

1 [Below Market Rate Condominium Conversion Program.]

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3 **Ordinance amending the San Francisco Subdivision Code by adding Section 1344 to**  
4 **update and clarify the provisions relating to Below Market Rate Units under the**  
5 **Condominium Conversion Program including provisions related to the calculation of**  
6 **sales price, renting, capital improvements, duration and monitoring of affordability,**  
7 **marketing, and ongoing regulations; and amending Sections 1308, 1309, 1341, 1341B,**  
8 **1343, 1359, and 1385 to make conforming changes, and making findings including**  
9 **findings under the California Environmental Quality Act (CEQA).**

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

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

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

16 (a) Program History: The City of San Francisco created the Below Market Rate  
17 Condominium Conversion Program ("Condominium Conversion Program" or "Program") to  
18 require, in part, that certain units converted to condominiums be restricted as below-market  
19 rate units ("BMR Units"). The Condominium Conversion Program was adopted as part of the  
20 San Francisco Subdivision Code in ~~the late 1970s~~ 1979 under sections 1341, ~~1341B~~ and  
21 1385. The Program was intended to comply with the City's Residence Element of the Master  
22 Plan, which called for expanding opportunities for homeownership while preserving and  
23 expanding the supply of low- and moderate-income housing. The Program allowed apartment  
24 buildings to be converted to condominiums only if 10% or greater of the converted units were  
25 set aside as affordable units for households earning less than 80% or 120% of Area Median

1 Income ("AMI"), as determined by the Planning Commission. Renters in the units were given  
2 the right of first refusal to purchase the unit and seniors who chose not to purchase were  
3 given lifetime leases.

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

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

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

9 (e) In enacting Section 1341(e), the Board of Supervisors provided that the BMR  
10 Ownership Units "shall remain within the low or moderate income housing stock pursuant to  
11 the recapture provision[s provided herein]." This provision, and all provisions of Section 1341  
12 and 1385 of the Subdivision Code, are referenced on all Subdivision Maps of projects that  
13 include BMR Units in the Program. These maps are recorded. In addition to the note  
14 recorded on the Subdivision Map, since approximately December 1, 1992, MOH has  
15 requested that purchasers of BMR Ownership Units sign affidavits stating that they  
16 understand some of the key terms of the Program, including a "permanent" restriction on the  
17 resale price. Many owners have testified in hearings on this legislation that they were  
18 unaware of the permanent nature of the resale restriction on BMR Units. The Board finds as  
19 a policy matter that, regardless of the fact that all BMR Unit owners were given notice of the  
20 restrictions on their Units through the recorded Subdivision Map, owners who purchased on or  
21 after December 1, 1992 were given additional, specific notice of the permanency of the  
22 restrictions and those who purchased "pre-affidavit" were not given this additional notice. For  
23 those who were not given additional notice, the Board finds as a matter of policy and equity,  
24 that these "pre-affidavit owners" should be given the option to permanently exit the Program

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1 under a shared equity model. The City's share of the equity will be used to create new  
2 affordable housing opportunities. The Board finds, however, that the "post-affidavit" owners  
3 were or should have been aware of the permanence of the resale restrictions and that, given  
4 the goal of the Program to retain the BMR Units in the City's affordable housing stock, it would  
5 not be appropriate to extend this option to "post-affidavit" owners.

6 (e) The Planning Department has completed environmental review of this ordinance  
7 pursuant to the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and  
8 Chapter 31 of the San Francisco Administrative Code. Documentation of that review is on file  
9 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

10 Section 2. The San Francisco Subdivision Code is hereby amended by adding Section  
11 1344, to read as follows:

12 Sec. 1344. BELOW MARKET RATE CONDOMINIUM CONVERSION PROGRAM.

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

16 (a) Application.

17 (1) BMR Units purchased or acquired on or after the effective date of this ordinance.

18 Unless a Section specifically applies only to BMR Units purchased before the effective date of this  
19 ordinance, every part of this Section 1344 applies to BMR Units purchased on or after the effective  
20 date of this ordinance. For these BMR Units, this Section 1344 replaces and supersedes all provisions  
21 of Sections 1341, 1341B, and 1385.

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

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

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

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

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

19           (1) "Annual Gross Income" shall mean gross income as defined in CCR Title 25, Section  
20 6914, as amended from time to time, except that the Mayor's Office of Housing may, in order to  
21 promote consistency with the procedures of the San Francisco Redevelopment Agency, develop an asset  
22 test that differs from the State definition if it publishes that test in the Procedures Manual.

1           (2) "Base Price" shall mean the price that the current owner paid for their property  
2 or the reset price the current owner received when entering into a contract under Section  
3 1344(i).

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

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

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

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

15           (67) "Fair Market Value" shall mean the price determined by the Department of Real  
16 Estate based upon two independent appraisals done in conformance with the Uniform  
17 Standards of Professional Appraisal Practice;

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

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

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

4 (911) "Maximum Annual Rent" shall mean the maximum rent that a Property Owner may  
5 charge any tenant occupying a BMR Unit for the calendar year as published by MOH. The maximum  
6 annual rent for a BMR Unit of the size indicated below shall be no more than 30 percent of the annual  
7 gross income for a household of low or moderate income as defined in this Section, depending on how  
8 the BMR Unit is designated, and as adjusted for the household size indicated below as of the first date  
9 of the tenancy:

10 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>

20 (4012) "Mayor's Office of Housing or MOH" shall mean the Mayor's Office of Housing or its  
21 successor.

22 (4413) "Notice of Special Restrictions" shall mean a document recorded with the San Francisco  
23 Recorder's Office for any unit subject to this Program detailing the sale and resale or rental

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1 restrictions and any restrictions on purchaser or tenant income levels included as a Condition of  
2 Approval of the principal project relating to the unit.

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

6 ~~(15)~~ "Owner" shall mean the record owner of the fee or a vendee in possession.

7 (15a) "Pre-Affidavit Owner" shall mean an owner who purchased a BMR Unit before  
8 December 1, 1992."

9 (15b) "Post-Affidavit Owner" shall mean an owner who purchased a BMR Unit on or  
10 after December 1, 1992 and before the effective date of this legislation;

11 (15c) "Pre-Legislation Owner" shall mean all owners who purchased a BMR Unit  
12 before the effective date of this legislation;

13 (15d) "Post-Legislation Owner" shall mean an owner who purchases a Unit on or after  
14 the effective date of this legislation;

15 ~~(16)~~ "Procedures Manual" shall mean the City and County of San Francisco Residential  
16 Inclusionary Affordable Housing Program Monitoring Procedures Manual published in 2007 under  
17 Planning Code Sections 315 et seq., with Condominium Conversion BMR Addendum, on file  
18 with the Clerk of the Board in File No. \_\_\_\_\_, issued by the San Francisco Department  
19 of City Planning, as amended. The Mayor's Office of Housing shall update the Procedures Manual  
20 from time to time as necessary in the same manner as established in Planning Code Section 315 to  
21 include Procedures for this Below Market Rate Condominium Conversion Program and shall  
22 make the Procedures Manual available to the public, including on its website.

23 (c) **Sale Price.**

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1           (1) BMR Units purchased or acquired on or after the effective date of this ordinance. The  
 2 sale price of all BMR units shall be equal to the current owner's purchase price adjusted by the  
 3 percentage change in HUD unadjusted area median income from the purchase date to the  
 4 date of resale pricing, depending on how the BMR Unit is designated, and as adjusted for  
 5 household size as indicated below. 2.5 times the annual median income for low or moderate  
 6 income households, depending on how the BMR Unit is designated, and as adjusted for  
 7 household size as indicated below. In addition, a seller may recoup the cost of approved capital  
 8 improvements as defined herein and special assessments that were paid by the seller, as well  
 9 as the cost of using a real estate agent and Multiple Listing Service ("MLS") of up to five percent  
 10 (5%) of the sale price if they follow the marketing requirements set forth in the Procedures Manual.

11 TABLE INSET:

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<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).

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

6           (d) Capital improvements.

7           (1) BMR Units purchased or acquired on or after the effective date of this ordinance. The  
8 Capital Improvements Policy for this Program is contained in the Procedures Manual, on file  
9 with the Clerk of the Board in File No. \_\_\_\_\_ and available on MOH's website. The Policy  
10 shall include a per unit cap of 10% of the resale price in order to maintain affordability and  
11 shall be MOH shall develop a policy on allowable capital improvements for this Program that  
12 is consistent with the policy for the Residential Inclusionary Affordable Housing Program, Planning  
13 Code Sections 315 et seq. As part of this policy, MOH may establish a per unit cap to allowable  
14 capital improvements in order to maintain affordability. The Capital Improvements Policy shall  
15 be a part of the Procedures Manual.

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

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

22           (1) Purchasers. MOH shall insure that all BMR Units conveyed under this Program are  
23 sold or transferred to households that qualify as both (A) low- or moderate-income households,  
24 depending on how the BMR Unit is designated, as defined; and (B) a First Time Homebuyer household.

1 MOH shall give preference as provided in Subsection (5) below and shall follow the procedures set  
2 forth in the Procedures Manual.

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

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

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

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

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

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

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

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

18            (f) **Rental Procedures.**

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

23            (2) BMR Units purchased or acquired before the effective date of this ordinance, but on or  
24 after June 1, 1988. The Board of Supervisors reiterates and readopts the requirement that it  
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1 ~~legislated effective June 1, 1988 that BMR Units in this Program must be owner occupied.~~  
2 ~~The Board instructs MOH to enforce this requirement. To this end, for BMR Units purchased~~  
3 ~~or acquired by individuals before the effective date of this legislation but on or after June 1,~~  
4 ~~1988, the homeowner may continue to rent to an income qualified tenant at an affordable rent,~~  
5 ~~as defined, for a period of no longer than 24 months after the effective date of this legislation.~~  
6 ~~At the end of the 24-month period, the owner must occupy the BMR Unit or sell it.~~

7 ~~(3) For BMR Units purchased or acquired by individuals before June 1, 1988 or~~  
8 ~~owned by the original Subdivider or its successor in interest, Renting is permitted under the~~  
9 ~~following conditions. The owner may continue to rent the BMR Unit to an income qualified tenant at~~  
10 ~~an affordable rent, as defined. The owner may continue to rent to the current tenant at the current rent~~  
11 ~~level until the tenant vacates, at which time the owner must notify MOH of their intent to re-rent the~~  
12 ~~Unit. The owner and MOH shall follow the rental procedures as set forth in the Procedures Manual.~~  
13 ~~Additionally, the owner must submit a monitoring report to the Mayor's Office of Housing (MOH), at a~~  
14 ~~timeframe determined by MOH, to verify current tenant information and rent levels. For current~~  
15 ~~owners only, the Board hereby supercedes the requirement of Section 1341B effective June~~  
16 ~~1, 1998 that BMR Units in this Program be owner-occupied.~~

17 ~~(g) Other regulations: This Section 1344 sets forth the current requirements and~~  
18 ~~procedures for the Condominium Conversion Below Market Rate Program ("Program"). To implement~~  
19 ~~this Section, the Department of City Planning and the Mayor's Office of Housing shall periodically~~  
20 ~~publish a Procedures Manual containing procedures for monitoring and enforcement of the policies~~  
21 ~~and procedures for implementation of this Program. The Procedures Manual must be made available~~  
22 ~~upon request and on the Mayor's Office of Housing website. The Procedures Manual shall not be~~  
23 ~~amended, except for an annual update of the affordability housing guidelines, which reflect updated~~

1 income limits, prices, and rents, without approval of the Planning Commission or as otherwise  
2 specified herein.

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

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

18 (1) The Mayor's Office of Housing shall release any BMR rental units if an Original  
19 Subdivider can demonstrate a 20-year rental history to qualifying tenants. A release of the  
20 restrictions under the Program will be recorded against the property. The standards used to  
21 determine rental history to a qualifying tenant are found on file with the Clerk of the Board in  
22 File No. \_\_\_\_\_ and on the Mayor's Office of Housing website.

23 (2) If an Original Subdivider cannot demonstrate 20 years of rental history to  
24 qualifying tenants, the Original Subdivider may:

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1 (A) Contine to rent the Units until a 20-year rental history to qualifying tenants can  
2 be demonstrated. The Units shall be governed by the rules in Section 1344(f)(2). The  
3 standards used to determine rental history to a qualifying tenant are found on file with the  
4 Clerk of the Board in File No. \_\_\_\_\_ and on the Mayor's Office of Housing website.

5 (B) Enter into a contract with the City, acting through the Mayor's Office of Housing,  
6 to agree to pay a replacement housing fee in exchange for immediate release of the Units  
7 from the program, as detailed in the fee table below. Upon payment of the fee, a release of  
8 the restrictions under the Program will be recorded against the property.

9 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>

17 (i) Alternatives To Compliance With This Section.

18 This subsection shall be effective for 24 months from the effective date of this  
19 legislation at which time it will sunset. At the owner's election and if he or she qualifies for the  
20 specified option, he or she may choose to enter into a contract with the City, acting through  
21 the Mayor's Office of Housing, for one of the following options. To be effective, such contract  
22 must be executed by all parties and approved as to form by the City Attorney's Office on or  
23 before the date which is 24 months from the effective date of this legislation. Any relevant  
24 documents must be recorded against the property. The Mayor's Office of Housing shall,

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1 within 90 days from the effective date of this legislation, publish the last date for applying for  
2 these option, a form of agreement, and any corresponding documents, on its website.

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

15 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>

23 (b) Option 2: This option is available to all Pre-legislation Owners. Under this  
24 option, an owner will receive a one-time increase in the base resale price of their unit. In  
25

1 return, the owner agrees to be governed by the provisions of this ordinance applicable to  
 2 "Post-Legislation" owners. The one-time increase in the base resale price shall result in an  
 3 amount as follows:

4 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>Junior Studio</u> <u>(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>

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

17 **SEC. 1308. SUBDIVISIONS.**

- 18 (a) "Common areas" shall mean an entire project excepting all units therein granted or  
 19 reserved.
- 20 (b) "Community Apartments" shall mean an estate in real property consisting of an undivided  
 21 interest in common in a parcel of real property and the improvements thereon coupled with  
 22 the right of exclusive occupancy of any apartment located therein.
- 23 (c) "Condominium" shall mean an estate in real property consisting of an undivided interest  
 24 in common in a portion of a parcel of real property together with a separate interest in space  
 25

1 in a residential, industrial, or commercial building on such real property, such as an  
2 apartment, office, or store. A Condominium may include in addition a separate interest in  
3 other portions of such real property. Such estate may, with respect to the duration of its  
4 enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate for life, or  
5 (3) and estate for years, such as a leasehold or subleasehold. This definition is intended to  
6 conform to Section 783 of the California Civil Code and any other section of California law.

7 (d) "Conversion" shall mean a subdivision which changes the type of ownership of real  
8 property to that defined as a Condominium project, Community Apartment project or Stock  
9 Cooperative and in which two or more condominiums, community apartments or units in a  
10 stock cooperative are newly created wholly or in substantial part within an existing structure or  
11 structures, regardless of the present or prior use of such structures and of whether substantial  
12 improvements have been made to such structures.

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

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

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

25

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

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

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

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

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

25

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

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

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

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

18 **SEC. 1309. TERMINOLOGY.**

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

22 (b) "Application Packet" shall mean the Tentative Map together with all documents,  
23 statements and other matters that are required as attachments thereto.  
24

25

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

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

6 (e) ~~Intentionally left blank. "Low income" shall mean the income of households, as defined by~~  
7 ~~Concept 79.1 of the 1970 U.S. Census "User's Guide," whose immediate household income does~~  
8 ~~not exceed 80 percent of the median household income for the San Francisco Standard~~  
9 ~~Metropolitan Statistical Area as determined by the U.S. Department of Housing and Urban~~  
10 ~~Development and adjusted according to the determination of that Department pursuant to the~~  
11 ~~Housing and Community Development Act of 1974.~~

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

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

21 (h) "Soil Engineer" shall mean a registered civil engineer, experienced in engineering  
22 geology, responsible for the soil engineering work outlined in this Code, including  
23 supervision, analysis and interpretation of field investigation and laboratory tests for a  
24  
25

1 specific project; preparation of geological and soil engineering recommendations and  
2 specifications; and supervision of grading construction work.

3 (i) "Standard Specifications" shall mean the Standard Specifications of the Bureau of  
4 Engineering.

5 (j) "Subdivision Regulations" shall mean the detailed technical and administrative  
6 requirements adopted by the Advisory Agency to supplement this Code, including  
7 amendments thereto.

8 (k) "Tentative Map" shall mean a map made for the purpose of showing the design of  
9 a proposed subdivision and the existing conditions in and around it; such a map need  
10 not be based upon an accurate or detailed final survey of the property.

11 (l) "Vesting tentative map" shall mean a tentative map which shall have at the time of  
12 filing printed conspicuously on its face the words "Vesting Tentative Map."  
13

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

15 *The provisions of this Section and its application to certain properties may be affected by*  
16 *amendments creating Section 1344. Please consult Section 1344 in addition to this Section for*  
17 *Units subject to the Below Market Rate Condominium Conversion Program.*  
18

19 (a) In all subdivisions involving 50 or more lots or units, except for condominium or  
20 cooperative conversion subdivisions, the subdivider shall make available 10 percent of  
21 the units for low and moderate income occupancy provided that the Department of City  
22 Planning finds that governmental subsidies for such occupancy are available to the  
23 subdivider. This requirement shall not limit the authority of the City otherwise to  
24  
25

1 encourage the provision of low and moderate income housing, or of the subdivider to  
2 make available additional low and moderate income housing.

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

17 (c) If the units are to be made available for purchase, then the sales prices of such  
18 units shall not exceed 2.5 times the annual median income for low or moderate income  
19 households, as defined, and as adjusted for household size according to the  
20 relationship to the size of the dwelling, as set forth in Section 1309. Priority for  
21 purchase of these units shall be as set forth in Section 1385. Any low or moderate  
22 income household which purchases a dwelling pursuant to this Section shall grant a  
23 right-of-first-refusal, to the City and County of San Francisco, or to such other entity  
24  
25

1 that at a future time may be designated by the City and County of San Francisco, to  
2 repurchase the dwelling from the initial purchaser at the original price plus the cost of  
3 any improvements paid for by the owner, plus an increase proportionate to the  
4 increases in the housing component of the "Bay Area Cost of Living Index, U.S. Dept.  
5 of Labor," over the intervening time period. The City and County of San Francisco, or  
6 designated agent, shall reconvey such unit to other qualified purchasers if the right to  
7 purchase is exercised by the City or its designated agent.

8 (d) If the converted units are to be for rental, then the rent in such units shall not  
9 exceed the rent charged at the time of filing the application for conversion, or the  
10 maximum rent that would be allowed so as to keep the unit within moderate income  
11 housing stock, whichever rent level is lower. Once established, rent levels for any units  
12 remaining as rental pursuant to this Section may be increased annually consistent with  
13 any changes in the residential rent component of the "Bay Area Cost of Living Index,  
14 U.S. Dept. of Labor." In cases of hardship to the subdivider, or in cases where a rent  
15 increase authorized herein is considered by the tenant to be not consistent with  
16 increases in the residential rent component of the Bay Area Cost of Living Index, either  
17 a subdivider or a tenant may request relief under this Section from the Director or his or  
18 her designee. In considering the reasonableness of a rent increase, the Director shall  
19 consider whether the rental revenues are sufficient to adequately maintain the building  
20 in safe and sound condition, and in conformity with any applicable sections of the San  
21 Francisco Housing and Building Codes. The Director may allow rent increases greater  
22 than the proportionate increases in the residential rent component of the "Bay Area  
23 Cost of Living Index, U.S. Dept. of Labor," in order to allow the building to be  
24  
25

1 maintained in safe and sound condition. The rental increase provisions of this Section  
2 shall apply only in the absence of other applicable rent increase or arbitration laws.

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

15 (f) As an alternative to the provisions of Subsections (b) and (c) above, the subdivider  
16 shall make a bona fide agreement, satisfactory to the Department of City Planning, to  
17 construct or cause to be constructed within a period commencing 18 months prior to  
18 the date of filing the application for conversion and ending 18 months after filing of the  
19 final or parcel map, or to provide through other means, the same number of units and  
20 under the same conditions as would be required for low or moderate income  
21 occupancy under the provisions of Subsections (b), (c) and (d) above, in areas  
22 approved by the Department of City Planning as being non-impacted with assisted  
23 housing.  
24  
25

1 (g) As a further alternative to the provisions of Subsections (b), (c) and (f) above, the  
2 subdivider shall pay to the City and County of San Francisco an amount equal to 10  
3 percent of the difference between the aggregated total of the proposed market rate  
4 sales prices, as indicated on the price list supplied with the application packet, and the  
5 aggregate total of the sales prices if the units were to be sold at moderate-income  
6 sales prices, as determined by the sales price formula of Section 1385 and Subsection  
7 (c) above. This payment shall be made within two years of the recordation of the Final  
8 Map.

9 (h) Funds collected pursuant to Subsection (g) above, shall be deposited into the  
10 Housing Development Fund, which fund is to be used for persons and households of  
11 low or moderate income.  
12

13 **SEC. 1341B. REQUIREMENTS FOR RESALE OF CONVERTED UNITS ON OR AFTER**  
14 **JUNE 1, 1988.**

15 *The provisions of this Section and its application to certain properties may be affected by*  
16 *amendments creating Section 1344. Please consult Section 1344 in addition to this Section for Units*  
17 *subject to the Below Market Rate Condominium Conversion Program.*  
18

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

23 (2) The following definitions shall apply:  
24  
25

1 (a) "Household" shall mean the person or persons who will permanently reside  
2 in the unit. Such persons shall include dependents as that term is defined in the  
3 Internal Revenue Code provided that said dependents permanently reside in the  
4 unit.

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

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

- 14 (1) Compensation for services, including fees, commissions, and similar  
15 items;
- 16 (2) Gross income derived from business;
- 17 (3) Gains derived from dealings in property;
- 18 (4) Interest;
- 19 (5) Rents;
- 20 (6) Royalties;
- 21 (7) Dividends;
- 22
- 23
- 24
- 25

- 1 (8) Alimony and separate maintenance payments;  
2 (9) Annuities;  
3 (10) Income from life insurance and endowment contracts;  
4 (11) Pensions;  
5 (12) Income from discharge of indebtedness;  
6 (13) Distributive share of partnership gross income;  
7 (14) Income in respect of a decedent; and  
8 (15) Income from an interest in an estate or trust.  
9  
10

11 (d) "Maximum allowable income" shall mean 120 percent of the San Francisco  
12 Standard Metropolitan Statistical Area Median Income as published annually by  
13 the U.S. Department of Housing and Urban Development. The resulting figures  
14 may be adjusted upwards as necessary, not to exceed 15 percent, by the  
15 Director the Mayor's Office of Housing in order to assure that eligible  
16 households qualify for financing by institutional lenders.

17 (e) "First-time buyer" shall mean a person who has not purchased or acquired  
18 any dwelling as a principal place of residence within the past three years as  
19 verified by federal tax returns for said three-year period.  
20

21 (3) The Mayor's Office of Housing shall be responsible for administering the resale of  
22 and reconveyance of units converted to condominiums under Sections 1341 and 1385  
23 of this Code, including the exercise of the City's right-of-first-refusal as to sales  
24 following the first sale of the unit referred to in Section 1341(c). The Mayor's Office of  
25

1 Housing shall, whenever possible, reconvey converted units to purchasers who qualify  
2 as eligible households. The Mayor's Office of Housing shall give preferential  
3 consideration to households with dependents and to first-time buyers. The Mayor's  
4 Office of Housing shall adopt a preferential rating system to accomplish this purpose.

5 (4) All purchasers must become owner occupants.  
6

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

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

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

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

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

17  
18 ~~(2) Eligible Uses of the Fund.~~

19 ~~(a) Monies from the Fund may be made available to nonprofit housing corporations for~~  
20 ~~the acquisition of available and feasible sites for developing low and moderate income~~  
21 ~~housing and the rehabilitation of existing sites for low and moderate income housing.~~  
22

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

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

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

11  
12 ~~(3) Administration of the Fund. The Fund shall be administered by the Mayor's Office of~~  
13 ~~Housing.~~

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

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

21  
22 ~~Applications shall be reviewed by the Mayor's Office of Housing, whose decisions shall be final.~~

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

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

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

11 ~~(8) Reporting on Program Status. The Mayor's Office of Housing shall report quarterly to the~~  
12 ~~Board of Supervisors on the current status of the Fund, the amount approved for disbursement,~~  
13 ~~the number and types of projects assisted, and shall make recommendations for any changes~~  
14 ~~deemed necessary to improve the effectiveness of the Fund in achieving its purpose.~~

15  
16 **SEC. 1359. PARCEL MAP.**

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

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

21 (c) In the case of Conversions where a Tentative Map is not required, the  
22 requirements of Section 1314 and the requirements of Article 9 on Conversions shall  
23 apply, provided that hearings as provided in Sections 1313 and 1332 shall not be  
24  
25

1 required, ~~and the 10 percent low and moderate income occupancy as provided in Section 1341~~  
2 ~~shall not be required~~, and provided further that Article 9 shall not be applied to two-unit  
3 buildings where both units are owner-occupied for one year prior to the application for  
4 Conversion. ~~The Director of Planning, however, shall make the determination pursuant to~~  
5 ~~Section 1385 concerning preservation of low and moderate income housing.~~

6 (d) In addition to the requirements of Subsection (c), the owners of record of a two-  
7 unit building conversion that qualify for the exemption from Article 9 must certify under  
8 penalty of perjury and the Department must verify with the Rent Stabilization and  
9 Arbitration Board, and with the Human Rights Commission as applicable, that since  
10 November 16, 2004, no eviction as defined in San Francisco Administrative Code  
11 Section 37.9(a)(8)--(14) of a senior, disabled person, or catastrophically ill tenant as  
12 defined below has occurred, or if an eviction has taken place under Administrative  
13 Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the unit after a  
14 temporary eviction. For purposes of this Subsection a "senior" shall be a person who is  
15 60 years or older and has been residing in the unit for 10 years or more at the time of  
16 the lottery; a "disabled" tenant is defined for purposes of this Subsection as a person  
17 who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a  
18 "catastrophically ill" tenant is defined for purposes of this Subsection as a person who  
19 is disabled as defined above, and who is suffering from a life threatening illness as  
20 certified by his or her primary care physician.

21 (e) If the owners of record cannot satisfy the requirements of Subsection (d), then the  
22 owners of record shall comply with Article 9, including its Section 1396.1(g)(3), prior to  
23 submitting an application for Conversion.  
24  
25

1 (f) If the Department determines that an applicant has knowingly provided false  
2 material information under Subsection (d) above, the Department shall immediately  
3 deny the application, or if the applicant has submitted an application for conversion,  
4 shall immediately deny the application for conversion. Moreover, the Department, the  
5 Director, or other authorized person or entity may also enforce the provisions of this  
6 Subsection under Section 1304 or any other applicable provision of law as warranted.

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

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 Units*  
10 *subject to the Below Market Rate Condominium Conversion Program.*  
11

12 The Department of City Planning shall determine whether any units to be converted are  
13 part of the City's low and moderate income housing stocks. If the Department of City Planning  
14 determines that any unit to be converted is part of the City's low or moderate income housing  
15 stocks, then the price of the unit upon conversion shall not be such as to remove it effectively  
16 from said low or moderate income housing stocks and shall be no greater than 2.5 times the  
17 highest income level for low and moderate income households as defined in Section 1309(e)  
18 and (f), and as adjusted for household size according to the size of the dwelling, as set forth in  
19 Sections 1309(l) and (m). The resulting sales prices established pursuant to this formula may  
20 be increased consistent with any increases in the housing component of the "Bay Area Cost  
21 of Living Index, U.S. Dept. of Labor," during the period between the most recent  
22 establishment of the above highest income levels and the date of commencement of sales. If  
23 the tenant does not exercise the contract right to purchase the unit which has been  
24 determined to be part of the low or moderate income housing stock, then the unit shall be  
25

1 made available exclusively for purchase by qualified households of low or moderate income  
2 on first-come, first-served basis for a period of not less than 12 months from the date of the  
3 decision by the tenant not to exercise the contract right to purchase or, if there is no tenant,  
4 from the date of issuance of the State Department of Real Estate Final Subdivision Public  
5 Report, at a price no greater than that allowed under the low and moderate income price  
6 guidelines set forth above. Priority, however, shall be given to low or moderate income  
7 households who can demonstrate that they had previously relocated from a dwelling in a  
8 building which has been approved for condominium conversion. The alternatives for low and  
9 moderate income occupancy set forth in Section 1341 shall not apply, except for those  
10 additional number of units which may be required pursuant to Section 1341(a) to be made  
11 available for rental or for purchase by households of low or moderate income. In cases where  
12 no low or moderate income household has purchased or contracted to purchase such unit  
13 within this 12-month period, after good-faith efforts by the subdivider, the subdivider may offer  
14 the unit to the general public with no price limitation.

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

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By: SUSAN CLEVELAND-KNOWLES  
Deputy City Attorney

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