

1 [Administrative Code - Temporary Severance of Rental Housing Services During Mandatory
2 Seismic Retrofit]

3 **Ordinance amending Administrative Code, Chapter 37 “Residential Rent Stabilization
4 and Arbitration Ordinance,” and adding Chapter 65A “Compensation, or Substitute
5 Housing Service, for Tenants Affected by Temporary Severance of Specified Housing
6 Services During Mandatory Seismic Work Required by Building Code, Chapter 34B,” to
7 address temporary severance of specified housing services during mandatory seismic
8 retrofit required by City Building Code, Chapter 34B “Mandatory Earthquake Retrofit of
9 Wood-Frame Buildings.”**

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

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

18 Section 1. The Administrative Code is hereby amended by revising Section 37.2(r),
19 to read as follows:

20 **SEC. 37.2. DEFINITIONS.**

21 * * * *

22 (r) Rental Units. All residential dwelling units in the City and County of San Francisco
23 together with the land and appurtenant buildings thereto, and all housing services, privileges,
24 furnishings and facilities supplied in connection with the use or occupancy thereof, including
25 garage and parking facilities.

1 Garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks,
2 patios, or gardens on the same lot, or kitchen facilities or lobbies in single room occupancy
3 (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not be severed
4 from the tenancy by the landlord without just cause as required by Section 37.9(a). Any
5 severance, reduction or removal permitted under this Section 37.2(r) shall be offset by a
6 corresponding reduction in rent. Either a landlord or a tenant may file a petition with the Rent
7 Board to determine the amount of the rent reduction.

8 Notwithstanding the preceding paragraph, a landlord may temporarily sever one or more
9 housing services listed in that paragraph in order to perform seismic work required by Building Code
10 Chapter 34B “Mandatory Earthquake Retrofit of Wood-Frame Buildings” (“mandatory seismic
11 work”) if: (1) the landlord has given the notice to temporarily sever as required by Administrative
12 Code Section 65A.2; (2) the landlord has obtained all necessary permits on or before the date the
13 notice to temporarily sever is given; (3) the housing service(s) will only be severed for the minimum
14 time required to complete the mandatory seismic work and in no event for a longer period than
15 provided by Building Code Section 106A.4.4, Table B; and (4) the temporarily severed housing
16 service(s) will be fully restored immediately upon completion of the mandatory seismic work. For such
17 temporary severance of one or more of the specified housing services due to mandatory seismic work
18 required by Building Code Chapter 34B, tenants will not be entitled to a reduction in rent, but tenants
19 shall be entitled to either compensation or a substitute housing service as provided in Administrative
20 Code Chapter 65A.

21 The term "rental units" shall not include:

22 * * * *

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1 Section 2. The Administrative Code is hereby amended by adding Chapter 65A,
2 to read as follows:

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4 **CHAPTER 65A: COMPENSATION, OR SUBSTITUTE HOUSING SERVICE,**
5 **FOR TENANTS AFFECTED BY TEMPORARY SEVERANCE OF SPECIFIED**
6 **HOUSING SERVICES DURING MANDATORY SEISMIC WORK**
7 **REQUIRED BY BUILDING CODE CHAPTER 34B.**

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9 **Sec. 65A.1. Applicability.**

10 **Sec. 65A.2. Notice of Temporary Severance of Housing Services.**

11 **Sec. 65A.3. Calculation and Distribution of Compensation.**

12 **Sec. 65A.4. Substitute Housing Service as an Alternative.**

13 **Sec. 65A.5. Rent Board Petitions.**

14 **Sec. 65A.6. Inapplicability to Non-Tenants.**

15
16 **SEC. 65A.1. APPLICABILITY.**

17 *This Chapter shall apply to residential rental units subject to Administrative Code Chapter 37*
18 *“Residential Rent Stabilization and Arbitration Ordinance” when, in accordance with Administrative*
19 *Code Section 37.2(r), one or more specified housing services will be temporarily severed from such a*
20 *rental unit during the performance of seismic work required by Building Code Chapter 34B*
21 *“Mandatory Earthquake Retrofit of Wood-Frame Buildings” (“mandatory seismic work”). Consistent*
22 *with Section 37.2(r), the specified housing services covered by this Chapter 65A are: garage facilities,*
23 *parking facilities, driveways, storage spaces, laundry rooms, decks, patios, or gardens on the same lot,*
24 *or kitchen facilities or lobbies in single room occupancy (SRO) hotels, supplied in connection with the*
25

1 use or occupancy of a unit (“services”). Tenants in an affected unit shall be entitled to either
2 compensation or a substitute housing service, as provided in this Chapter 65A.

3 **SEC. 65A.2. NOTICE OF TEMPORARY SEVERANCE OF HOUSING SERVICES.**

4 The landlord shall provide 30-days written notice to temporarily sever the specified housing
5 service(s), to the tenants in each affected unit. This notice shall include the length of time the specified
6 housing service(s) will be temporarily severed. The landlord must obtain all necessary permits on or
7 before the date the notice to temporarily sever is given.

8 **SEC. 65A.3. CALCULATION AND DISTRIBUTION OF COMPENSATION.**

9 Calculation and distribution of landlord compensation payments to tenants of affected units
10 shall be as follows:

11 (a) If the rental unit lease or other written agreement states a rate for the housing service to be
12 severed, that rate shall be used to calculate the amount due on a daily basis.

13 (b) If there is no rate stated in the lease or other written agreement for the housing service to
14 be severed, the rate shall be equal to the current replacement value of the service to be severed; that
15 rate shall be used to calculate the amount due on a daily basis.

16 (1) The amount due pursuant to this Subsection 65A.3(b) for each such temporarily
17 severed housing service shall not exceed 15% of the monthly base rent for the rental unit, pro-rated on
18 a daily basis.

19 (2) The replacement value of the severed housing service will depend on the facts of
20 each case. The following factors may be considered in the determination of replacement value:

21 (A) The rates for parking or storage or other severed housing service in the
22 same neighborhood at the time the tenant first rented the parking or storage space or other service,
23 adjusted by the amount of the intervening annual allowable rent increases; the current replacement
24 value of the parking or storage space or other service in the same neighborhood as the tenant’s unit;
25 and/or the amount the landlord charges other tenants in the same property for the same service.

1 (B) If the parking or storage space or other housing service was provided to the
2 tenant after the inception of the tenancy and the tenant does not pay any additional rent for the service,
3 no compensation will be due upon temporary severance of the service.

4 (3) One-half of the compensation payment shall be due upon service of the notice of
5 temporary severance of housing service; the remaining one-half shall be due on the date that the
6 temporary severance actually commences.

7 **SEC. 65A.4. SUBSTITUTE HOUSING SERVICE AS AN ALTERNATIVE.**

8 As an alternative to paying compensation as provided in Section 65A.3, the landlord may
9 choose to provide a comparable housing service that is reasonably near the affected unit (“substitute
10 housing service”).

11 **SEC. 65A.5. RENT BOARD PETITIONS.** Either a landlord or a tenant may file a petition
12 with the Rent Board to determine the amount of compensation or sufficiency of the substitute housing
13 service under this Chapter 65A.

14 **SEC. 65A.6. INAPPLICABILITY TO NON-TENANTS.**

15 If an individual rents a parking or storage space or other service on a property but that service
16 is not rented in connection with the use or occupancy of a housing unit owned or operated by the
17 landlord, such a rental of the service alone is a commercial transaction that is not covered by this
18 Chapter 65A or Administrative Code Chapter 37 (Residential Rent Stabilization and Arbitration
19 Ordinance).

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

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

10 By: _____
11 JUDITH A. BOYAJIAN
12 Deputy City Attorney

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