



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Planning Code Amendment

HEARING DATE: JANUARY 16, 2020  
90-DAY DEADLINE: JANUARY 28, 2020

*Project Name:* Intermediate Length Occupancies  
*Case Number:* 2019-020940PCA [Board File No. 191075]  
*Initiated by:* Supervisor Peskin / Introduced October 22, 2019  
*Staff Contact:* Diego Sanchez, Legislative Affairs  
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*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
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*Recommendation:* **Approval with Modifications**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to create the Intermediate Length Occupancy residential use characteristic. It would also amend the Administrative Code to clarify existing law regarding the enforceability of fixed-term leases in rental units covered by the just cause protections of the Residential Rent Stabilization and Arbitration Ordinance (the "Rent Ordinance"), prohibit the use of rental units for temporary occupancies by non-tenants, require landlords to disclose in advertisements for such units that the units are subject to the Rent Ordinance, and authorize enforcement through administrative and/or civil penalties, and require the Controller to conduct a study to analyze the impacts of new Intermediate Length Occupancy units in the City.

#### The Way It Is

The two Residential Use Characteristics in the Planning Code are Single Room Occupancy and Student Housing. Neither of these explicitly regulate the length of occupancy.

#### The Way It Would Be

Intermediate Length Occupancy (ILO) would be the third Residential Use Characteristic in the Planning Code and exclusive to Dwelling Units offered for occupancy by a *natural person*. Occupancies would be restricted to a duration of greater than 30 consecutive days but less than a year.

ILO in buildings with ten or more Dwelling Units would have the following limitations:

- A. ILOs would be allowed in projects having secured a first building or site permit as of the Ordinance's effective date;
- B. ILOs would require Conditional Use Authorization;

- C. ILOs would be allowed only where no more than 20% of Dwelling Units in a project are designated for ILO;
- D. No more than 500 ILOs would be permitted at any one time in the City;
- E. The ILO owner/operator would be required to submit annual reports to the Planning Department regarding its use, including the number of times the unit was used for ILO, the average duration of stays in the ILO and the average vacancy between stays.

ILOs in buildings with up to nine Dwelling Units would not be subject to the five Planning Code limitations (A-E) listed above.

The Residential Rent Stabilization and Arbitration Ordinance (Rent Ordinance) provisions regulating the recovery of possession of a rental unit by a landlord do not explicitly state that (a) a provision in a lease or rental agreement requiring a tenant to vacate a rental unit at the expiration of a stated term or that (b) purports to characterize a tenant's failure to vacate at the end of the stated term as a just cause for eviction is void. Those provisions also do not prohibit a landlord from attempting to recover possession of the unit without just cause.

The Rent Ordinance does not regulate whether a rental unit is being rented to a corporate entity, or if the unit is being used as housing for one's employees, licenses, or independent contractors.

The Rent Ordinance would be amended to state that any provision in a lease or rental agreement (a) requiring a tenant to vacate a rental unit at the expiration of a stated term or that (b) purports to characterize a tenant's failure to vacate at the end of the stated term as a just cause for eviction would be void. The Rent Ordinance would also be amended to prohibit a landlord from attempting to recover possession of the unit without just cause.

The Rent Ordinance would be amended to classify the occupancy of a rental unit by a person who is not a tenant, as defined in the Rent Ordinance, as a Non-Tenant Use. A Non-Tenant Use would include a rental unit being rented to a corporate entity, or being used as housing for one's employees, licensees, or independent contractors. Non-Tenant Uses would be prohibited as of February 1, 2020, except:

- A. Where the rental unit is subject to an agreement authorizing a Non-Tenant Use that was entered into before February 1, 2020, for the existing duration of that agreement;
- B. The use of the rental unit is as a lawful short-term rental under Administrative Code Chapter 41A;

C. Where the landlord is providing the rental unit to a residential manager; or

Where an organization with tax-exempt status (501(c)(3) or 501(c)(4)) is providing access to the unit in furtherance of its primary mission to provide housing.

The Rent Ordinance does not explicitly require that every online listing for a rental unit contain a specific disclosure regarding the unit's status under the Rent Ordinance.

The Rent Ordinance would be amended to require that every online listing for a rental unit, excluding listings by landlords or master tenants who will reside in the same rental unit as their tenants or subtenants, contain a disclosure stating that the rental unit is subject to the Rent Ordinance.

## BACKGROUND

The use of residences in San Francisco for business travelers or other individuals seeking intermediate length tenancies is not new. The project at 2100 Market Street, however, recently raised concerns over the use of the City's housing supply for these purposes.

As part of a 2016 Conditional Use authorization for the site, the Planning Commission authorized 60 Dwelling Units, including seven on-site Inclusionary Affordable Housing Units.<sup>1</sup> At authorization it was understood that the market rate units would be leased for typical one-year lengths. Upon marketing of the market rate units in 2019 it became known that they would not be used to house permanent tenants. Instead, they would be used for intermittent stays, akin to an extended stay hotel. This riled many who, despite recognizing intermittent stays as legal, felt victim of a misrepresentation of the project's ultimate use.<sup>2</sup>

## ISSUES AND CONSIDERATIONS

### Residential Uses and Residential Use Characteristics

A Residential Use, as defined in the Planning Code, is a use that provides housing for San Francisco residents, rather than visitors.<sup>3</sup> The Planning Code defines Dwelling Units, Group Housing, Residential Hotels, Senior Housing and Homeless Shelters as Residential Uses.

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<sup>1</sup> Planning Commission Motion 19560

<sup>2</sup> Brinklow, Adam. "SF ponders what to do with corporate rentals like Sonder."

<https://sf.curbed.com/2019/7/29/20744749/san-francisco-sonder-corporate-rentals-housing-crisis-sf>

Accessed 7 November 2019.

Waxman, Laura. "'Corporate rentals' draw scrutiny from city officials."

<https://www.sfexaminer.com/news/short-term-corporate-rentals-draw-scrutiny-from-city-officials/>

Accessed 7 November 2019.

<sup>3</sup> Planning Code Section 102, Definitions, Residential Use

In addition to Uses, the Planning Code also identifies Use Characteristics, which are a feature of a use and can be applied to different uses.<sup>4</sup> Features include the physical layout, design, and access of a use, among other considerations. Residential Use Characteristics include Single Room Occupancy and Student Housing. The Planning Code regulates Use Characteristics independently of a Use. This means that while Dwelling Units may be principally permitted in a zoning district, using that Dwelling Unit as Student Housing, for example, may require Conditional Use authorization.

### **Regulating Residential Occupancy Lengths**

The Planning Code does not have extensive regulations on occupancy lengths in Residential Uses. There are at least two reasons for the lack of this regulation in the Planning Code. One is that the enforcement of lease lengths, among other lease conditions, is a difficult and an atypical land use task. The Planning Department generally avoids intervening in agreements between private parties, such as rental agreements and their conditions. This includes regulating or adjudicating disputes over leases lengths, lease rates, and tenancy rights such as allowed lessees. The Ordinance would require Planning Department Staff to enforce or monitor such lease conditions, for which it is presently ill equipped. The first is one allowing only a natural person to occupy an ILO in a building of 10 or more Dwelling Units. The second is one regulating an occupancy for a period of between 30 and 364 days.

The other reason the Planning Code lacks an occupancy length regulation is because the effects of most Residential Uses do not markedly differ solely based on the length of stay of any one user. For example, the land use effects of residential activity do not vary greatly whether a household stays in a Dwelling Unit for six months or twelve.

Where the land use effects do differ, other municipal codes are utilized. In the case of residential rentals of less than 30 days (Short Term Rentals), the Administrative Code dedicates an entire chapter to their regulation.<sup>5</sup> In conjunction with this regulation a half dozen full time staff are currently tasked with the implementation and enforcement of this activity in a separate government capacity.<sup>6</sup> Similar regulatory expansions on the use of residential property would require an equivalent resource allocation to ensure success.

### **Intermediate Length Occupancies Can Satisfy Legitimate Needs**

There are scores of individuals that seek a residential lease for less than the standard one-year term. There are also multiple reasons compelling one to seek such a residential lease. Employment demands are one such reason. Individuals in higher education, healthcare, and traveling theater/arts often require stays of greater than a month but less than a year. Life's twists and turns are another reason. Unexpected illness can require an out of town family stay; changes in marital status may necessitate a temporary residence; or the relocation to a new locale can compel an intermediate length occupancy. In sum, there is a legitimate, on-going demand in the City for intermediate length residential tenancies. New regulations on these tenancies, including quantitative limits, should reflect this reality.

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<sup>4</sup> Planning Code Section 102, Definitions, Use Characteristic

<sup>5</sup> Administrative Code Chapter 41A, Residential Unit Conversion and Demolition

<sup>6</sup> Office of Short-Term Rentals <https://shorttermrentals.sfgov.org/>

### **Prohibited Uses and Continuation Through Non-Conforming Status**

When the Planning Code is amended to prohibit a legal use or activity, that use or activity is afforded non-conforming status. Non-conforming status allows the use or activity to continue to operate under specific conditions that prohibit expansion or intensification, among others. This is done because forcing closure or cessation of a legal use or activity is too harsh, and abrupt. The Ordinance would require that existing ILO, a legal and unregulated activity, cease if they are in buildings subject to the Rent Ordinance or in any building with 10 or more Dwelling Units. This abrupt cessation runs counter to the standard treatment of legal uses or activities that are subsequently prohibited.

### **Quantifying the Scale of Intermediate Length Occupancies**

It is currently difficult to grasp the scale of ILO activity in San Francisco, because ILO is legal, unregulated and no public agency or office currently tracks the activity. Therefore, the City does not have an exact figure on the number of Residential Uses, including those units subject to the Rent Ordinance, involved in ILO activity.

#### Initial Estimates

In November 2019, Planning Department Staff requested from the Office of Short-Term Rentals (OSTR) an estimate of the number of listings for greater than 30 days on one platform for the month of October 2019. OSTR staff found that there were approximately 2,700 listings for stays greater than 30 days on one platform in October 2019. It is important to emphasize that this figure is simply one estimate, potentially fraught with inaccuracies.

Planning Department Staff also spoke with the Corporate Housing Providers Association (CHPA), the trade association supporting corporate housing providers. CHPA estimated that between its members and unassociated corporate housing providers there are approximately 3,000 units in San Francisco used for ILO. They also mentioned that its members do not use Below Market Rate units or units subject to the Rent Ordinance for ILO. CHPA did not provide similar data for unassociated corporate housing providers.

Until a thorough inquiry is undertaken the exact number of units being used for ILO will be unknown. This uncertainty complicates any regulation establishing quantitative limits on ILO activity.

#### Data Collection

One way the City could collect data on the scale of ILO is through a registry of residential properties being used for ILO. An ILO owner or operator would file a building permit application to register their units, with the incentive that these units would be given non-conforming status should subsequent regulations prohibit existing ILO. This process would provide the City with data on the number and location of ILO, including the number of units subject to the Rent Ordinance being used for ILO. It would also help inform any future regulations by grounding them in data based on existing conditions.

### **Interim Controls**

The Board of Supervisors or the Planning Commission may impose interim zoning controls for several reasons. One is to help fulfill the goals of guiding, controlling and regulating future growth and

development within the City, as stated in the Purposes of the Planning Code.<sup>7</sup> Another is to help preserve the City's rental housing stock.<sup>8</sup>

The value of an interim control is that it slows or pauses the growth of an activity of concern for a period of up to 24 months. During that period, the City may gather data about the activity of concern and better assess its scale. This helps inform an improved regulatory scheme for the activity of concern, should one be found necessary.

### **General Plan Compliance**

The proposed Ordinance is, on balance, in alignment with General Plan Policies surrounding the City's housing supply. For example, the proposed Ordinance is aligned with the direction to maintain the existing housing supply available for residential use and prevent its conversion to a de facto commercial use.<sup>9</sup> It is also aligned with the goals of preserving the span of affordable units, including rent controlled, "naturally" affordable and deed restricted units, for long term use.<sup>10</sup>

### **Racial and Social Equity Analysis**

Understanding the benefits, burdens and opportunities to advance racial and social equity that proposed Planning Code and Zoning Map amendments provide is part of the Department's Racial and Social Equity Initiative. This is also consistent with the Mayor's Citywide Strategic Initiatives for equity and accountability and with the Office of Racial Equity, which will require all Departments to conduct this analysis.

It is unclear whether the proposed Planning Code amendments will improve racial and social equity in San Francisco. On one hand the proposed Ordinance could prove beneficial. The Ordinance proposes to prohibit the use of affordable deed restricted units and rent controlled units for intermediate length tenancies. Because of general income and wealth disparities, accessing longer term tenancies in these unit types are especially beneficial to the housing security of racial and ethnic minorities. Keeping these unit types available for long term tenancies therefore can help improve life circumstances in those communities. Further, it is commonly understood that ILO are significantly geared toward business travelers in economic sectors or corporate roles where racial and ethnic minorities are underrepresented. This includes the tech

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<sup>7</sup> Planning Code Section 101.1, Purposes

<sup>8</sup> Planning Code Section 306.7, Interim Zoning Controls

<sup>9</sup> Housing Element, Objective 2 Retain existing housing units, and promote safety and maintenance standards, without jeopardizing affordability, Policy 2.6 Ensure housing supply is not converted to de facto commercial use through short term rentals.

<sup>10</sup> Housing Element, Objective 3 Protect the affordability of the existing housing stock, especially rental units, Policy 3.1 Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs. Policy 3.4 Preserve "naturally affordable" housing types, such as smaller and older ownership units. Policy 3.5 Retain permanently affordable residential hotels and single room occupancy (SRO) units

sector,<sup>11</sup> university professorships,<sup>12</sup> or in executive management positions,<sup>13</sup> among others. It is also understood, anecdotally, that rents for ILO units are higher than those for long term tenancies. If ILO is severely restricted, as the Ordinance proposes, it is plausible that these units would become available for long term tenancies, and at lower rental rates, for racial and ethnic minorities.

On the other hand, the Ordinance could adversely affect racial and social equity. As mentioned earlier, tenancies of over a month, but less than a year, are often needed to deal with life's emergencies. These occur in racial and ethnic minority households as well. Substantially restricting their supply will also affect these households.

The analysis is challenging because of the significant lack of data on the scale of ILO activity in San Francisco. For example, the City does not have an accurate estimate, much less an exact figure, of the number of Residential Uses being used for ILO. Further, it does not know how many units subject to the Rent Ordinance are being used for ILO. The City has not investigated the rate of growth, or contraction, in San Francisco of this activity over the last five or ten years or have any forecasts for the near future. It also does not have comprehensive data regarding where ILO occurs. More to the point, it is unknown whether this activity commonly occurs in neighborhoods with higher concentrations of racial and ethnic minorities. Having this information would help clarify whether the proposed Planning Code Amendments would help improve or worsen racial and social equity in San Francisco.

### **Implementation**

The Department has determined that this Ordinance will impact our current implementation procedures. Specifically, there are concerns about staffing levels required to enforce the proposed prohibition on the use of existing units for ILO and to monitor the reporting requirements for Dwelling Units allowed as ILO. Short Term Rentals are an analogous situation and one where resources were allocated to hire multiple staff to successfully implement and enforce the new regulations on their use.

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<sup>11</sup> Harrison, Sara. "Five years of tech diversity reports- and little progress." <https://www.wired.com/story/five-years-tech-diversity-reports-little-progress/>. Accessed 16 December 2019

Dickey, Megan Rose. "The future of diversity and inclusion in tech." <https://techcrunch.com/2019/06/17/the-future-of-diversity-and-inclusion-in-tech/>. Accessed 16 December 2019

<sup>12</sup> Davis, Leslie and Fry, Richard. "College faculty have become more racially and ethnically diverse, but remain far less so than students." <https://www.pewresearch.org/fact-tank/2019/07/31/us-college-faculty-student-diversity/>. Accessed 16 December 2019

<sup>13</sup> Jones, Stacy. "White Men Account for 72% of corporate leadership at 16 of the Fortune 500 Companies." <https://fortune.com/2017/06/09/white-men-senior-executives-fortune-500-companies-diversity-data/>. Accessed 17 December 2019

Wang, John. "Corporate America still lacks leaders of Color – and that's a problem." [https://www.huffpost.com/entry/corporate-america-still-lacks-leaders-of-color-and-thats-a-problem\\_n\\_5bd1f2eae4b0d38b58813fc2](https://www.huffpost.com/entry/corporate-america-still-lacks-leaders-of-color-and-thats-a-problem_n_5bd1f2eae4b0d38b58813fc2). Accessed 17 December 2019

## RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Enact an interim control on new ILO and collect data on the scale of the activity.

## BASIS FOR RECOMMENDATION

The Department supports the intentions of the Ordinance as far as they seek to regulate an activity that effects the City's housing supply. Using residences for tenancies of more than a month but less than a year is not a new practice, but the City has never tracked its extent. In this context, Staff is making the following recommendation:

### **Recommendation 1: Enact an interim control on new ILO and collect data on the scale of the activity.**

Staff is recommending that in lieu of permanent controls, an interim control on the use of residences for new ILO be enacted. To date, the City does not have data on the number of Residential Uses being used for this activity. Nor does it know where this activity most frequently occurs, or which populations this use serves the most. It is imperative that the City have this type of data before it implements severe restrictions on an activity that serves a legitimate purpose, but which could also pose a threat to the City's housing supply. An interim control affords time to collect data on this activity in order to make an informed policy decision. That said, for an interim control to successfully function, Staff would need criteria on which to judge any forthcoming ILO.

## REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

## ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

## PUBLIC COMMENT

As of the date of this report, the Planning Department has received correspondence from a trade association representing firms that lease units for what would be considered ILO.

### **Attachments:**

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Letters from Public
- Exhibit C: Board of Supervisors File No. 191075





# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Draft Resolution

HEARING DATE JANUARY 16, 2020

*Project Name:* **Intermediate Length Occupancies**  
*Case Number:* **2019-020940PCA [Board File No. 191075]**  
*Initiated by:* **Supervisor Peskin / Introduced October 22, 2019**  
*Staff Contact:* **Diego Sanchez, Legislative Affairs**  
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**RESOLUTION APPROVING A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WOULD AMEND THE PLANNING CODE TO CREATE THE INTERMEDIATE LENGTH OCCUPANCY RESIDENTIAL USE CHARACTERISTIC; AMEND THE ADMINISTRATIVE CODE TO CLARIFY EXISTING LAW REGARDING THE ENFORCEABILITY OF FIXED-TERM LEASES IN RENTAL UNITS COVERED BY THE JUST CAUSE PROTECTIONS OF THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE (THE "RENT ORDINANCE"), PROHIBIT THE USE OF RENTAL UNITS FOR TEMPORARY OCCUPANCIES BY NON-TENANTS, REQUIRE LANDLORDS TO DISCLOSE IN ADVERTISEMENTS FOR SUCH UNITS THAT THE UNITS ARE SUBJECT TO THE RENT ORDINANCE, AND AUTHORIZE ENFORCEMENT THROUGH ADMINISTRATIVE AND/OR CIVIL PENALTIES; REQUIRING THE CONTROLLER TO CONDUCT A STUDY TO ANALYZE THE IMPACT OF NEW INTERMEDIATE LENGTH OCCUPANCY UNITS IN THE CITY; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.**

WHEREAS, on October 22, 2019 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 191075, which would amend the Planning Code to create the intermediate length occupancy residential use characteristic; amend the Administrative Code to clarify existing law regarding the enforceability of fixed-term leases in rental units covered by the just cause protections of the residential rent stabilization and arbitration ordinance (the "Rent Ordinance"), prohibit the use of rental units for temporary occupancies by non-tenants, require landlords to disclose in advertisements for such units that the units are subject to the rent ordinance, and authorize enforcement through administrative and/or civil penalties; requiring the controller to conduct a study to analyze the impact of new intermediate length occupancy units in the City;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on January 16, 2020; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The proposed modifications include:

1. Enact an Interim Control on new Intermediate Length Occupancies and collect data on the scale of the activity.

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. There is a legitimate, on-going demand in the City for intermediate length residential tenancies. Employment demands are one reason intermediate length residential tenancies are needed. Individuals in higher education, healthcare, and traveling theater/arts often require stays of greater than a month but less than a year. Life's twists and turns are another reason. Unexpected illness can require an out of town family stay; changes in marital status may necessitate a temporary residence; or the relocation to a new locale can compel an intermediate length occupancy.
2. However, it is currently difficult to grasp the scale of intermediate length residential tenancies (ILO) in San Francisco. Because ILO is legal and unregulated no public agency or office currently tracks the activity. In short, the City does not have an exact figure on the number of Residential Uses, subject to the Rent Ordinance or otherwise, involved in ILO activity.
3. In lieu of permanent controls, an interim control on the use of residences for new ILO should be enacted. This would provide time for the City to collect data on ILO activity. To date the City does not have data on the number of Residential Uses in San Francisco being used for this activity. Nor does it know where this activity most frequently occurs. It is imperative that the City have this type of data before it implements severe restrictions on an activity that serves a legitimate purpose, but which could also pose a threat to the City's housing supply.

4. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

## **HOUSING ELEMENT**

### **OBJECTIVE 1**

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

#### **Policy 1.1**

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

*The Ordinance would the City provide a full range of housing options by allowing Intermediate Length Occupancies in new buildings while reserving older units subject to the Rent Ordinance for long term tenancies, many of which serve permanent San Francisco residents.*

### **OBJECTIVE 2**

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

#### **Policy 2.6**

Ensure housing supply is not converted to de facto commercial use through short term rentals.

*The proposed Ordinance would restrict the number of housing units that could be converted to a commercial use through rental terms that are not long or permanent.*

### **OBJECTIVE 3**

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

#### **Policy 3.1**

Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs.

#### **Policy 3.4**

Preserve "naturally affordable" housing types, such as smaller and older ownership units.

#### **Policy 3.5**

Retain permanently affordable residential hotels and single room occupancy (SRO) units.

*The proposed Ordinance protects the affordability of the existing housing stock by restricting new intermediate length occupancies to new housing stock, avoiding the use of rent controlled, smaller or older, and residential or SRO units for intermediate length occupancies.*

5. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail because it concerns itself with regulating residential tenancies.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on housing or neighborhood character and would potentially help maintain that character through its regulation of intermediate length residential tenancies.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would have a beneficial effect on the City's supply of affordable housing as it would prohibit any non-permanent tenancy in that housing stock.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking because it concerns itself with regulating residential tenancies.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired because the proposed Ordinance only regulates residential uses.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because it proposes to regulate residential tenancies.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings because it only proposes to regulate the length of residential tenancies.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vista because it proposes to regulate residential tenancy lengths not the building envelope of residential buildings.*

6. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on January 16, 2020.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: January 16, 2020



## CHPA INFORMATIONAL PACKET

### **Brief Overview**

The Corporate Housing Providers Association (CHPA) is the professional trade association dedicated to supporting corporate housing providers and their partners throughout the San Francisco Bay Area and around the world. Representing over 300 member companies, CHPA is the lead convener, advocate, and industry expert organizing this important housing sector. Intermediate housing, often deemed “corporate housing,” comprises fully-furnished, serviced apartments as temporary accommodations that are located within a limited inventory of existing residential housing stock. Collectively, the members of CHPA represent companies who provide this much-needed housing for both individuals and families living in transition, and employees of a variety of cross-sector organizations, large and small, who work between cities and require reliable arrangements. As this key layer of housing is integral to the total housing landscape in San Francisco, CHPA supports reasoned policies that plan for a thriving future industry and provides for robust stakeholder engagement.

Corporate housing is a vital housing option for a diverse array of use cases beyond simply big business. Unlike the “short term” rental market where the average stay consists of only six days, corporate or intermediate housing comprises an average stay of 78 days. This level of mid-range housing serves as a critical bridge for both workers who depend on flexibility to perform their jobs, and individuals and families who deserve a quality living experience during periods of personal transition. Whether a traveling nurse at a local healthcare institution, a remote tech employee visiting their HQ, government employees working regionally, or a production assistant on a traveling performing arts show, there continues to be a growing demand for corporate relocation and temporary assignments as part of the new normal for modern employment. Beyond housing employees of every business vertical, corporate housing providers also supports patients and their families during treatment, seniors living out the next chapter of life in new cities, families requiring a landing pad for various life changes, and notably, housing permanent local residents from amongst our community in need of insurance housing or immediate relief during natural disasters.

Throughout Europe and Asia, the practice of living in temporary, fully furnished and serviced lodgings as a sustainable housing option is a well established practice. Individuals who live and work in multiple cities are more readily able to participate in the local fabric of those cities as residents and contribute to the local economy. In the United States, a historic strength of our national economy has always been based on the innate mobility of our workforce, and the future of work depends not only on geographic freedom and a greater flexibility of housing, but also providing dignified living conditions whenever possible, especially for these types of longer term stays.

CHPA supports a global mobility industry. Mobility is essential to the intermediate housing business and its ability to provide a more comfortable and affordable way for organizations in San Francisco to house relocating employees for longer term stays than perhaps traditional hotels. San Francisco organizations consistently bring potential new residents into our city and the intermediate housing option provides the opportunity for a mobile workforce to live locally, create community, and potentially decide on a permanent new residence where they will eat, shop, play, attend schools, pay taxes, and engage locally long term.

The corporate housing industry is essential to our local economy by not only serving an increasingly mobile workforce, but also creating a job multiplier effect for local small businesses. In San Francisco, the average stay by individuals in a one-bedroom intermediate housing unit is 64 days, with an average daily rate of \$227, totaling \$14,528 for the total average stay. As a result of these intermediate stays, hundreds of vendor companies benefit from a quantifiable productivity ripple, wherein corporate housing directly supports minority-owned, small businesses providing a variety of services from housekeeping, maintenance, laundry, hospitality, safety, and other guest services. These small businesses are an integral part of the corporate housing ecosystem and rely on the intermediate housing industry to survive. The partnerships that are formed between industry and local businesses often lead to the increased success of these businesses bolstering the local economy and quality of life for these individuals and their families.



## CHPA INFORMATIONAL PACKET

It is our hope that any policy enacted supports a thriving corporate housing market going forward and the diverse constituencies who depend on this important class of housing. CHPA and its members welcome reasonable regulation that protects affordable housing stock in San Francisco, closes loopholes against bad actors, and preserves the vital workforce housing that this industry will continue to provide for years to come. Within this industry, no doubt there are outliers who operate business models outside of the established practices of our CHPA members and need to be reigned in responsibly. We support meaningful dialogue with decision-makers that includes the input and participation of industry stakeholders, and thoughtful policymaking that supports growing demand for this housing option.

### Key Points about Corporate Housing

- CHPA members do not currently rent any BMR affordable, rent controlled, or student units.
- Corporate housing or “intermediate-length occupancy” comprises around 3K units in SF, or less than 1% of total city housing stock.
- CHPA members currently have many long standing agreements in place with a variety of clients for ongoing support of their workforces.
- This housing class supports a diverse clientele which includes organizations, families, individuals, and companies, and meets a growing need as a much needed intermediate, furnished option:
  - a diversity of use cases, i.e. tech, healthcare, performing arts, families in transition, project based mobile workers, permanent resident needs, seniors, disaster relief and insurance housing etc.
  - corporate housing supports major legacy institutions and headquartered companies in SF, including a mobile project based (or relocation) workforce essential to local hospitals like UCSF, organizations like the SF Opera, and companies like Salesforce and The Gap.
- CHPA members create an ecosystem of economic opportunity for local MBE and WBE businesses who contract as vendors for this industry. These jobs / businesses include: housekeeping, maintenance, security, customer relations, and other related services.

### Proposed Amendments from CHPA Members

- CHPA members welcome codifying ILOs in the Planning Code and creating a new CU process for pre-entitlement at Planning, but we need assurances that current providers can continue to operate and honor agreements in place, that new agreements can be struck in existing housing stock, though we oppose a proposed 500 unit cap as it does not accurately reflect demand or current practice.
- Any limitations in terms of total # of units should apply to ILOs in new developments only [potentially starting in properties that come to market in 2021].
- For new developments, limit the number of ILOs in terms of a % of new units instead of an absolute number – OR – if an absolute number is the approach, there needs to be a clear path (or an automated path) to assess the need to increase the availability of ILO’s in new developments as they come to market so that (1) there is not a waiting period for the new stock and (2) corporate housing stock is available in the newest and most modern properties rather than in aging buildings.
- B2B contracts should not be fully eliminated; Corporate Housing providers should still be able to sign contracts with companies / organizations relocating their employees; with insurance companies moving water/fire damaged tenants into units; with agencies renting an apartment for artists in shows and musicals etc.
- CHPA is open to ILOs providing a 1% pass through tax that could be a dedicated revenue source to support the City’s overall affordable housing goals, such as an additional funding stream for rent subsidies for low income residents.
- Any limitations should apply to ILOs in new developments only as current SF operators have long standing agreements in place with a variety of organizations, and any limit on existing operations





## CHPA INFORMATIONAL PACKET

would be detrimental to the industry, different sectors who rely on this housing class, and individuals and families personal lives.

### Points of Clarification

- The regulation only effects new developments
- Existing rental units (not only existing corporate housing units, but other units in those buildings) can be used for corporate housing going forward
- The housing stock in previously permitted buildings does not need to go through re-permitting into ILO
- Can rent controlled rental buildings be used for corporate housing? Any differentiation by building type / size?

### Detailed comments and questions:

*(Page and line numbering as per the pdf titled "Legislation - Official Text")*

Page 2; 22) **For clarification:** does a unit rented by a property manager also count as an ILO if it can be rented for less than a year? Currently almost all SF properties are allowing 9-15 month long rentals of unfurnished units. Would this be limited to 12+ months?

Page 3; 22) /(b) Applicability/ **For clarification:** does this apply to both rental developments and condo developments? How does the regulation treat a condo development where practically one owner has only one unit, but it is in a building that has 10+ units?

Page 4; 1) /The limitations of this Section 202.10 shall not apply to/: Any building that has received its first building permit before the effective date of the ordinance  
*(We should make sure that not only the units that the industry is using today are grandfathered in, but all buildings that we can currently operate in - and that were permitted before the new ordinance, otherwise the industry will not be able to react to demand changes and will start down a downward spiral as we would not be allowed to replace any unit that we need to give back.)*

Page 4; 18) /(B) This point should be excluded or modified along with the point in line 20). ILOs should not be pre-identified as the developers generally cannot anticipate demand for corporate housing at the time of planning; especially not per unit type and location within the building. Additionally, a 500 total limit would prevent the renewal of the corporate housing stock in the coming years. As an alternative option, the city should set a yearly maximum of 20% for ILOs as percentage of new dwelling unit permits. This would allow renewal of the corporate housing stock, and older, potentially more favorably priced units would be returned to longer term housing stock.

Page 5; 1) /(d) Annual reports/ **For clarification:** the owners or the operators are required to report? If both, that may lead to double counting. Is the reporting needed by unit or on a portfolio level? How is the owner or the operator supposed to report on "furnishing" and "other amenities"?

Page 12; 14) /(2)/ This would prohibit a contract between a corporate housing provider and a corporation. As many times employees don't want to take the lease on their name (they just moved to the area, the company is paying for the relocation and they don't want to take the risk) this would significantly harm corporate housing in general. We should amend this point in a way that it does not prohibit a B2B business model.

November 22, 2019

San Francisco Board of Supervisors  
1 Dr Carlton B Goodlett Plaza  
San Francisco, CA 94102

**RE: PROPOSED LEGISLATION - Intermediate Length Occupancy**

Honorable Members of the Board of Supervisors:

The Corporate Housing Providers Association (CHPA) is an international trade association representing professional providers of corporate housing services. We are reaching out to you today about the important policies that you are considering for intermediate length occupancy housing and to show our support for this industry and the companies that operate in it.

Corporate housing is fundamentally different from other types of short-term rentals. It is an established industry that supports fair and effective regulations. Although only comprising a small percentage of San Francisco's overall housing stock, corporate housing provides an important layer of much needed housing to clients extending far beyond big business and corporate relocations. Corporate housing serves small businesses, arts organizations such as the SF Opera, nonprofits, traveling nurses, individuals seeking medical care, and families displaced by natural disasters, just to name a few.

The length of stay for families and individuals using corporate housing exceeds the average hotel stay and is not accommodated by the service short term rentals provide. Unlike hotels and short-term rentals, our members provide fully furnished quarters, creating ease of transition and flexibility, as employees work in the city temporarily or look to reside locally.

Corporate housing companies have close and longstanding partnerships with local small business vendor companies who rely on our industry to make a living in the city and support their employees' families. These individuals include housekeeping and cleaning services, furniture rentals, safety, and concierge services. Many of these local businesses are minority and/or women owned. These relationships reflect our members' commitment to San Francisco and the positive contribution this industry continues to make.

We support your efforts to protect affordable housing stock and craft legislation that curtails outliers to our established best practices as a legitimate industry that is already governed by landlord-tenant laws. We encourage a collaborative process as you finalize these important policies and we look forward to working with you on ways that our industry can best support San Francisco's overall goals, while contributing to the unique fabric of local neighborhoods.

Regards,



Mary Ann B. Passi, CAE  
CHPA Chief Executive Officer



November 5, 2019

Supervisor Aaron Peskin (Aaron.Peskin@sfgov.org)  
San Francisco Board of Supervisors  
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, Ca 94102-4689

**RE: PROPOSED LEGISLATION - Intermediate Length Occupancy**

Dear Supervisor Peskin:

As a dedicated professional, who has worked in the mobility industry for over 25 years, I wanted to put pen to paper, so to speak, and share my thoughts regarding proposed legislation brought to my attention by way of our supply chain partners at Suite America.

My name is Brian Potts and I am Senior Vice President for the Pacific Region at Altair Global, a global mobility management company with offices in Walnut Creek. We have been in business since 1989, with our Pacific Region office opening in 1997. One of our core business solutions is to coordinate and administer relocation benefits to employees and families that our corporate client partners move or hire. We do this through a well-connected supply chain that consists of real estate agents, corporate housing partners, and household goods suppliers to name just a few. These partners help procure and provide services that hiring companies need for their employees and transferring families.

We have several client partners in the city of San Francisco that provide shorter-term furnished corporate housing to relocating employees (and families). Furnished housing is critical when a new employee is transitioning from their departure location (selling a home/closing out a lease) and their belongings are still in use by their families at the origin location. Short-term housing enables the employee to focus on their new position and to search for permanent housing.

Short-term housing is a customary benefit paid for by the hiring company (our clients) and will typically range from 30 days to 180 days, with the goal of permanent residency in the city of San Francisco. As a rule, the longer they live in short-term housing, the more enamored they become with permanently residing in San Francisco. These "temporary guests" become local tax-paying citizens that secure property, shop locally, and utilize school systems.

Corporate Housing is a critical resource for our business clients that rely on new talent, in times of transition, to keep their business progressing. We all need to insure the supply remains in balance of the demand. Our corporate clients in San Francisco include the utility sector, rideshare platforms, software solutions and biotech firms. These businesses drive a significant portion of the San Francisco economy in the short and long term.

I do understand that San Francisco must protect the community and the City's future with thoughtful and careful legislation that provides a balance to housing needs. I wanted to be able to provide a voice from the mobility industry, so that this proposed legislation will also consider those business needs as it looks to shape the city of San Francisco in 2020 and beyond.

I would be more than pleased to have a further discussion on this topic. Please do not hesitate to reach out to me. My cell phone number is 925-788-4011.

Sincerely,  
**Brian Potts**  
SVP, Pacific Region



San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102-4689

November 21, 2019  
Our reference: LETTUS-20-001

**RE: Intermediate Length Occupancy Units (ILO) Ordinance in San Francisco**

Dear Supervisors,

I am writing on behalf of SilverDoor Americas Inc. - a Colorado Corporation (ID No: 20181626438) - and its sister company SilverDoor Limited - a UK Company (No: 03950962) - to demonstrate to the Board our support of industry colleagues at the Corporate Housing Providers Association (CHPA), and our local partner suppliers on the matter of the Intermediate Length Occupancy Units (ILO) Ordinance in San Francisco, and how we see corporate housing being a vital part of the community in San Francisco.

SilverDoor is an independent serviced apartment agent which connects its clients with local corporate housing companies. The company has been operating in the UK for almost 20 years. In the last 3 years we have opened an office in Singapore to service the APAC region, and in 2018 we opened our first Americas office in Denver, CO to help meet the growing global client demand for corporate housing across major cities in the US. The demand for serviced apartments globally is increasing year on year, and this is driven by business travellers (employees in global corporations) requesting the option to stay in residential apartments rather than hotel rooms during their short term assignments.

Feedback from our clients indicates that corporate housing is not only more cost effective to them, but that their staff overwhelmingly prefer the more homely feel that an apartment offers compared with a hotel room. Our clients appreciate the space afforded by corporate housing and the convenience of preparing meals to a personal schedule, as well as the opportunity to be part of the residential community and utilise local experience and knowledge.

Here is a guest's feedback about their recent stay in the SOMA district in San Francisco:

*"Simply put, an apartment is less hassle, more convenient and more human. The location was ideal in terms of proximity to shops and restaurants, and was close to work and things to see during days off. It was an intense 2 months' work trip so time off and recovery were important. Facilities included parking and a gym and it was ideal to get to work and disconnect from work in the evening. I could do laundry in my own apartment cheaply and when it suited me and it was easy to maintain health habits."*



I also believe that potential restrictions on ILO units could create another problem, by encouraging growth in unregulated housing sharing schemes within the city, putting residents and local citizens at risk. Therefore, it is important that our industry, through the CHPA, continues to offer serviced apartment units that are fully managed by accredited corporate housing companies. San Francisco serves as a global headquarters centre to multiple major technology companies, many of whom are our clients, and we know that these companies have a continued demand for corporate housing in the city of San Francisco and elsewhere throughout the US.

I hope our views detailed in this letter, together with the findings and report from the CHPA, are considered before any ruling on this matter, and we look forward to seeing a positive outcome from this ordinance.

Please do not hesitate to contact me if you have any further questions.

Yours sincerely,

---

Marcus Angell  
CEO  
SilverDoor Americas Inc.



[Planning, Administrative Codes - Residential Occupancy]

**Ordinance amending the Planning Code to create the Intermediate Length Occupancy residential use characteristic; amending the Administrative Code to clarify existing law regarding the enforceability of fixed-term leases in rental units covered by the just cause protections of the Residential Rent Stabilization and Arbitration Ordinance (the “Rent Ordinance”), prohibit the use of rental units for temporary occupancies by non-tenants, require landlords to disclose in advertisements for such units that the units are subject to the Rent Ordinance, and authorize enforcement through administrative and/or civil penalties; requiring the Controller to conduct a study to analyze the impacts of new Intermediate Length Occupancy units in the City; affirming the Planning Department’s determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

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

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

Section 1. CEQA, General Plan, and Planning Code Findings.

1 (a) The Planning Department has determined that the actions contemplated in this  
2 ordinance comply with the California Environmental Quality Act (California Public Resources  
3 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
4 Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference. The Board affirms  
5 this determination.

6 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
7 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
8 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
9 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
10 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

11 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
12 ordinance will serve the public necessity, convenience and welfare for the reasons set forth  
13 in Planning Commission Resolution No. \_\_\_\_\_, and incorporates such reasons by this  
14 reference thereto. A copy of said Resolution is on file with the Clerk of the Board of  
15 Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

16  
17 Section 2. The Planning Code is hereby amended by revising Section 102 (including  
18 placing a new defined term in alphabetical sequence), adding Section 202.10, and revising  
19 Sections 209.1, 209.2, 209.3, 209.4, 210.1, 210.2, 210.3, 210.4, and 710, to read as follows:

20 **SEC. 102. DEFINITIONS.**

21 \* \* \* \*

22 **Intermediate Length Occupancy.** A Residential Use characteristic that applies to a Dwelling  
23 Unit offered for occupancy by a natural person for an initial stay, whether through lease, subscription,  
24 license, or otherwise, for a duration of greater than 30 consecutive days but less than one year. This  
25 use characteristic is subject to the requirements of Section 202.10.

1           \*   \*   \*   \*

2           **Residential Use.** A Use Category consisting of uses that provide housing for San  
3   Francisco residents, rather than visitors, including Dwelling Units, Group Housing,  
4   Residential Hotels, and Senior Housing, Homeless Shelters, and for the purposes of Article 4  
5   only any residential components of Institutional Uses. Single Room Occupancy, Intermediate  
6   Length Occupancy, and Student Housing designations are considered characteristics of certain  
7   Residential Uses.

8           \*   \*   \*   \*

9           **Use Characteristic.** A feature of a Use, related to its physical layout, location,  
10   design, access, or other characteristics. Use Characteristics may be regulated  
11   independently of a Use itself. Residential Use Characteristics include Single Room  
12   Occupancy, Intermediate Length Occupancy, and Student Housing. Commercial Use  
13   Characteristics include Drive-up Facility, Formula Retail, Hours of Operation, Maritime Use,  
14   Open Air Sales, Outdoor Activity, and Walk-Up Facility.

15          \*   \*   \*   \*

16           **SEC. 202.10. LIMITATION ON INTERMEDIATE LENGTH OCCUPANCIES.**

17           **(a) Purpose.** To preserve the existing stock of housing and ensure that new Dwelling Units  
18   are made available for long-term occupancy by permanent San Francisco residents with initial terms  
19   of occupancy of at least one year, the following provisions shall apply to Intermediate Length  
20   Occupancy units.

21           **(b) Applicability.**

22           **(1)** Any development project that creates 10 or more new Dwelling Units, and that  
23   has not received its first building or site permit as of the effective date of the ordinance establishing  
24   this Section 202.10, in Board File No. \_\_\_\_\_, shall be eligible to include Intermediate Length  
25   Occupancy units.



1                   (2)     The limitations of this Section 202.10 shall not apply to:  
2                   (A)     any Dwelling Unit that is defined as Student Housing in Section 102;  
3                   (B)     a Residential Hotel unit subject to the provisions of Administrative Code  
4 Chapter 41; or  
5                   (C)     a development project creating nine or fewer new Dwelling Units.  
6                   (3)     Dwelling Units that are subject to the City's Inclusionary Affordable Housing  
7 Program set forth in Sections 415.1. et seq., or otherwise designated as below market rate or income-  
8 restricted under City, state, or federal law, or subject to the Rent Ordinance, Administrative Code  
9 Chapter 37, shall not be eligible to be Intermediate Length Occupancy units.  
10                  (c)     **Controls.**  
11                  (1)     Intermediate Length Occupancy use characteristic may be permitted with a  
12 Conditional Use Authorization anywhere Dwelling Units are permitted.  
13                  (2)     Any request to authorize the establishment of an Intermediate Length  
14 Occupancy use characteristic shall require a conditional use authorization under Section 303, and  
15 include the following findings:  
16                  (A)     No more than 20% of the Dwelling Units may be offered as Intermediate  
17 Length Occupancy units.  
18                  (B)     Each unit proposed to be offered as an Intermediate Length Occupancy  
19 unit must be specifically identified.  
20                  (3)     No more than a total of 500 Intermediate Length Occupancy units shall be  
21 permitted in the City.  
22                  (4)     Any unit designated as an Intermediate Length Occupancy unit pursuant to this  
23 subsection (c) may be offered for an initial term of occupancy of one year or greater without losing  
24 this use characteristic.  
25

(d) **Annual Reports.** No later than March 1 of each year, the owner or operator of each Intermediate Length Occupancy unit shall submit to the Department an Annual Unit Usage Report for the prior calendar year containing the following information:

(1) The location of the Intermediate Length Occupancy unit.

(2) The number of times the unit was occupied by a natural person for an initial stay, whether through lease, subscription, license, or otherwise, for a duration of greater than 30 consecutive days but less than one year, including the duration of each of those stays.

(3) The average duration of each stay.

(4) The average vacancy between each stay.

(5) The nature of the services, if any, that are provided to occupants of the Intermediate Length Occupancy units, including furnishings, or other amenities, and whether there has been an increase or decrease in the services since the last report.

**SEC. 209.1. RH (RESIDENTIAL, HOUSE) DISTRICTS.**

\* \* \* \*

**Table 209.1**

**ZONING CONTROL TABLE FOR RH DISTRICTS**

Zoning Category	§ References	RH-1(D)	RH-1	RH-1(S)	RH-2	RH-3
-----------------	--------------	---------	------	---------	------	------

\* \* \* \*

**RESIDENTIAL STANDARDS AND USES**

\* \* \* \*

**Use Characteristics**

<u>Intermediate Length Occupancy</u>	<u>§ 102</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
--------------------------------------	--------------	----------	----------	----------	----------	----------

Single Room Occupancy	§ 102	P	P	P	P	P
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\* \* \* \*

## SEC. 209.2. RM (RESIDENTIAL, MIXED) DISTRICTS.

\* \* \* \*

**Table 209.2**

### ZONING CONTROL TABLE FOR RM DISTRICTS

Zoning Category	§ References	RM-1	RM-2	RM-3	RM-4
--------------------	--------------	------	------	------	------

\* \* \* \*

### RESIDENTIAL STANDARDS AND USES

\* \* \* \*

#### Use Characteristics

<i>Intermediate Length Occupancy</i>	<u>§ 102</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
Single Room Occupancy	§ 102	P	P	P	P

\* \* \* \*

## SEC. 209.3. RC (RESIDENTIAL-COMMERCIAL) DISTRICTS.

\* \* \* \*

**Table 209.3**

### ZONING CONTROL TABLE FOR RESIDENTIAL-COMMERCIAL DISTRICTS

Zoning Category	§ References	RC-3	RC-4
-----------------	--------------	------	------

\* \* \* \*

## RESIDENTIAL STANDARDS AND USES

\* \* \* \*

### Use Characteristics

Intermediate Length

§ 102

C

C

Occupancy

Single Room

§ 102

P

P

Occupancy

\* \* \* \*

## SEC. 209.4. RTO (RESIDENTIAL TRANSIT ORIENTED) DISTRICTS.

\* \* \* \*

Table 209.4

### ZONING CONTROL TABLE FOR RTO DISTRICTS

Zoning Category	§ References	RTO	RTO-M
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\* \* \* \*

## RESIDENTIAL STANDARDS AND USES

\* \* \* \*

### Use Characteristics

Intermediate Length

§ 102

C

C

Occupancy

Single Room

§ 102

P

P

Occupancy

\* \* \* \*

## SEC. 210.1. C-2 DISTRICTS: COMMUNITY BUSINESS.

\* \* \* \*

Table 210.1

**ZONING CONTROL TABLE FOR C-2 DISTRICTS**

Zoning Category	§ References	C-2
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\* \* \* \*

**RESIDENTIAL STANDARDS AND USES**

\* \* \* \*

Use Characteristics

Intermediate Length

§ 102

C

Occupancy

Single Room Occupancy

§ 102

P

\* \* \* \*

**SEC. 210.2. C-3 DISTRICTS: DOWNTOWN COMMERCIAL.**

\* \* \* \*

Table 210.2

**ZONING CONTROL TABLE FOR C-3 DISTRICTS**

Zoning Category	§ References	C-3-O	C-3-O(SD)	C-3-R	C-3-G	C-3-S
-----------------	--------------	-------	-----------	-------	-------	-------

\* \* \* \*

**RESIDENTIAL STANDARDS AND USES**

\* \* \* \*

Use Characteristics

<u>Intermediate</u>	<u>§ 102</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Length</u>						
<u>Occupancy</u>						
Single Room	§ 102	P	P	P	P	P
Occupancy						

\* \* \* \*

### SEC. 210.3. PDR DISTRICTS.

\* \* \* \*

**Table 210.3**

#### **ZONING CONTROL TABLE FOR PDR DISTRICTS**

Zoning Category	§ References	PDR-1-B	PDR-1-D	PDR-1-G	PDR-2
--------------------	--------------	---------	---------	---------	-------

\* \* \* \*

#### **RESIDENTIAL STANDARDS AND USES**

\* \* \* \*

#### **Use Characteristics**

<u>Intermediate</u>	<u>§ 102</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Length</u>					
<u>Occupancy</u>					
Single Room	§ 102	NP	NP	NP	NP
Occupancy					

\* \* \* \*

### SEC. 210.4. M DISTRICTS: INDUSTRIAL.

\* \* \* \*

**Table 210.4**

## ZONING CONTROL TABLE FOR M DISTRICTS

Zoning Category	§ References	M-1	M-2
-----------------	--------------	-----	-----

\* \* \* \*

### RESIDENTIAL STANDARDS AND USES

\* \* \* \*

#### Use Characteristics

<u>Intermediate Length</u>	<u>§ 102</u>	<u>C</u>	<u>C</u>
<u>Occupancy</u>			
Single Room	§ 102	P	P
Occupancy			

\* \* \* \*

## SEC. 710. NC-1 – NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT.

\* \* \* \*

### Table 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT NC-1

## ZONING CONTROL TABLE

\* \* \* \*

Zoning Category	§ References	NC-1 Controls
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\* \* \* \*

### RESIDENTIAL STANDARDS AND USES

\* \* \* \*

#### Use Characteristics

<u>Intermediate Length</u>	<u>§ 102</u>	<u>C</u>
<u>Occupancy</u>		

1	Single Room Occupancy	§ 102	P
---	-----------------------	-------	---

2 \* \* \* \*

3 Section 3. Amendment of Specific Zoning Control Tables.

4 Zoning Control Tables 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 723,  
5 724, 725, 726, 728, 729, 730, 731, 732, 733, 734, 750, 751, 752, 753, 754, 755, 756, 757,  
6 758, 759, 760, 761, 762, 763, and 764 are hereby amended identically to the amendment of  
7 Zoning Control Table 710 in Section 2 of this ordinance, to create “Intermediate Length  
8 Occupancy” as a new Residential Use Characteristic, including any zoning controls.

9 Section 4. The Administrative Code is hereby amended by adding Section 37.9F, to  
10 read as follows:

11 **SEC. 37.9F. CIRCUMVENTION OF TENANT PROTECTIONS.**

12 *(a) Findings. As market rents continue to increase in San Francisco, landlords of rent-*  
13 *controlled units have a greater incentive to prevent long-term tenancies. Complementing the just*  
14 *cause protections in Section 37.9, this Section 37.9F addresses the growing efforts among some*  
15 *landlords to induce their tenants into believing that they are required to vacate their units at a specific*  
16 *time designated in the lease or agreement, despite existing law to the contrary, or to try to avoid*  
17 *certain landlord-tenant obligations altogether. This trend is especially common with respect to*  
18 *corporate rentals, though it is not limited to corporate rentals. Such tactics by landlords undermine*  
19 *rent control and frustrate the purpose of ensuring that rent-controlled units in the City remain*  
20 *available as a long-term housing option for the City’s renters.*

21 *(b) Prohibition of Fixed-Term Agreements. Consistent with Section 37.9(a)(2) and*  
22 *Section 37.9(e), any provision of any lease or rental agreement that purports to require a tenant to*  
23 *vacate a rental unit at the expiration of a stated term, or that purports to characterize a tenant’s*  
24 *failure to vacate the rental unit at the end of the stated term as a just cause for eviction (either of them,*  
25 *a “Fixed-Term Agreement”), shall be void as contrary to public policy, and a landlord may not*



1 attempt to recover possession of the unit without just cause. This prohibition shall not apply where  
2 this Chapter 37 expressly authorizes a fixed-term tenancy (e.g., Section 37.2(a)(D)), or where it  
3 expressly authorizes a tenant to be evicted without just cause (e.g., Section 37.9(b)).

4 **(c) Restrictions on Non-Tenant Uses.**

5 (1) A rental unit is being used for a “Non-Tenant Use” when the landlord is  
6 allowing the unit to be occupied by a person or entity who is not a “tenant” as defined in Section  
7 37.2(t). Renting a unit to a corporate entity or other non-natural person, or using a unit as housing  
8 for one’s employees, licensees, or independent contractors rather than one’s tenants, are nonexclusive  
9 examples of Non-Tenant Uses. This subsection (c) is not intended to narrow the definition of “tenant”  
10 under Section 37.2(t) or to limit the just cause protections in Section 37.9; the sole intent is to prevent  
11 landlords from circumventing or undermining the tenant protections of this Chapter 37, by restricting  
12 when a landlord may provide a rental unit to a person or entity to the extent that person or entity does  
13 not otherwise qualify as a “tenant.”

14 (2) Commencing February 1, 2020, it shall be unlawful to use a rental unit or allow  
15 a rental unit to be used for a Non-Tenant Use, subject to the exemptions listed in subsection (c)(3).  
16 Any provision of any agreement entered into on or after February 1, 2020 that purports to allow a unit  
17 to be used for an unauthorized Non-Tenant Use shall be void as contrary to public policy, and the  
18 occupants shall instead be deemed tenants under Section 37.2(t).

19 (3) This subsection (c) does not apply to any of the following:

20 (A) where the rental unit is subject to an agreement authorizing a Non-Tenant  
21 Use that was entered into before February 1, 2020, for the existing duration of that agreement.

22 (B) the use of a rental unit as a lawful short-term rental as set forth in  
23 Administrative Code Chapter 41A.

1                    (C) where the landlord is providing the rental unit to its employees as a  
2 condition of their employment to assist in the maintenance or management of a building owned or  
3 managed by the landlord (e.g., resident managers).

4                    (D) where an organization with tax-exempt status under 26 United States Code  
5 Sections 501(c)(3) or 501(c)(4) is providing access to the unit in furtherance of its primary mission to  
6 provide housing.

7            (d) **Required Disclosures.** Commencing February 1, 2020, every online listing for a rental  
8 unit, excluding listings by landlords or master tenants who will reside in the same rental unit as their  
9 tenants or subtenants, must contain a legible disclosure in at least 12-point font that includes the  
10 following text: “This unit is a rental unit subject to the San Francisco Rent Ordinance, which limits  
11 evictions without just cause, and which states that any waiver by a tenant of their rights under the Rent  
12 Ordinance is void as contrary to public policy.” The foregoing text should also be included in print  
13 advertisements, if practicable.

14            (e) **Monitoring and Enforcement.**

15                    (1) The Board shall receive referrals regarding online listings that do not comply  
16 with subsection (d). Upon receipt of a referral, if the Board determines that the listing does not  
17 substantially comply with subsection (d) and that the defects have not been cured, the Board shall  
18 inform the landlord in writing. The landlord shall be required to correct the violation within three  
19 business days after receiving the notice. If the landlord has not corrected the violation within three  
20 business days, the Board may impose a reasonable administrative penalty of up to \$100 per day, not  
21 counting the three-day correction period, provided that in no event shall the total administrative  
22 penalty for a single listing exceed \$1,000. The procedure for the imposition, enforcement, collection,  
23 and administrative review of the administrative penalty shall be governed by Administrative Code  
24 Chapter 100, “Procedures Governing the Imposition of Administrative Fines,” which is hereby  
25 incorporated in its entirety. Any administrative penalties collected under this subsection (e)(1) shall

1 be deposited in the General Fund of the City and County of San Francisco to be used for enforcement  
2 of this Section 37.9F.

3 (2) The City Attorney may bring a civil action in San Francisco Superior Court  
4 against a party who has failed to comply with this Section 37.9F. A nonprofit organization with tax  
5 exempt status under 26 United States Code Section 501(c)(3) or 501(c)(4) and with a primary mission  
6 of protecting the rights of tenants in San Francisco may also bring such a civil action, provided that  
7 the organization shall first provide 30 days' written notice of its intent to initiate civil proceedings by  
8 serving a draft complaint on the City Attorney's Office and on any known address(es) of the affected  
9 tenant(s), and may not initiate civil proceedings until the end of this 30 day period. A party who  
10 violates this Section 37.9F may be liable for civil penalties of not more than two times the amount paid  
11 or received for use of the rental unit during the period of the unlawful activity, and each rental unit  
12 used in violation of this Section 37.9F shall constitute a separate violation. Any monetary award  
13 obtained in such a civil action shall be deposited in the General Fund of the City and County of San  
14 Francisco to be used for enforcement of this Section 37.9F. The court shall also award reasonable  
15 attorney's fees and costs to the City Attorney or a nonprofit organization that is the prevailing party in  
16 such a civil action.

17 (3) The remedies available under this subsection (e) shall be in addition to any  
18 other existing remedies that may be available.

19  
20 Section 5. Controller's Study. No later than January 1, 2021, the Controller, with the  
21 support of consultants as necessary and consistent with the civil service provisions of the  
22 Charter, and in consultation with the Planning Department and other City agencies as  
23 necessary, shall conduct a study to analyze the impacts created by the development of new  
24 Intermediate Length Occupancy units on the City and relevant City services. The Controller's  
25 study shall be submitted to the Board of Supervisors.

1           Section 6. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the  
4 Board of Supervisors overrides the Mayor's veto of the ordinance.

5  
6           Section 7. Scope of Ordinance. Except as stated in Section 3 of this ordinance, in  
7 enacting this ordinance, the Board of Supervisors intends to amend only those words,  
8 phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts,  
9 diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in  
10 this ordinance as additions, deletions, Board amendment additions, and Board amendment  
11 deletions in accordance with the "Note" that appears under the official title of the ordinance.

12  
13           Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word  
14 of this ordinance, or any application thereof to any person or circumstance, is held to be  
15 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision  
16 shall not affect the validity of the remaining portions or applications of the ordinance. The  
17 Board of Supervisors hereby declares that it would have passed this ordinance and each and  
18 every section, subsection, sentence, clause, phrase, and word not declared invalid or  
19 unconstitutional without regard to whether any other portion of this ordinance or application  
20 thereof would be subsequently declared invalid or unconstitutional.

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

23 By:

24 AUSTIN M. YANG  
25 Deputy City Attorney

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