

[Below Market Rate Condominium Conversion Program.]

Ordinance amending the San Francisco Subdivision Code by adding Section 1344 to update and clarify the provisions relating to Below Market Rate Units under the Condominium Conversion Program including provisions related to the calculation of sales price, renting, capital improvements, duration and monitoring of affordability, marketing, and ongoing regulations and the provisions relating to Original Subdividers who rent their Units; providing for alternatives for compliance with the ordinance; and amending Sections 1308, 1309, 1341, 1341B, 1343, 1359, and 1385 to make conforming changes, and making findings including findings under the California Environmental Quality Act (CEQA).

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

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

Section 1. Findings. The Board of Supervisors hereby finds and determines as follows:

(a) Program History: The City of San Francisco created the Below Market Rate Condominium Conversion Program ("Condominium Conversion Program" or "Program") to require, in part, that certain units converted to condominiums be restricted as below-market rate units ("BMR Units"). The Condominium Conversion Program was adopted as part of the San Francisco Subdivision Code in ~~the late 1970s~~ 1979 under sections 1341, ~~1341B~~ and 1385. The Program was intended to comply with the City's Residence Element of the Master Plan, which called for expanding opportunities for homeownership while preserving and expanding the supply of low- and moderate-income housing. The Program allowed apartment

1 buildings to be converted to condominiums only if 10% or greater of the converted units were
2 set aside as affordable units for households earning less than 80% or 120% of Area Median
3 Income ("AMI"), as determined by the Planning Commission. Renters in the units were given
4 the right of first refusal to purchase the unit and seniors who chose not to purchase were
5 given lifetime leases.

6 (b) Number of BMR Units, Income Levels and Unit Mix: As of ~~March 3~~July, 2008,
7 the Condominium Conversion Program includes a total of ~~599~~550 BMR units. Of these BMR
8 Units, ~~45~~16% are designated low-income units with maximum prices, rents and incomes set at
9 80% AMI and ~~55~~84% are designated moderate-income units with maximum prices, rents and
10 incomes set at 120% AMI. Overall, BMR Unit sizes are small with 24% being studios, ~~58~~59%
11 1-bedrooms, 16% 2-bedrooms and ~~less than 21~~% being 3-bedrooms or larger. Furthermore,
12 approximately ~~34~~26% of all BMR Units were mapped for condominium use and have been
13 maintained as rentals by the original subdivider.

14 (c) Suspension of Program: The Subdivision Code was amended in 1988 to
15 suspend further conversion of BMR Units under this program and to restrict the number of
16 conversions through a lottery method that capped the number of conversions at 200 per year.
17 All BMR Units that were designated as BMR units under the Condominium Conversion
18 Program have remained so, except for a certain number of units that were released by the
19 City under Subdivision Code Section 1385 because the owner demonstrated that a low- or
20 moderate- income buyer could not be found for the unit. No new units are being produced
21 through this Program. The 1988 amendments also clarified household requirements, resale
22 procedures and appointed the Mayor's Office of Housing ("MOH") as the City department
23 responsible for monitoring the program.

1 (d) Current Issues with Program: The provisions of the Condominium Conversion
2 Program have become out-of-date by today's standards of effectively implementing and
3 monitoring a BMR program. It would benefit the City and the owners of BMR units to have
4 clearly defined policies and procedures. While some issues are unique to the Condominium
5 Conversion Program, for new owners there is an opportunity to align it with the Inclusionary
6 Housing Program's Procedures Manual, which was discussed widely and at length in 2007
7 and subsequently adopted by the Board of Supervisors. While this legislation adopts new
8 regulations for owners who purchase on or after the effective date of the legislation, the Board
9 of Supervisors intends only to clarify the existing rules that apply to owners who purchased
10 before the effective date. The rules for these owners are the same as, or more favorable to
11 the owners, than existing rules as applied by the Mayor's Office of Housing.

12 (e) In enacting Section 1341(e), the Board of Supervisors provided that the BMR
13 Ownership Units "shall remain within the low or moderate income housing stock pursuant to
14 the recapture provision[s provided herein]." This provision, and all provisions of Section 1341
15 and 1385 of the Subdivision Code, are referenced on all Subdivision Maps of projects that
16 include BMR Units in the Program. These maps are recorded. In addition to the note
17 recorded on the Subdivision Map, since approximately December 1, 1992, MOH has
18 requested that purchasers of BMR Ownership Units sign affidavits stating that they
19 understand some of the key terms of the Program, including a "permanent" restriction on the
20 resale price. Many owners have testified in hearings on this legislation that they were
21 unaware of the permanent nature of the resale restriction on BMR Units. The Board finds as
22 a policy matter that, regardless of the fact that all BMR Unit owners were given notice of the
23 restrictions on their Units through the recorded Subdivision Map, owners who purchased on or
24 after December 1, 1992 were given additional, specific notice of the permanency of the
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1 restrictions and those who purchased "pre-affidavit" were not given this additional notice. For
2 those who were not given additional notice, the Board finds as a matter of policy and equity,
3 that these "pre-affidavit owners" should be given the option to permanently exit the Program
4 under a shared equity model. The City's share of the equity will be used to create new
5 affordable housing opportunities. To this end, any funds collected under this ordinance shall
6 be deposited in the Mayor's Home Ownership Assistance Loan Fund. While any funds
7 collected will not be sufficient for the creation of newly constructed one-to-one replacement
8 housing, funds should be sufficient to expand home ownership opportunities for first-time
9 homebuyers. The Board finds, however, that the "post-affidavit" owners were or should have
10 been aware of the permanence of the resale restrictions and that, given the goal of the
11 Program to retain the BMR Units in the City's affordable housing stock, it would not be
12 appropriate to extend this option to "post-affidavit" owners.

13 (ef) The Planning Department has completed environmental review of this ordinance
14 pursuant to the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and
15 Chapter 31 of the San Francisco Administrative Code. Documentation of that review is on file
16 with the Clerk of the Board of Supervisors in File No. _____.

17 Section 2. The San Francisco Subdivision Code is hereby amended by adding Section
18 1344, to read as follows:

19 *Sec. 1344. BELOW MARKET RATE CONDOMINIUM CONVERSION PROGRAM.*

20 *As described below, this Section is intended to supersede, to the extent described in subsection*
21 *(a) below, the provisions of Sections 1341, 1341B and 1385 relating to the regulation of units subject to*
22 *those provisions ("Condominium Conversion BMR Units" or "BMR Units").*

23 *(a) Application.*

1 (1) BMR Units purchased or acquired on or after the effective date of this ordinance.
2 Unless a Section specifically applies only to BMR Units purchased before the effective date of this
3 ordinance, every part of this Section 1344 applies to BMR Units purchased on or after the effective
4 date of this ordinance. For these BMR Units, this Section 1344 replaces and supersedes all provisions
5 of Sections 1341, 1341B, and 1385.

6 (2) BMR Units purchased or acquired before the effective date of this ordinance.

7 (A) This ordinance applies to all BMR Units purchased or acquired before the effective date
8 of this ordinance as specified in each subsection and supersedes Sections 1341, 1341B and 1385 only
9 as provided herein.

10 (B) Alternatives To Compliance With This Section. At the election of any Pre-
11 Legislation Owner who qualifies, he or she may enter into a contract with the City to exercise
12 one of the alternatives to compliance with this Section listed in Section 1344(i) below. At the
13 ~~owner's option, the owner may sign an agreement with the City to make his or her BMR Unit~~
14 ~~subject to all of the provisions of this Section as if the BMR Unit was purchased or acquired~~
15 ~~on or after the effective date of this ordinance. The owner must agree to be governed by the~~
16 ~~totality of the regulations including, but not limited to, the provisions related to sale price,~~
17 ~~capital improvements, and rental procedures.~~

18 (3) This legislation applies to Original Subdividers as defined herein and as
19 provided for in Section 1344(h).

20 (b) Definitions. For purposes of this Program the following definitions shall apply. For
21 terms not defined below, the definitions in the Subdivision Code and the definitions in the City and
22 County of San Francisco Residential Inclusionary Affordable Housing Program Monitoring
23 Procedures Manual, published in 2007 under Planning Code Sections 315 et seq. and under this
24 Section shall apply.

1 (1) "Annual Gross Income" shall mean gross income as defined in CCR Title 25, Section
2 6914, as amended from time to time, except that the Mayor's Office of Housing may, in order to
3 promote consistency with the procedures of the San Francisco Redevelopment Agency, develop an asset
4 test that differs from the State definition if it publishes that test in the Procedures Manual.

5 (2) "Base Price" shall mean the price that the current owner paid for their property
6 or the reset price the current owner received when entering into a contract under Section
7 1344(i).

8 (3) "Below Market Rate Condominium Conversion Program" or "Program" shall mean the
9 actions taken by the City to preserve certain low and moderate income housing through the
10 implementation of Sections 1341 and 1385.

11 (34) "BMR Unit" shall mean a unit restricted as a below market rate unit under the
12 provisions of Section 1341 or 1385.

13 (45) "Conditional Use" for purposes of this Ordinance means a conditional use authorization
14 that, pursuant to the Planning Code, is required for the residential component of a project.

15 (56) "Conditions of Approval" shall be a set of written conditions imposed by the Planning
16 Commission or another permit-issuing City agency or appellate body to which a project applicant
17 agrees to adhere and fulfill when it receives a conditional use or planned unit development permit for
18 the conversion of a BMR Unit subject to this Program.

19 (67) "Fair Market Value" shall mean the greater of the Unit sales price or the
20 Appraised Value of the Unit as of the date of valuation. The owner and the City, acting
21 through the Mayor's Office of Housing, may determine the Fair Market Value by mutual
22 agreement without obtaining an appraisal. If the owner and the City are unable to agree on a
23 a Fair Market Value, then the "Appraised Value" of the Unit is defined as the value that would
24 be agreed to by a seller who is willing to sell but under no particular urgent necessity or
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1 obligation to sell, and a buyer who is ready, willing and able to buy but under no particular or
2 urgent necessity to buy, each dealing with the other with full knowledge of all the uses and
3 purposes for which the Property is reasonably adaptable and available. For purposes of
4 determining the Appraised Value, the Borrower shall select and pay for an appraiser who is an
5 "MAI" member of the American Institute of Real Estate Appraisers or an "SRPA" member of
6 the Society of Real Estate Appraisers (or any such equivalent designations). The City has the
7 option, at City's sole expense, to select an appraiser to conduct an additional appraisal of the
8 Property. If the two appraisals are not in agreement as to the Appraised Value of the
9 Property, the amounts determined by the appraisals will be averaged to determine the
10 Appraised Value of the Property for purposes of this ordinance. ~~the price determined by the~~
11 ~~Department of Real Estate based upon two independent appraisals done in conformance with~~
12 ~~the Uniform Standards of Professional Appraisal Practice.~~

13 (8) "First Time Homebuyer" shall mean a household who has not held an ownership
14 interest in any residential or commercial real property in the last three years.

15 (79) "Household of Low Income" shall mean a household whose combined annual gross
16 income for all members does not exceed 80 percent of Area Median Income as published by the United
17 States Department of Housing and Urban Development (HUD) and adjusted for household size.

18 (810) "Household of Moderate Income" shall mean a household whose combined annual gross
19 income for all members does not exceed 120 percent of Area Median Income as published by the
20 United States Department of Housing and Urban Development (HUD) and adjusted for household size.

21 (911) "Maximum Annual Rent" shall mean the maximum rent that a Property Owner may
22 charge any tenant occupying a BMR Unit for the calendar year as published by MOH. The maximum
23 annual rent for a BMR Unit of the size indicated below shall be no more than 30 percent of the annual
24 gross income for a household of low or moderate income as defined in this Section, depending on how

1 the BMR Unit is designated, and as adjusted for the household size indicated below as of the first date
2 of the tenancy:

3 TABLE INSET:

<u>Number of Bedrooms</u>	<u>Number of Persons in Household</u>
<u>0</u>	<u>1</u>
<u>1</u>	<u>2</u>
<u>2</u>	<u>3</u>
<u>3</u>	<u>4</u>
<u>4</u>	<u>5</u>

11 (4012) "Mayor's Office of Housing or MOH" shall mean the Mayor's Office of Housing or its
12 successor.

13 (4413) "Notice of Special Restrictions" shall mean a document recorded with the San Francisco
14 Recorder's Office for any unit subject to this Program detailing the sale and resale or rental
15 restrictions and any restrictions on purchaser or tenant income levels included as a Condition of
16 Approval of the principal project relating to the unit.

17 (14) "Original Subdivider" for purposes of this Section 1344 only shall mean a
18 Subdivider, or its successor in interest, that was subject to Section 1341 and/or 1385 and that
19 chose to rent the BMR Units under Section 1341(d) and has continued to rent the Units.

20 (4215) "Owner" shall mean the record owner of the fee or a vendee in possession.

21 (15a) "Pre-Affidavit Owner" shall mean an owner who purchased or acquired a BMR
22 Unit before December 1, 1992."

23 (15b) "Post-Affidavit Owner" shall mean an owner who purchased or acquired a BMR
24 Unit on or after December 1, 1992 and before the effective date of this legislation:

1 (15c) "Pre-Legislation Owner" shall mean all owners who purchased or acquired a
2 BMR Unit before the effective date of this legislation;

3 (15d) "Post-Legislation Owner" shall mean an owner who purchases or acquires a
4 Unit on or after the effective date of this legislation;

5 (4316) "Procedures Manual" shall mean the City and County of San Francisco Residential
6 Inclusionary Affordable Housing Program Monitoring Procedures Manual published in 2007 under
7 Planning Code Sections 315 et seq., with Condominium Conversion BMR Addendum, on file
8 with the Clerk of the Board in File No. . issued by the San Francisco Department
9 of City Planning, as amended. The Mayor's Office of Housing shall update the Procedures Manual
10 from time to time as necessary in the same manner as established in Planning Code Section 315 to
11 include Procedures for this Below Market Rate Condominium Conversion Program and shall
12 make the Procedures Manual available to the public, including on its website.

13 (c) **Sale Price.**

14 (1) BMR Units purchased or acquired on or after the effective date of this ordinance. The
15 sale price of all BMR units shall be equal to the current owner's purchase price adjusted by the
16 percentage change in HUD unadjusted area median income from the purchase date to the
17 date of resale pricing, depending on how the BMR Unit is designated, and as adjusted for
18 household size as indicated below. 2.5 times the annual median income for low or moderate
19 income households, depending on how the BMR Unit is designated, and as adjusted for
20 household size as indicated below. In addition, a seller may recoup the cost of approved capital
21 improvements as defined herein and special assessments that were paid by the seller, as well
22 as the cost of using a real estate agent and Multiple Listing Service ("MLS") of up to five percent
23 (5%) of the sale price if they follow the marketing requirements set forth in the Procedures Manual.

24 TABLE INSET:

<u>Number of Bedrooms</u>	<u>Number of Persons in Household</u>
<u>0</u>	<u>1</u>
<u>1</u>	<u>2</u>
<u>2</u>	<u>3</u>
<u>3</u>	<u>4</u>
<u>4</u>	<u>5</u>

(2) BMR Units purchased or acquired before the effective date of this ordinance and BMR Units that have not been sold by the original subdivider. BMR Units purchased or acquired before the effective date of this ordinance and BMR Units that have not been sold by the original subdivider shall have the sale price as provided in Section 1341(c).

(3) Notwithstanding the provisions of subsection (2), the Board of Supervisors ratifies the decision by the Mayor's Office of Housing to set the sale price for certain BMR Units purchased or acquired before the effective date of this legislation at 45 Ora Way through 95 Ora Way equal to 2.5 times the annual median income for low or moderate income households, depending on how the BMR Unit is designated, and as adjusted for household size as indicated above in subsection (1).

(d) Capital improvements.

(1) BMR Units purchased or acquired on or after the effective date of this ordinance. The Capital Improvements Policy for this Program is contained in the Procedures Manual, on file with the Clerk of the Board in File No. _____ and available on MOH's website. The Policy shall include a per unit cap of 10% of the resale price in order to maintain affordability and shall be MOH shall develop a policy on allowable capital improvements for this Program that is consistent with the policy for the Residential Inclusionary Affordable Housing Program, Planning

1 Code Sections 315 et seq. ~~As part of this policy, MOH may establish a per unit cap to allowable~~
2 ~~capital improvements in order to maintain affordability. The Capital Improvements Policy shall~~
3 ~~be a part of the Procedures Manual.~~

4 (2) BMR Units purchased or acquired before the effective date of this ordinance. MOH
5 shall continue to use the 1993 Capital Improvements Policy, on file with the Clerk of the Board in
6 File No. _____ and available on the Mayor's Office of Housing website, to implement the
7 requirements of Section 1341(c) and shall publish the Policy on its website.

8 (e) Sale Procedures. ~~Unless specifically provided otherwise, these procedures apply~~
9 ~~to all BMR Units, regardless of when purchased or acquired.~~

10 (1) Purchasers. MOH shall insure that all BMR Units conveyed under this Program are
11 sold or transferred to households that qualify as both (A) low- or moderate-income households,
12 depending on how the BMR Unit is designated, as defined; and (B) a First Time Homebuyer household.
13 MOH shall give preference as provided in Subsection (5) below and shall follow the procedures set
14 forth in the Procedures Manual.

15 (2) Duration and Monitoring of Affordability. As provided by Sections 1341 and 1385 BMR
16 Units restricted under this Program are to remain affordable for the life of the BMR Unit. MOH shall
17 insure the BMR Units remain affordable through the following mechanisms. Nothing in this legislation
18 shall preclude the Mayor's Office of Housing from instituting additional mechanisms to insure
19 affordability through the Procedures Manual.

20 (A) ~~For~~ BMR Units purchased or acquired on or after the effective date of this legislation,
21 MOH shall require all BMR Units subject to this Program to record a Notice of Special Restrictions
22 with the Recorder of the City and County of San Francisco. The Notice of Special Restrictions must
23 incorporate the ~~resale~~ procedures for resale or transfer, affordability restrictions, and other
24 requirements of this Program and provide that the owner or tenant shall adhere to the marketing,
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1 monitoring, and enforcement procedures outlined in the Procedures Manual, as amended from time to
2 time, in effect at the time of sale. MOH shall maintain records of the applicable Procedures Manual
3 for each BMR Unit transferred or resold under this Program. The Procedures Manual will be
4 referenced in the Notice of Special Restrictions for each BMR Unit.

5 (B) ~~For BMR Units purchased or acquired before the effective date of this legislation, the~~
6 Mayor's Office of Housing has a right of first refusal. MOH shall exercise this right of first refusal at
7 sale consistent with the provisions of Section 1341 and 1341B. In addition, for some BMR Units, a
8 Notice of Special Restrictions (NSR) was recorded against the BMR Unit. For those BMR Units, the
9 provisions in subsection (A) apply. For some BMR Units, or the conditions of approval for the
10 project require that an NSR be recorded, but no NSR has yet been recorded. For these BMR
11 Units, the Planning Department and the Mayor's Office of Housing shall work with the owner
12 to insure that the owner records an NSR and thereafter, the provisions in subsection (A) shall
13 apply. For those BMR Units, the provisions in subsection (A) apply.

14 (3) Marketing the BMR Units. The Mayor's Office of Housing shall be responsible for
15 overseeing and monitoring the marketing of BMR Units under this Section. In general, the marketing
16 requirements and procedures shall encourage an open public marketing strategy and will be contained
17 in the Procedures Manual, as amended from time to time. The Mayor's Office of Housing may develop
18 occupancy standards for BMR Units of different bedroom sizes in the Procedures Manual in order to
19 promote an efficient allocation of affordable units. The Mayor's Office of Housing may require in the
20 Procedures Manual that prospective purchasers complete homebuyer education training or fulfill other
21 requirements to adequately prepare the buyer for homeownership.

22 (4) Lottery: MOH shall require a general public lottery for all BMR units available for
23 salepurchase.

1 (A) BMR Units purchased or acquired on or after the effective date of this
2 legislation. The specific procedures for passing a BMR Unit through inheritance are contained
3 in the Procedures Manual. All transfers through inheritance must be reported to and
4 approved by MOH and in all cases, the heir must acknowledge and agree to the provisions of
5 the BMR Program. The following households may inherit the right to occupy a BMR Unit: (i)
6 a spouse or registered domestic partner, regardless of income; (ii) a child of the owner if it
7 qualifies as a low- or moderate-income household depending on the designation of the Unit.
8 Consistent with the provisions herein related to owners who acquire BMR Units after the
9 effective date of this legislation, any heir must owner occupy the Unit. If the heir chooses not
10 to occupy the Unit, the heir may market and sell the Unit at the BMR Price through a public
11 lottery process. The heir will retain the proceeds of the sale.

12 (B) ~~For BMR Units purchased or acquired before the effective date of this ordinance, An~~
13 ~~an owner may pass on the right to occupy a Unit through inheritance to a specific household as long~~
14 ~~as that household meets the income qualifications for the Program, agrees to owner-occupy the~~
15 ~~BMR Unit, and is a First Time Homebuyer. If the household chooses not to owner-occupy the~~
16 ~~Unit, it may sell the Unit at its restricted price consistent with the provisions of this legislation~~
17 ~~and receive the proceeds of the sale. All transfers through inheritance must be reported to~~
18 ~~and approved by MOH and in all cases, the heir must acknowledge and agree to the provisions~~
19 ~~of the BMR Program. For BMR Units purchased or acquired on or after the effective date of~~
20 ~~this ordinance, MOH shall be authorized to implement regulations in the Procedures Manual~~
21 ~~limiting if and to what extent a BMR unit may be passed on through inheritance.~~

22 (5) Preferences. The Mayor's Office of Housing shall give first priority to an existing tenant
23 of a BMR Unit at the time of sale if that tenant qualifies as a low or moderate income household,
24 depending on how the BMR Unit is designated. If there is no existing qualifying tenant who wishes to
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1 purchase the BMR Unit, the Mayor's Office of Housing shall use a lottery system that gives preference
2 to households who live or work in San Francisco and meet all other homebuyer requirements.
3 Otherwise, it is the policy of the Board of Supervisors to treat all households equally in allocating
4 affordable BMR Units under this Program.

5 (f) **Rental Procedures.**

6 (1) BMR Units purchased or acquired on or after the effective date of this ordinance. All
7 owners purchasing or acquiring BMR Units on or after the effective date of this legislation must
8 owner-occupy the BMR Unit. No rental of such BMR Units shall be permitted without the express
9 written consent of MOH and under the circumstances outlined in the Procedures Manual.

10 (2) BMR Units purchased or acquired before the effective date of this ordinance, but on or
11 after June 1, 1988. The Board of Supervisors reiterates and readopts the requirement that it
12 legislated effective June 1, 1988 that BMR Units in this Program must be owner occupied.
13 The Board instructs MOH to enforce this requirement. To this end, for BMR Units purchased
14 or acquired by individuals before the effective date of this legislation but on or after June 1,
15 1988, the homeowner may continue to rent to an income-qualified tenant at an affordable rent,
16 as defined, for a period of no longer than 24 months after the effective date of this legislation.
17 At the end of the 24-month period, the owner must occupy the BMR Unit or sell it.

18 (3) For BMR Units purchased or acquired by individuals before June 1, 1988 or
19 owned by the original Subdivider or its successor in interest, renting is permitted under the
20 following conditions. The owner may continue to rent the BMR Unit to an income qualified tenant at
21 an affordable rent, as defined. The owner may continue to rent to the current tenant at the current rent
22 level until the tenant vacates, at which time the owner must notify MOH of their intent to re-rent the
23 Unit. The owner and MOH shall follow the rental procedures as set forth in the Procedures Manual.
24 Additionally, the owner must submit a monitoring report to the Mayor's Office of Housing (MOH), at a
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1 timeframe determined by MOH, to verify current tenant information and rent levels. For current
2 owners only, the Board hereby supercedes the requirement of Section 1341B effective June
3 1, 19981988 that BMR Units in this Program be owner-occupied.

4 (g) Other regulations: This Section 1344 sets forth the current requirements and
5 procedures for the Condominium Conversion Below Market Rate Program ("Program"). To implement
6 this Section, the Department of City Planning and the Mayor's Office of Housing shall periodically
7 publish a Procedures Manual containing procedures for monitoring and enforcement of the policies
8 and procedures for implementation of this Program. The Procedures Manual must be made available
9 upon request and on the Mayor's Office of Housing website. The Procedures Manual shall not be
10 amended, except for an annual update of the affordability housing guidelines, which reflect updated
11 income limits, prices, and rents, without approval of the Planning Commission or as otherwise
12 specified herein.

13 The Procedures Manual in effect at the time of the most recent owner's purchase of initial
14 purchase or initial rental of a BMR Unit shall govern the regulation of that BMR Unit until it is
15 transferred or sold. or re-rented unless an owner or current tenant chooses to be governed by
16 all of the more up-to-date provisions of the then-current Procedures Manual. Any future
17 amendments to the Procedures Manual will not be retroactive and will only apply to new
18 owners of BMR Units, unless the owner chooses an alternative that provides otherwise under
19 Section 1344(i). — In that case, the owner or tenant must agree to be governed by the totality
20 of the new regulations -- an owner or tenant may not pick some provisions from the
21 Procedures Manual in effect at the time of initial purchase or initial rental and some in effect in
22 the then-current Procedures Manual. If the owner or tenant chooses to be governed by the
23 then-current Procedures Manual he or she shall sign an agreement with the City to that effect,
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1 and the Planning Department and Mayor's Office of Housing shall apply all of the rules and
2 regulations in the then-current Procedures Manual to the BMR Unit.

3 (h) **Original Subdividers.** The following provisions shall apply only to Original
4 Subdividers as defined herein.

5 (1) The Mayor's Office of Housing shall release any BMR rental units if an Original
6 Subdivider can demonstrate a 20-year rental history at the affordable rate for the unit size and
7 income designation of the Unit to qualifying tenants. A release of the restrictions under the
8 Program will be recorded against the property. The standards used to determine rental
9 history at the affordable rate for the unit size and income designation of the Unit to a qualifying
10 tenant are found on file with the Clerk of the Board in File No. _____ and on the
11 Mayor's Office of Housing website.

12 (2) If an Original Subdivider cannot demonstrate 20 years of rental at the affordable
13 rate for the unit size and income designation of the Unit to qualifying tenants, the Original
14 Subdivider may:

15 (A) Contine to rent the Units until a 20-year rental history at the affordable rate for
16 the unit size and income designation of the Unit to qualifying tenants can be demonstrated.
17 The Units shall be governed by the rules in Section 1344(f)(2). The standards used to
18 determine rental history at the affordable rate for the unit size and income designation of the
19 Unit to a qualifying tenant are found on file with the Clerk of the Board in File No. _____
20 and on the Mayor's Office of Housing website.

21 (B) Enter into an agreement with the City, acting through the Mayor's Office of
22 Housing, to pay a housing replacement fee adjusted for income level and number of
23 bedrooms as provided in the table below, or 50% of the difference between the BMR Resale
24 Price and the Fair Market Value at the time of payment, as defined herein, whichever is less.

The fee may be paid immediately upon execution of the Agreement or as a City lien, recorded through a note and deed of trust in favor of the City against the property, with a simple interest of 3%. Interest will not start accruing until the date which is 24 months from the effective date of this ordinance. Fifty percent (50%) of the difference between the BMR Resale Price and the Fair Market Value will be established at the time of repayment. Upon payment of the fee or recordation of a lien in favor of the City, a release of the restrictions under the Program will be recorded against the property. As part of any Agreement under this subsection, the Original Subdivider must waive all claims against the City for damages or other alleged injury arising from the Subdivider's participation in the Program. The fee shall be as follows: Enter into a contract with the City, acting through the Mayor's Office of Housing, to agree to pay a replacement housing fee in exchange for immediate release of the Units from the program, as detailed in the fee table below. Upon payment of the fee, a release of the restrictions under the Program will be recorded against the property.

TABLE INSET:

<u>Unit Size</u>	<u>Moderate Income Designation</u> <u>(120% AMI)</u>	<u>Low Income Designation (80%</u> <u>AMI)</u>
<u>1-Bedroom or</u> <u>Smaller</u>	<u>\$150,000*</u>	<u>\$200,000*</u>
<u>2-Bedroom</u>	<u>\$250,000*</u>	<u>\$300,000*</u>
<u>3-Bedroom</u>	<u>\$350,000*</u>	<u>\$400,000*</u>
<u>4-Bedroom</u>	<u>\$450,000*</u>	<u>\$500,000*</u>

(i) Alternatives To Compliance With This Section.

This subsection shall be effective for 24 months from the effective date of this legislation at which time it will sunset. At the owner's election and if he or she qualifies for the

specified option, he or she may choose to enter into a contract with the City, acting through the Mayor's Office of Housing, for one of the following options. To be effective, such contract must be executed by all parties and approved as to form by the City Attorney's Office on or before the date which is 24 months from the effective date of this legislation. As a part of any contract under this subsection, the BMR Unit Owner must waive all claims against the City for damages or other alleged injury arising from the Owner's participation in the Program. Any relevant documents must be recorded against the property. The Mayor's Office of Housing shall, within 90 days from the effective date of this legislation, publish the last date for applying for these options, a form of agreement, and any corresponding documents, on its website.

(a) Option 1: This option is available to Pre-Affidavit Owners only. Pre-Affidavit Owners may be released from the Program if they enter into an agreement with the City to pay a fee adjusted for income level and number of bedrooms as provided in the table below, or 50% of the difference between the BMR Resale Price and the Fair Market Value at the time of payment, as defined herein, whichever is less. The fee may be paid immediately upon execution of the Agreement or as a City lien, recorded through a note and deed of trust in favor of the City against the property, with a simple interest of 3%. Interest will not start accruing until the date which is 24 months from the effective date of this ordinance. Fifty percent (50%) of the difference between the BMR Resale Price and the Fair Market Value will be established at the time of repayment. Upon payment of the fee or recordation of a lien in favor of the City, a release of the restrictions under the Program will be recorded against the property. The fee shall be as follows:

TABLE INSET:

<u>Unit Size</u>	<u>Moderate Income Designation</u>	<u>Low Income Designation (80%</u>
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	<u>(120% AMI)</u>	<u>AMI)</u>
<u>1-Bedroom or Smaller</u>	<u>\$150,000*</u>	<u>\$200,000*</u>
<u>2-Bedroom</u>	<u>\$250,000*</u>	<u>\$300,000*</u>
<u>3-Bedroom</u>	<u>\$350,000*</u>	<u>\$400,000*</u>
<u>4-Bedroom</u>	<u>\$450,000*</u>	<u>\$500,000*</u>

Upon request of the Pre-Affidavit Owner, the City will subordinate its lien to a maximum of 80% loan to value of the property at the time of subordination.

(b) Option 2: This option is available to all Pre-legislation Owners. Under this option, an owner will receive a one-time increase in the base resale price of their unit. In return, the owner agrees to be governed by the provisions of this ordinance applicable to "Post-Legislation" owners. The one-time increase in the base resale price shall result in an amount as follows:

TABLE INSET:

<u>Unit Size</u>	<u>Moderate Income Designation (120% AMI)</u>	<u>Low Income Designation (80% AMI)</u>
<u>Junior Studio (GMH Only)</u>	<u>\$216,150</u>	<u>\$142,100</u>
<u>Studio</u>	<u>\$240,200</u>	<u>\$157,900</u>
<u>1-Bedroom</u>	<u>\$282,350</u>	<u>\$189,050</u>
<u>2-Bedroom</u>	<u>\$324,150</u>	<u>\$220,250</u>
<u>3-Bedroom</u>	<u>\$366,300</u>	<u>\$251,400</u>
<u>4-Bedroom</u>	<u>\$399,900</u>	<u>\$276,350</u>

1 (j) Funds. Any funds received by the City through payments made in accordance
2 with subsections (h) and (i) shall be deposited in the Mayor's Home Ownership Assistance
3 Loan Fund, created under Administrative Code Section 10.100-108 and use of the funds shall
4 be governed by that section.

5 Section 3. The San Francisco Subdivision Code is hereby amended by amending
6 Sections 1308, 1309, 1341, 1341B, 1359, and 1385, to read as follows:

7 **SEC. 1308. SUBDIVISIONS.**

8 (a) "Common areas" shall mean an entire project excepting all units therein granted or
9 reserved.

10 (b) "Community Apartments" shall mean an estate in real property consisting of an undivided
11 interest in common in a parcel of real property and the improvements thereon coupled with
12 the right of exclusive occupancy of any apartment located therein.

13 (c) "Condominium" shall mean an estate in real property consisting of an undivided interest
14 in common in a portion of a parcel of real property together with a separate interest in space
15 in a residential, industrial, or commercial building on such real property, such as an
16 apartment, office, or store. A Condominium may include in addition a separate interest in
17 other portions of such real property. Such estate may, with respect to the duration of its
18 enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate for life, or
19 (3) and estate for years, such as a leasehold or subleasehold. This definition is intended to
20 conform to Section 783 of the California Civil Code and any other section of California law.

21 (d) "Conversion" shall mean a subdivision which changes the type of ownership of real
22 property to that defined as a Condominium project, Community Apartment project or Stock
23 Cooperative and in which two or more condominiums, community apartments or units in a
24 stock cooperative are newly created wholly or in substantial part within an existing structure or
25

1 structures, regardless of the present or prior use of such structures and of whether substantial
2 improvements have been made to such structures.

3 (e) "Project" shall mean the entire parcel or real property divided or to be divided in any of
4 the methods defined as a subdivision.

5 (f) "Stock Cooperative" shall mean a corporation formed or availed of primarily for the
6 purpose of holding title to, either in fee simple or for a term of years, improved real property, if
7 all or substantially all of the shareholders of such corporation receive a right of exclusive
8 occupancy in a portion of the real property, title to which is held by the corporation, which right
9 of occupancy is transferable only concurrently with the transfer of the share or shares of stock
10 in the corporation held by the person having such right of occupancy.

11 (g) "Subdivider" shall mean a person, firm, corporation, partnership or association who
12 proposes to divide, divides or causes to be divided real property into a subdivision for himself
13 or for others. City agencies, including the San Francisco Redevelopment Agency, are
14 exempted from this definition.

15 (h) "Subdivision" shall mean the division of any improved or unimproved land, shown on the
16 latest equalized County assessment roll as a unit or as contiguous units, for the purpose of
17 sale, lease or financing, whether immediate or future. Property shall be considered as
18 contiguous units even if it is separated by roads, streets, utility easements or railroad rights-of-
19 way. This definition shall specifically but not exclusively include Condominiums, Community
20 Apartments, Stock Cooperatives and Conversions.

21 (i) "Unit" shall mean the elements of a project which are to be owned individually and not in
22 common with the owners of other elements of the project.

23 (j) "Tenant" shall mean a person or persons entitled under a lease, rental agreement or other
24 agreement with the owner of record of the property or his or her agent to occupy a dwelling
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1 unit. A "tenant" can be an owner or a shareholder of the owner of record who resides in the
2 property. For purposes of this definition, "Tenant" shall mean "Subtenant" as defined in
3 Section 1308(k) where the subtenant occupies and resides in the unit in agreement with and
4 to the exclusion of the tenant and with the consent of the owner.

5 (k) "Subtenant" shall mean a person or persons whose rights to occupy a dwelling are
6 derived from the tenant rather than from the property owner or his or her agent.

7 (l) "Low-Income Housing Stock" shall mean those rental dwelling units in buildings being
8 proposed for conversion for which the rent, at the time the application for conversion is filed,
9 does not exceed 25 percent of the gross monthly income of a low-income household as
10 defined in Section 1309(e). For purposes of applying this Section and Section 1309(e), a
11 studio apartment shall be deemed to be a one-person household, a one-bedroom apartment
12 shall be deemed to be a two-person household, a two-bedroom apartment shall be deemed to
13 be a three-person household, and a three-bedroom apartment shall be deemed to be a four-
14 person household.

15 (m) "Moderate-Income Housing Stock" shall mean those rental dwelling units in buildings
16 being proposed for condominium conversion, the rental for which at the time of filing the
17 application for conversion exceeds the amount which would cause the unit to be defined as
18 low-income housing stock pursuant to Section 1308(l), but does not exceed 25 percent of the
19 gross monthly income of a moderate-income household as defined in Section 1309(f). In
20 relating the size of the unit to household size, the same relationships set forth for low-income
21 housing shall apply.

22 (n) "Gross Income" shall have the meaning set forth in Section 1344. ~~mean all income from~~
23 ~~whatever source derived as provided in the Internal Revenue Code (26 U.S.C. Section 61) whether or~~
24 ~~not exempt from federal income tax.~~

1 (o) "Household" shall mean any person or persons who reside or intend to reside in the
2 same housing unit.

3 (p) "Household of median income" and "Household of low income" shall have the meaning set
4 forth in Section 1344. ~~mean a household whose combined annual gross income for all members does~~
5 ~~not exceed one hundred (100) percent of the median income for the San Francisco Metropolitan~~
6 ~~Statistical Area, as calculated by the United States Department of Housing and Urban Development~~
7 ~~(HUD) and adjusted for household size.~~

8 **SEC. 1309. TERMINOLOGY.**

9
10 (a) "Affirmative Action in Housing" shall mean informational and promotional activity
11 for the purpose of eliminating discrimination in housing accommodations because of
12 race, religion, national origin, sex, or any other basis prohibited by law.

13 (b) "Application Packet" shall mean the Tentative Map together with all documents,
14 statements and other matters that are required as attachments thereto.

15 (c) "Final Map" shall mean a map prepared in accordance with Chapter 2, Article 2 of
16 SMA and this Code, which map is designed to be placed on record in the office of the
17 Recorder.

18 (d) "Improvement Plan" shall mean an engineering plan or a set of engineering plans
19 showing the location and construction details of improvements.

20
21 (e) Intentionally left blank. ~~"Low income" shall mean the income of households, as defined by~~
22 ~~Concept 79.1 of the 1970 U.S. Census "User's Guide," whose immediate household income does~~
23 ~~not exceed 80 percent of the median household income for the San Francisco Standard~~
24 ~~Metropolitan Statistical Area as determined by the U.S. Department of Housing and Urban~~

1 ~~Development and adjusted according to the determination of that Department pursuant to the~~
2 ~~Housing and Community Development Act of 1974.~~

3 (f) ~~Intentionally left blank. "Moderate income" shall mean the income of households, as~~
4 ~~defined by Concept 79.1 of the 1970 U.S. Census "User's Guide," whose immediate household~~
5 ~~income is greater than 80 percent but does not exceed 120 percent of the median household~~
6 ~~income for the San Francisco Standard Metropolitan Statistical Area as determined by the U.S.~~
7 ~~Department of Housing and Urban Development and adjusted according to the determinations~~
8 ~~of that Department pursuant to the Housing and Community Development Act of 1974.~~

9 (g) "Parcel Map" shall mean a map prepared in accordance with Chapter 2, Article 3
10 of SMA and this Code, which map is designed to be placed on record in the office of
11 the Recorder.

12 (h) "Soil Engineer" shall mean a registered civil engineer, experienced in engineering
13 geology, responsible for the soil engineering work outlined in this Code, including
14 supervision, analysis and interpretation of field investigation and laboratory tests for a
15 specific project; preparation of geological and soil engineering recommendations and
16 specifications; and supervision of grading construction work.

17 (i) "Standard Specifications" shall mean the Standard Specifications of the Bureau of
18 Engineering.

19 (j) "Subdivision Regulations" shall mean the detailed technical and administrative
20 requirements adopted by the Advisory Agency to supplement this Code, including
21 amendments thereto.
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1 (k) "Tentative Map" shall mean a map made for the purpose of showing the design of
2 a proposed subdivision and the existing conditions in and around it; such a map need
3 not be based upon an accurate or detailed final survey of the property.

4 (l) "Vesting tentative map" shall mean a tentative map which shall have at the time of
5 filing printed conspicuously on its face the words "Vesting Tentative Map."
6

7 **SEC. 1341. LOW AND MODERATE INCOME OCCUPANCY.**

8 The provisions of this Section and its application to certain properties may be affected by
9 amendments creating Section 1344. Please consult Section 1344 in addition to this Section for
10 Units subject to the Below Market Rate Condominium Conversion Program.

11 (a) In all subdivisions involving 50 or more lots or units, except for condominium or
12 cooperative conversion subdivisions, the subdivider shall make available 10 percent of
13 the units for low and moderate income occupancy provided that the Department of City
14 Planning finds that governmental subsidies for such occupancy are available to the
15 subdivider. This requirement shall not limit the authority of the City otherwise to
16 encourage the provision of low and moderate income housing, or of the subdivider to
17 make available additional low and moderate income housing.

18 (b) In all condominium or cooperative conversion subdivisions with five or more lots or
19 units, the subdivider shall make available 10 percent of the lots or units for rental or for
20 purchase by households of low or moderate income. In the event that the total number
21 of units determined to be within the low or moderate income housing stocks pursuant to
22 Section 1385 is greater than 10 percent of the total number of units in the subdivision,
23 such greater number shall apply, and such number of units determined to be within the
24 low or moderate income housing stock shall be made available for purchase as set
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1 forth in Section 1385, thereby precluding the application of the alternatives set forth in
2 Section 1341 to such number of units. In the event the total number of units determined
3 to be within the low or moderate income housing stock pursuant to Section 1385 is less
4 than 10 percent of the total number of units in the subdivision, the difference between
5 such number of units determined to be within the low or moderate income housing
6 stock and the 10 percent required by Section 1341 may be satisfied by the alternatives
7 set forth in this Section.

8 (c) If the units are to be made available for purchase, then the sales prices of such
9 units shall not exceed 2.5 times the annual median income for low or moderate income
10 households, as defined, and as adjusted for household size according to the
11 relationship to the size of the dwelling, as set forth in Section 1309. Priority for
12 purchase of these units shall be as set forth in Section 1385. Any low or moderate
13 income household which purchases a dwelling pursuant to this Section shall grant a
14 right-of-first-refusal, to the City and County of San Francisco, or to such other entity
15 that at a future time may be designated by the City and County of San Francisco, to
16 repurchase the dwelling from the initial purchaser at the original price plus the cost of
17 any improvements paid for by the owner, plus an increase proportionate to the
18 increases in the housing component of the "Bay Area Cost of Living Index, U.S. Dept.
19 of Labor," over the intervening time period. The City and County of San Francisco, or
20 designated agent, shall reconvey such unit to other qualified purchasers if the right to
21 purchase is exercised by the City or its designated agent.

22 (d) If the converted units are to be for rental, then the rent in such units shall not
23 exceed the rent charged at the time of filing the application for conversion, or the
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1 maximum rent that would be allowed so as to keep the unit within moderate income
2 housing stock, whichever rent level is lower. Once established, rent levels for any units
3 remaining as rental pursuant to this Section may be increased annually consistent with
4 any changes in the residential rent component of the "Bay Area Cost of Living Index,
5 U.S. Dept. of Labor." In cases of hardship to the subdivider, or in cases where a rent
6 increase authorized herein is considered by the tenant to be not consistent with
7 increases in the residential rent component of the Bay Area Cost of Living Index, either
8 a subdivider or a tenant may request relief under this Section from the Director or his or
9 her designee. In considering the reasonableness of a rent increase, the Director shall
10 consider whether the rental revenues are sufficient to adequately maintain the building
11 in safe and sound condition, and in conformity with any applicable sections of the San
12 Francisco Housing and Building Codes. The Director may allow rent increases greater
13 than the proportionate increases in the residential rent component of the "Bay Area
14 Cost of Living Index, U.S. Dept. of Labor," in order to allow the building to be
15 maintained in safe and sound condition. The rental increase provisions of this Section
16 shall apply only in the absence of other applicable rent increase or arbitration laws.

17 (e) Converted units made available for purchase by households of low or moderate
18 income pursuant to this Section, or purchased or acquired by a tenant or qualified
19 household subject to the price limitation of Section 1385, shall remain within the low or
20 moderate income housing stock pursuant to the recapture provision of Subsection (c)
21 above. Units made available for rental pursuant to Subsection (d) above shall remain
22 as rental units for no less than 20 years, provided, however, that such rental units may
23 be sold by the original subdivider or any subsequent owner during such 20-year period
24 at a price not exceeding the price at which the City and County of San Francisco would
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1 be entitled to repurchase the unit if exercising its right of first refusal under Subsection
2 (c) above, and further provided that such maximum price shall not reflect the cost of
3 any improvements made within two years after recording of the final or parcel map for
4 the conversion.

5 (f) As an alternative to the provisions of Subsections (b) and (c) above, the subdivider
6 shall make a bona fide agreement, satisfactory to the Department of City Planning, to
7 construct or cause to be constructed within a period commencing 18 months prior to
8 the date of filing the application for conversion and ending 18 months after filing of the
9 final or parcel map, or to provide through other means, the same number of units and
10 under the same conditions as would be required for low or moderate income
11 occupancy under the provisions of Subsections (b), (c) and (d) above, in areas
12 approved by the Department of City Planning as being non-impacted with assisted
13 housing.

14 (g) As a further alternative to the provisions of Subsections (b), (c) and (f) above, the
15 subdivider shall pay to the City and County of San Francisco an amount equal to 10
16 percent of the difference between the aggregated total of the proposed market rate
17 sales prices, as indicated on the price list supplied with the application packet, and the
18 aggregate total of the sales prices if the units were to be sold at moderate-income
19 sales prices, as determined by the sales price formula of Section 1385 and Subsection
20 (c) above. This payment shall be made within two years of the recordation of the Final
21 Map.
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1 (h) Funds collected pursuant to Subsection (g) above, shall be deposited into the
2 Housing Development Fund, which fund is to be used for persons and households of
3 low or moderate income.

4
5 **SEC. 1341B. REQUIREMENTS FOR RESALE OF CONVERTED UNITS ON OR AFTER**
6 **JUNE 1, 1988.**

7 *The provisions of this Section and its application to certain properties may be affected by*
8 *amendments creating Section 1344. Please consult Section 1344 in addition to this Section for Units*
9 *subject to the Below Market Rate Condominium Conversion Program.*

10 (1) This Section shall govern exclusively where the City and County of San Francisco,
11 on or after June 1, 1988, exercises the right of first refusal under Section 1341(c) to
12 repurchase converted units. This Section shall not apply, however, to any units which
13 are the subject of an application for conversion filed on or after June 1, 1988.

14 (2) The following definitions shall apply:

15
16 (a) "Household" shall mean the person or persons who will permanently reside
17 in the unit. Such persons shall include dependents as that term is defined in the
18 Internal Revenue Code provided that said dependents permanently reside in the
19 unit.

20 (b) "Eligible household" shall mean a household in which the combined gross
21 income plus 10 percent of the value of all interests in real estate, notes
22 receivable, bank accounts, stocks and bonds does not exceed the maximum
23 allowable income for the household under Subsection (d) below at the time of
24 purchase of the unit.
25

1 (c) "Gross income" shall mean all income from whatever source derived as
2 provided in the Internal Revenue Code (26 USC § 61), whether or not exempt
3 from federal income tax. Such income includes, but is not limited to, the
4 following:

- 5 (1) Compensation for services, including fees, commissions, and similar
6 items;
- 7 (2) Gross income derived from business;
- 8 (3) Gains derived from dealings in property;
- 9 (4) Interest;
- 10 (5) Rents;
- 11 (6) Royalties;
- 12 (7) Dividends;
- 13 (8) Alimony and separate maintenance payments;
- 14 (9) Annuities;
- 15 (10) Income from life insurance and endowment contracts;
- 16 (11) Pensions;
- 17 (12) Income from discharge of indebtedness;
- 18 (13) Distributive share of partnership gross income;
- 19 (14) Income in respect of a decedent; and
- 20 (15) Income from an interest in an estate or trust.
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1 (d) "Maximum allowable income" shall mean 120 percent of the San Francisco
2 Standard Metropolitan Statistical Area Median Income as published annually by
3 the U.S. Department of Housing and Urban Development. The resulting figures
4 may be adjusted upwards as necessary, not to exceed 15 percent, by the
5 Director the Mayor's Office of Housing in order to assure that eligible
6 households qualify for financing by institutional lenders.

7 (e) "First-time buyer" shall mean a person who has not purchased or acquired
8 any dwelling as a principal place of residence within the past three years as
9 verified by federal tax returns for said three-year period.

10 (3) The Mayor's Office of Housing shall be responsible for administering the resale of
11 and reconveyance of units converted to condominiums under Sections 1341 and 1385
12 of this Code, including the exercise of the City's right-of-first-refusal as to sales
13 following the first sale of the unit referred to in Section 1341(c). The Mayor's Office of
14 Housing shall, whenever possible, reconvey converted units to purchasers who qualify
15 as eligible households. The Mayor's Office of Housing shall give preferential
16 consideration to households with dependents and to first-time buyers. The Mayor's
17 Office of Housing shall adopt a preferential rating system to accomplish this purpose.

18 (4) All purchasers must become owner occupants.

19
20 ~~SEC. 1343. POLICIES AND PROCEDURES FOR USE OF THE HOUSING DEVELOPMENT FUND.~~

21 ~~(1) Purpose of the Fund.~~

1 ~~(a) To reduce the cost of construction of new residential structures, or rehabilitation of~~
2 ~~existing structures, so that dwelling units in such structures are affordable by persons~~
3 ~~and families of low and moderate income.~~

4 ~~(b) To expand homeownership opportunities for persons and families of low or~~
5 ~~moderate income.~~

6 ~~(c) The determination of what constitutes housing affordable to persons and families of~~
7 ~~low and moderate income shall be in accordance with the then-current Department of~~
8 ~~Housing and Urban Development guidelines.~~

9
10 ~~(2) Eligible Uses of the Fund.~~

11 ~~(a) Monies from the Fund may be made available to nonprofit housing corporations for~~
12 ~~the acquisition of available and feasible sites for developing low and moderate income~~
13 ~~housing and the rehabilitation of existing sites for low and moderate income housing.~~

14 ~~(b) Monies from the Fund may be used for costs incident to the acquisition or~~
15 ~~rehabilitation of property, including, but not limited to, architectural and engineering~~
16 ~~costs.~~

17 ~~(c) Any developer receiving monies from this Fund shall ensure that a minimum of 51~~
18 ~~percent of the units in the project are made available to persons and families of low and~~
19 ~~moderate income.~~

20 ~~(d) Monies may be used to pay the cost of administering the Fund, including the costs~~
21 ~~incurred by the the Mayor's Office of Housing in order to monitor those units which~~
22 ~~have been set aside for persons and families of low and moderate income and to~~
23 ~~facilitate the resale of converted units.~~

1 ~~(3) Administration of the Fund. The Fund shall be administered by the Mayor's Office of~~
2 ~~Housing.~~

3 ~~(4) Application for Loan or Grant Funds. Any nonprofit corporation concerned with the~~
4 ~~construction of housing, or concerned with the provision of housing opportunities for low or~~
5 ~~moderate income persons, may make application to the Mayor's Office of Housing for the use of~~
6 ~~monies from the Fund to be applied in accordance with the provisions of this Section 1343.~~

7 ~~Applications shall specify how monies from the Fund would make units affordable by persons or~~
8 ~~households of low or moderate income and shall specify how units assisted by the Fund would remain~~
9 ~~in occupancy by low or moderate income households.~~

10 ~~Applications shall be reviewed by the Mayor's Office of Housing, whose decisions shall be final.~~

11 ~~(5) Authorization to Expend. The Mayor and the Executive Director of the Mayor's Office of~~
12 ~~Housing shall approve expenditures from the Housing Development Fund. The funds are~~
13 ~~deemed appropriated solely for the purposes set forth in Subsections (1) and (2) above.~~

14 ~~(6) Interest. Interest earned from the Housing Development Fund shall become part of the~~
15 ~~principal and shall not be drawn from the funds for any purpose other than that for which the~~
16 ~~Housing Development Fund is established.~~

17 ~~(7) Accrual of Monies in Fund. Any unexpended balances remaining in the Housing~~
18 ~~Development Fund at the close of any fiscal year shall be deemed to have been provided for a~~
19 ~~specific purpose within the meaning of Section 6.306 of the Charter and shall be carried~~
20 ~~forward and accumulated in the Housing Development Fund for the purpose recited herein.~~

21 ~~(8) Reporting on Program Status. The Mayor's Office of Housing shall report quarterly to the~~
22 ~~Board of Supervisors on the current status of the Fund, the amount approved for disbursement,~~

1 ~~the number and types of projects assisted, and shall make recommendations for any changes~~
2 ~~deemed necessary to improve the effectiveness of the Fund in achieving its purpose.~~

3 **SEC. 1359. PARCEL MAP.**

4 (a) The requirements of Subsection (c) of Section 1356 of this Code shall apply to
5 Parcel Maps.

6 (b) The Parcel Map shall conform to the requirements of Chapter 2, Article 3 of SMA
7 and to the Subdivision Regulations regarding detailed format and contents.

8 (c) In the case of Conversions where a Tentative Map is not required, the
9 requirements of Section 1314 and the requirements of Article 9 on Conversions shall
10 apply, provided that hearings as provided in Sections 1313 and 1332 shall not be
11 required, ~~and the 10 percent low and moderate income occupancy as provided in Section 1341~~
12 ~~shall not be required,~~ and provided further that Article 9 shall not be applied to two-unit
13 buildings where both units are owner-occupied for one year prior to the application for
14 Conversion. ~~The Director of Planning, however, shall make the determination pursuant to~~
15 ~~Section 1385 concerning preservation of low and moderate income housing.~~

16 (d) In addition to the requirements of Subsection (c), the owners of record of a two-
17 unit building conversion that qualify for the exemption from Article 9 must certify under
18 penalty of perjury and the Department must verify with the Rent Stabilization and
19 Arbitration Board, and with the Human Rights Commission as applicable, that since
20 November 16, 2004, no eviction as defined in San Francisco Administrative Code
21 Section 37.9(a)(8)--(14) of a senior, disabled person, or catastrophically ill tenant as
22 defined below has occurred, or if an eviction has taken place under Administrative
23 Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the unit after a
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1 temporary eviction. For purposes of this Subsection a "senior" shall be a person who is
2 60 years or older and has been residing in the unit for 10 years or more at the time of
3 the lottery; a "disabled" tenant is defined for purposes of this Subsection as a person
4 who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a
5 "catastrophically ill" tenant is defined for purposes of this Subsection as a person who
6 is disabled as defined above, and who is suffering from a life threatening illness as
7 certified by his or her primary care physician.

8 (e) If the owners of record cannot satisfy the requirements of Subsection (d), then the
9 owners of record shall comply with Article 9, including its Section 1396.1(g)(3), prior to
10 submitting an application for Conversion.

11 (f) If the Department determines that an applicant has knowingly provided false
12 material information under Subsection (d) above, the Department shall immediately
13 deny the application, or if the applicant has submitted an application for conversion,
14 shall immediately deny the application for conversion. Moreover, the Department, the
15 Director, or other authorized person or entity may also enforce the provisions of this
16 Subsection under Section 1304 or any other applicable provision of law as warranted.
17

18 **SEC. 1385. PRESERVATION OF LOW AND MODERATE INCOME HOUSING.**

19 The provisions of this Section and its application to certain properties may be affected by
20 amendments creating Section 1344. Please consult Section 1344 in addition to this Section for Units
21 subject to the Below Market Rate Condominium Conversion Program.

22 The Department of City Planning shall determine whether any units to be converted are
23 part of the City's low and moderate income housing stocks. If the Department of City Planning
24 determines that any unit to be converted is part of the City's low or moderate income housing
25

1 stocks, then the price of the unit upon conversion shall not be such as to remove it effectively
2 from said low or moderate income housing stocks and shall be no greater than 2.5 times the
3 highest income level for low and moderate income households as defined in Section 1309(e)
4 and (f), and as adjusted for household size according to the size of the dwelling, as set forth in
5 Sections 1309(l) and (m). The resulting sales prices established pursuant to this formula may
6 be increased consistent with any increases in the housing component of the "Bay Area Cost
7 of Living Index, U.S. Dept. of Labor," during the period between the most recent
8 establishment of the above highest income levels and the date of commencement of sales. If
9 the tenant does not exercise the contract right to purchase the unit which has been
10 determined to be part of the low or moderate income housing stock, then the unit shall be
11 made available exclusively for purchase by qualified households of low or moderate income
12 on first-come, first-served basis for a period of not less than 12 months from the date of the
13 decision by the tenant not to exercise the contract right to purchase or, if there is no tenant,
14 from the date of issuance of the State Department of Real Estate Final Subdivision Public
15 Report, at a price no greater than that allowed under the low and moderate income price
16 guidelines set forth above. Priority, however, shall be given to low or moderate income
17 households who can demonstrate that they had previously relocated from a dwelling in a
18 building which has been approved for condominium conversion. The alternatives for low and
19 moderate income occupancy set forth in Section 1341 shall not apply, except for those
20 additional number of units which may be required pursuant to Section 1341(a) to be made
21 available for rental or for purchase by households of low or moderate income. In cases where
22 no low or moderate income household has purchased or contracted to purchase such unit
23 within this 12-month period, after good-faith efforts by the subdivider, the subdivider may offer
24 the unit to the general public with no price limitation.

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

3 By: SUSAN CLEVELAND-KNOWLES
4 Deputy City Attorney
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