residential  
9 Rent Stabilization and Arbitration Rules and Regulations Section 6.15A and Section 6.15B  
10 regarding consent procedures in subletting also substantially apply to this ordinance, and that  
11 the Rent Board amend its Rules and Regulations as necessary to so provide.

12  
13 Section 5. Effective Date. This ordinance shall become effective 30 days after  
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
16 of Supervisors overrides the Mayor's veto of the ordinance.

17  
18 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
22 additions, and Board amendment deletions in accordance with the "Note" that appears under  
23 the official title of the ordinance.

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

3 By: \_\_\_\_\_  
4 JOSHUA S. WHITE  
5 Deputy City Attorney

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