

1 [Residential Rent Ordinance: Tenant financial hardship relief from Section 37.3 rent increases,
when total rent would exceed 33% of tenant's gross income; multilingual outreach.]

2 **Ordinance amending Administrative Code Chapter 37 "Residential Rent Stabilization**
3 **and Arbitration Ordinance," by amending Section 37.3 to add Subsection (f) "Tenant**
4 **Financial Hardship Applications" to provide tenant relief from Section 37.3 rent**
5 **increases, with relief determined solely on by whether (1) a tenant is unemployed or**
6 **has had wages reduced by 20% or more, or only has income from government benefits**
7 **such as Social Security and has not received a cost of living increase in the past 12**
8 **months, and (2) the rent including the increase would result in tenant's total rent**
9 **exceeding comprises or will comprise 33% or more of tenant's gross income (including**
10 **consideration of tenant assets); rent increase stayed pending determination of**
11 **application; if application is granted, the rent increase will not be in effect until the**
12 **increase will not cause tenant financial hardship, or until the landlord can demonstrate**
13 **that "inability to impose the rent increase is causing the landlord greater hardship than**
14 **the tenant's hardship" for a period of time based on the tenant's circumstances, with a**
15 **review scheduled at the end of that period; a delayed rent increase later allowed will be**
16 **effective as of the date the tenant's income or assets changed to permit the increase;**
17 **hardship applications to be available in multiple languages; multilingual notice of**
18 **hardship application procedures to be mailed with each Administrative Law Judge or**
19 **Rent Board decision; Rent Board to implement a process for outreach to landlords and**
20 **tenants whose primary language is not English regarding availability and use of the**
21 **hardship application procedure, and report to the Board of Supervisors describing the**
22 **implementation process and any known results; Section 37.3(f) to sunset and no longer**
23 **be in effect when the City unemployment rate drops to 5% or less according to the**
24 **annual average published by the California Employment Development Department**
25 **"Monthly Labor Force Data for Counties, Annual Average."**

1 NOTE: Additions are single-underline italics Times New Roman;
2 deletions are ~~strike-through italics Times New Roman~~.
3 Board amendment additions are double-underlined Arial;
4 Board amendment deletions are ~~strikethrough Arial~~.

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

6
7 Section 1. The San Francisco Administrative Code is hereby amended by amending
8 Section 37.3, to read as follows:

9 SEC. 37.3. RENT LIMITATIONS.

10 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose rent
11 increases upon tenants in occupancy only as provided below and as provided by Subsection
12 37.3(d):

13 (1) Annual Rent Increase. On March 1st of each year, the Board shall publish the
14 increase in the CPI for the preceding 12 months, as made available by the U.S. Department of
15 Labor. A landlord may impose annually a rent increase which does not exceed a tenant's
16 base rent by more than 60 percent of said published increase. In no event, however, shall the
17 allowable annual increase be greater than seven percent.

18 (2) Banking. A landlord who refrains from imposing an annual rent increase or any
19 portion thereof may accumulate said increase and impose that amount on the tenant's
20 subsequent rent increase anniversary dates. A landlord who, between April 1, 1982, and
21 February 29, 1984, has banked an annual seven percent rent increase (or rent increases) or
22 any portion thereof may impose the accumulated increase on the tenant's subsequent rent
23 increase anniversary dates.

24 (3) Capital Improvements, Rehabilitation, and Energy Conservation Improvements,
25 and Renewable Energy Improvements. A landlord may impose rent increases based upon the

1 cost of capital improvements, rehabilitation, energy conservation improvements, or renewable
2 energy improvements, provided that such costs are certified pursuant to Sections 37.7 and
3 37.8B below; provided further that where a landlord has performed seismic strengthening in
4 accordance with Building Code Chapters 16B and 16C, no increase for capital improvements
5 (including but not limited to seismic strengthening) shall exceed, in any 12 month period, 10
6 percent of the tenant's base rent, subject to rules adopted by the Board to prevent landlord
7 hardship and to permit landlords to continue to maintain their buildings in a decent, safe and
8 sanitary condition. A landlord may accumulate any certified increase which exceeds this
9 amount and impose the increase in subsequent years, subject to the 10 percent limitation.
10 Nothing in this subsection shall be construed to supersede any Board rules or regulations with
11 respect to limitations on increases based upon capital improvements whether performed
12 separately or in conjunction with seismic strengthening improvements pursuant to Building
13 Code Chapters 16B and 16C.

14 (4) Utilities. A landlord may impose increases based upon the cost of utilities as
15 provided in Section 37.2(q) above.

16 (5) Water: Charges Related to Excess Water Use, and 50% Passthrough of Water Bill
17 Charges Attributable to Water Rate Increases Resulting From Issuance of Water System
18 Improvement Revenue Bonds Authorized at the November 2002 Election.

19 (A) Charges Related to Excess Water Use. A landlord may impose increases not to
20 exceed 50 percent of the excess use charges (penalties) levied by the San Francisco Water
21 Department on a building for use of water in excess of Water Department allocations under
22 the following conditions:

23 (i) The landlord provides tenants with written certification that the following have been
24 installed in all units: (1) permanently installed retrofit devices designed to reduce the amount
25 of water used per flush or low-flow toilets (1.6 gallons per flush); (2) low-flow showerheads

1 which allow a flow of no more than 2.5 gallons per minute; and (3) faucet aerators (where
2 installation on current faucets is physically feasible); and

3 (ii) The landlord provides the tenants with written certification that no known plumbing
4 leaks currently exist in the building and that any leaks reported by tenants in the future will be
5 promptly repaired; and

6 (iii) The landlord provides the tenants with a copy of the water bill for the period in
7 which the penalty was charged. Only penalties billed for a service period which begins after
8 the effective date of the ordinance [April 20, 1991] may be passed through to tenants. Where
9 penalties result from an allocation which does not reflect documented changes in occupancy
10 which occurred after March 1, 1991, a landlord must, if requested in writing by a tenant, make
11 a good-faith effort to appeal the allotment. Increases based upon penalties shall be prorated
12 on a per-room basis provided that the tenancy existed during the time the penalty charges
13 accrued. Such charges shall not become part of a tenant's base rent. Where a penalty in any
14 given billing period reflects a 25 percent or more increase in consumption over the prior billing
15 period, and where that increase does not appear to result from increased occupancy or any
16 other known use, a landlord may not impose any increase based upon such penalty unless
17 inspection by a licensed plumber or Water Department inspector fails to reveal a plumbing or
18 other leak. If the inspection does reveal a leak, no increase based upon penalties may be
19 imposed at any time for the period of the unrepaired leak.

20 (B) Fifty Percent (50%) Passthrough of Water Bill Charges Attributable to Water
21 Increases Resulting From Issuance of Water System Improvement Revenue Bonds
22 Authorized at the November 2002 Election. A landlord may pass through fifty percent (50%) of
23 the water bill charges attributable to water rate increases resulting from issuance of Water
24 System Improvement Revenue Bonds authorized at the November 2002 election (Proposition
25 A), to any unit that is in compliance with any applicable laws requiring water conservation

1 devices. The landlord is not required to file a petition with the Board for approval of such a
2 cost passthrough. Such cost passthroughs are subject to the following:

3 (i) Affected tenants shall be given notice of any such passthrough as provided by
4 applicable notice of rent increase provisions of this Chapter 37, including but not limited to
5 Section 37.3(b)(3).

6 (ii) A tenant may file a hardship application with the Board, and be granted relief from
7 all or part of such a cost passthrough.

8 (iii) If a tenant's hardship application is granted, the tenant's landlord may utilize any
9 available Public Utilities Commission low-income rate discount program or similar program for
10 water bill reduction, based on that tenant's hardship status.

11 (iv) A landlord shall not impose a passthrough pursuant to Section 37.3(a)(5)(B) if the
12 landlord has filed for or received Board approval for a rent increase under Section 37.8(e)(4)
13 for increased operating and maintenance expenses in which the same increase in water bill
14 charges attributable to water rate increases resulting from issuance of any water revenue
15 bonds authorized at the November 5, 2002 election was included in the comparison year cost
16 totals.

17 (v) Where a tenant alleges that a landlord has imposed a water revenue bond
18 passthrough that is not in compliance with Section 37.3(a)(5)(B), the tenant may petition for a
19 hearing under the procedures provided by Section 37.8. In such a hearing the landlord shall
20 have the burden of proving the accuracy of the calculation that is the basis for the increase.
21 Any tenant petition challenging such a passthrough must be filed within one year of the
22 effective date of the passthrough.

23 (vi) A tenant who has received a notice of passthrough or a passthrough under this
24 Section 37.3(a)(5)(B) shall be entitled to receive a copy of the applicable water bill from the
25 landlord upon request.

1 (vii) The amount of permissible passthrough per unit under this Section 37.3(a)(5)(B)
2 shall be determined as follows:

3 (1) The San Francisco Public Utilities Commission will determine the charge per unit
4 of water, if any, that is attributable to water rate increases resulting from issuance of water
5 system improvement revenue bonds authorized at the November 5, 2002 election.

6 (2) The charge identified in Section 37.3(a)(5)(B)(vii)(1) shall be multiplied by the total
7 units of water used by each customer, for each water bill. The result is the total dollar amount
8 of the water bill that is attributable to water rate increases resulting from issuance of water
9 system improvement revenue bonds authorized at the November 5, 2002 election. That
10 charge shall be a separate line item on each customer's water bill.

11 (3) The dollar amount calculated under Section 37.3(a)(5)(B)(vii)(2) shall be divided
12 by two (since a 50% passthrough is permitted), and then divided by the total number of units
13 covered by the water bill, including commercial units. The resulting dollar figure shall be
14 divided by the number of months covered by the water bill cycle (most are two-month bill
15 cycles), to determine the amount of that water bill that may be passed through to each
16 residential unit for each month covered by that bill.

17 (4) These passthroughs may be imposed on a monthly basis. These passthroughs
18 shall not become part of a tenant's base rent. The amount of each passthrough may vary from
19 month to month, depending on the amount calculated under Sections 37.3(a)(5)(B)(vii)(1)
20 through (3).

21 (viii) The Board may amend its rules and regulations as necessary to implement this
22 Section 37.3(a)(5)(B).

23 (6) Property Tax. A landlord may impose increases based upon a 100% passthrough
24 of the change in the landlord's property tax resulting from the repayment of general obligation
25

1 bonds of the City and County of San Francisco approved by the voters between November 1,
2 1996, and November 30, 1998 as provided in Section 37.2(q) above.

3 A landlord may impose increases based upon a 50% passthrough of the change in the
4 landlord's property tax resulting from the repayment of San Francisco Unified School District
5 or San Francisco Community College District general obligation bonds approved by the voters
6 after November 1, 2006, as provided in Section 37.2(q) above.

7 The amount of such increases shall be determined for each tax year as follows:

8 (A) For general obligation bonds of the City and County of San Francisco approved by
9 the voters between November 1, 1996 and November 30, 1998:

10 (i) The Controller and the Board of Supervisors will determine the percentage of the
11 property tax rate, if any, in each tax year attributable to general obligation bonds approved by
12 the voters between November 1, 1996, and November 30, 1998, and repayable within such
13 tax year.

14 (ii) This percentage shall be multiplied by the total amount of the net taxable value for
15 the applicable tax year. The result is the dollar amount of property taxes for that tax year for a
16 particular property attributable to the repayment of general obligation bonds approved by the
17 voters between November 1, 1996, and November 30, 1998.

18 (iii) The dollar amount calculated under Subsection (ii) shall be divided by the total
19 number of all units in each property, including commercial units. That figure shall be divided
20 by 12 months, to determine the monthly per unit costs for that tax year of the repayment of
21 general obligation bonds approved by the voters between November 1, 1996, and November
22 30, 1998.

23 (B) For general obligation bonds of the City and County of San Francisco approved by
24 the voters after November 14, 2002 where any rent increase has been disclosed and
25 approved by the voters:

1 (i) The Controller and the Board of Supervisors will determine the percentage of the
2 property tax rate, if any, in each tax year attributable to general obligation bonds approved by
3 the voters after November 14, 2002 and repayable within such tax year.

4 (ii) This percentage shall be multiplied by the total amount of the net taxable value for
5 the applicable tax year. The result is the dollar amount of property taxes for that tax year for a
6 particular property attributable to the repayment of general obligation bonds approved by the
7 voters after November 14, 2002.

8 (iii) The dollar amount calculated under Subsection (ii) shall be divided by two, and
9 then by the total number of all units in each property, including commercial units. That figure
10 shall be divided by 12 months, to determine the monthly per unit costs for that tax year of the
11 repayment of general obligation bonds approved by the voters after November 14, 2002.

12 (C) For general obligation bonds of the San Francisco Unified School District or San
13 Francisco Community College District approved by the voters after November 1, 2006:

14 (i) The Controller and the Board of Supervisors will determine the percentage of the
15 property tax rate, if any, in each tax year attributable to San Francisco Unified School District
16 or San Francisco Community College District general obligation bonds approved by the voters
17 after November 1, 2006 and repayable within such tax year.

18 (ii) This percentage shall be multiplied by the total amount of the net taxable value for
19 the applicable tax year. The result is the dollar amount of property taxes for that tax year for a
20 particular property attributable to the repayment of San Francisco Unified School District or
21 San Francisco Community College District general obligation bonds approved by the voters
22 after November 1, 2006.

23 (iii) The dollar amount calculated under Subsection (ii) shall be divided by two, and
24 then by the total number of all units in each property, including commercial units. That figure
25 shall be divided by 12 months, to determine the monthly per unit costs for that tax year of the

1 repayment of San Francisco Unified School District or San Francisco Community College
2 District general obligation bonds approved by the voters after November 1, 2006.

3 (D) Landlords may pass through to each unit in a particular property the dollar amount
4 calculated under these Subsections 37.3(a)(6)(A) and (B) and (C). These passthroughs may
5 be imposed only on the anniversary date of each tenant's occupancy of the property. These
6 passthroughs shall not become a part of a tenant's base rent. The amount of each annual
7 passthrough imposed pursuant to this Subsection (6) may vary from year-to-year, depending
8 on the amount calculated under Subsections (A) and (B) and (C). Each annual passthrough
9 shall apply only for the 12 month period after it is imposed. A landlord may impose the
10 passthroughs described in this Subsection (6) for a particular tax year only with respect to
11 those tenants who were residents of a particular property on November 1st of the applicable
12 tax year. A landlord shall not impose a passthrough pursuant to this Subsection (6) if the
13 landlord has filed for or received Board approval for a rent increase under Section 37.8(e)(4)
14 for increased operating and maintenance expenses in which the same increase in property
15 taxes due to the repayment of general obligation bonds was included in the comparison year
16 cost totals.

17 (E) The Board will have available a form which explains how to calculate the
18 passthrough.

19 (F) Landlords must provide to tenants, on or before the date that notice is served on
20 the tenant of a passthrough permitted under this Subsection (6), a copy of the completed form
21 described in Subsection (E). This completed form shall be provided in addition to the Notice of
22 Rent Increase required under Section 37.3(b)(5). Where a tenant alleges that a landlord has
23 imposed a charge which exceeds the limitations set forth in this Subsection (6), the tenant
24 may petition for a hearing under the procedures provided by Section 37.8. In such a hearing,
25 the landlord shall have the burden of proving the accuracy of the calculation that is the basis

1 for the increase. Any tenant petitions challenging such a passthrough must be filed within one
2 year of the effective date of the passthrough.

3 (G) The Board may amend its rules and regulations as necessary to implement this
4 Subsection (6).

5 (7) RAP Loans. A landlord may impose rent increases attributable to the City
6 Administrator's amortization of the RAP loan in an area designated on or after July 1, 1977,
7 pursuant to Chapter 32 of the San Francisco Administrative Code.

8 (8) Additional Increases. A landlord who seeks to impose any rent increase which
9 exceeds those permitted above shall petition for a rental arbitration hearing pursuant to
10 Section 37.8 of this Chapter.

11 (9) A landlord may impose a rent increase to recover costs incurred for the
12 remediation of lead hazards, as defined in San Francisco Health Code Article 11 or 26. Such
13 increases may be based on changes in operating and maintenance expenses or for capital
14 improvement expenditures as long as the costs which are the basis of the rent increase are a
15 substantial portion of the work which abates or remediates a lead hazard, as defined in San
16 Francisco Health Code Article 11 or 26, and provided further that such costs are approved for
17 operating and maintenance expense increases pursuant to Section 37.8(e)(4)(A) and certified
18 as capital improvements pursuant to Section 37.7 below.

19 When rent increases are authorized by this Subsection 37.3(a)(9), the total rent
20 increase for both operating and maintenance expenses and capital improvements shall not
21 exceed 10 percent in any 12 month period. If allowable rent increases due to the costs of lead
22 remediation and abatement work exceed 10 percent in any 12 month period, an
23 Administrative Law Judge shall apply a portion of such excess to approved operating and
24 maintenance expenses for lead remediation work, and the balance, if any, to certified capital
25 improvements, provided, however, that such increase shall not exceed 10 percent. A landlord

1 may accumulate any approved or certified increase which exceeds this amount, subject to the
2 10 percent limit.

3 (10) With respect to units occupied by recipients of tenant-based rental assistance:

4 (A) If the tenant's share of the base rent is not calculated as a fixed percentage of the
5 tenant's income, such as in the Section 8 voucher program and the Over-FMR Tenancy
6 Program, then:

7 (i) If the base rent is equal to or greater than the payment standard, the rent increase
8 limitations in Sections 37.3(a)(1) and (2) shall apply to the entire base rent, and the arbitration
9 procedures for those increases set forth in Section 37.8 and 37.8A shall apply.

10 (ii) If the base rent is less than the payment standard, the rent increase limitations of
11 this Chapter shall not apply; provided, however, that any rent increase which would result in
12 the base rent being equal to or greater than the payment standard shall not result in a new
13 base rent that exceeds the payment standard plus the increase allowable under Section
14 37.3(a)(1).

15 (B) If the tenant's share of the base rent is calculated as a fixed percentage of the
16 tenant's income, such as in the Section 8 certificate program and the rental subsidy program
17 for the HOPWA program, the rent increase limitations in Section 37.3(a)(1) and (2) shall not
18 apply. In such circumstances, adjustments in rent shall be made solely according to the
19 requirements of the tenant-based rental assistance program.

20 (b) Notice of Rent Increase for Tenants in Occupancy. On or before the date upon
21 which a landlord gives a tenant legal notice of a rent increase, the landlord shall inform the
22 tenant, in writing, of the following:

23 (1) Which portion of the rent increase reflects the annual increase, and/or a banked
24 amount, if any;

25

1 (2) Which portion of the rent increase reflects costs for increased operating and
2 maintenance expenses, rents for comparable units, and/or capital improvements,
3 rehabilitation, energy conservation measures improvements, or renewable energy
4 improvements certified pursuant to Section 37.7. Any rent increase certified due to increases
5 in operating and maintenance costs shall not exceed seven percent;

6 (3) Which portion of the rent increase reflects the passthrough of charges for: gas and
7 electricity; or the passthrough of increased water bill charges attributable to water rate
8 increases resulting from issuance of water revenue bonds authorized at the November 2002
9 election as provided by Section 37.3(a)(5)(B), which charges and calculations of charges shall
10 be explained in writing on a form provided by the Board; or the passthrough of general
11 obligation bond measure costs as provided by Section 37.3(a)(6), which charges shall be
12 explained in writing on a form provided by the Board as described in Section 37.3(a)(6)(E);

13 (4) Which portion of the rent increase reflects the amortization of the RAP loan, as
14 described in Section 37.3(a)(7) above.

15 (5) Nonconforming Rent Increases. Any rent increase which does not conform with
16 the provisions of this Section shall be null and void.

17 (6) With respect to rental units occupied by recipients of tenant-based rental
18 assistance, the notice requirements of this Subsection (b) shall be required in addition to any
19 notice required as part of the tenant-based rental assistance program.

20 (c) Initial Rent Limitation for Subtenants. A tenant who subleases his or her rental unit
21 may charge no more rent upon initial occupancy of the subtenant or subtenants than that rent
22 which the tenant is currently paying to the landlord.

23 (d) Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
24 Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
25 and regardless of whether otherwise provided under Chapter 37:

1 (1) Property Owner Rights to Establish Initial and All Subsequent Rental Rates for
2 Separately Alienable Parcels.

3 (A) An owner or residential real property may establish the initial and all subsequent
4 rental rates for a dwelling or a unit which is alienable separate from the title to any other
5 dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b), (d), or
6 (f) of Section 11004.5 of the California Business and Professions Code. The owner's right to
7 establish subsequent rental rates under this paragraph shall not apply to a dwelling or unit
8 where the preceding tenancy has been terminated by the owner by notice pursuant to
9 California Civil Code Section 1946 or has been terminated upon a change in the terms of the
10 tenancy noticed pursuant to California Civil Code Section 827; in such instances, the rent
11 increase limitation provisions of Chapter 37 shall continue to apply for the duration of the new
12 tenancy in that dwelling or unit.

13 (B) Where the initial or subsequent rental rates of a Subsection 37.3(d)(1)(A) dwelling
14 or unit were controlled by the provisions of Chapter 37 on January 1, 1995, the following shall
15 apply:

16 (i) A tenancy that was in effect on December 31, 1995, remains subject to the rent
17 control provisions of this Chapter 37, and the owner may not otherwise establish the
18 subsequent rental rates for that tenancy.

19 (ii) On or after January 1, 1999, an owner may establish the initial and all subsequent
20 rental rates for any tenancy created on or after January 1, 1996.

21 (C) An owner's right to establish subsequent rental rates under Subsection 37.3(d)(1)
22 shall not apply to a dwelling or unit which contains serious health, safety, fire or building code
23 violations, excluding those caused by disasters, for which a citation has been issued by the
24 appropriate governmental agency and which has remained unabated for six months or longer
25 preceding the vacancy.

1 (2) Conditions for Establishing the Initial Rental Rate Upon Sublet or Assignment.
2 Except as identified in this Subsection 37.3(d)(2), nothing in this Subsection or any other
3 provision of law of the City and County of San Francisco shall be construed to preclude
4 express establishment in a lease or rental agreement of the rental rates to be applicable in the
5 event the rental unit subject thereto is sublet, and nothing in this Subsection shall be
6 construed to impair the obligations of contracts entered into prior to January 1, 1996, subject
7 to the following:

8 (A) Where the original occupant or occupants who took possession of the dwelling or
9 unit pursuant to the rental agreement with the owner no longer permanently reside there, an
10 owner may increase the rent by any amount allowed by this Subsection to a lawful sublessee
11 or assignee who did not reside at the dwelling or unit prior to January 1, 1996. However, such
12 a rent increase shall not be permitted while:

13 (i) The dwelling or unit has been cited in an inspection report by the appropriate
14 governmental agency as containing serious health, safety, fire, or building code violations, as
15 defined by Section 17920.3 of the California Health and Safety Code, excluding any violation
16 caused by a disaster; and,

17 (ii) The citation was issued at least 60 days prior to the date of the vacancy: and,

18 (iii) The cited violation had not been abated when the prior tenant vacated and had
19 remained unabated for 60 days or for a longer period of time. However, the 60-day time
20 period may be extended by the appropriate governmental agency that issued the citation.

21 (B) This Subsection 37.3(d)(2) shall not apply to partial changes in occupancy of a
22 dwelling or unit where one or more of the occupants of the premises, pursuant to the
23 agreement with the owner provided for above (37.3(d)(2)), remains an occupant in lawful
24 possession of the dwellings or unit, or where a lawful sublessee or assignee who resided at
25 the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit.

1 Nothing contained in this Subsection 37.3(d)(2) shall be construed to enlarge or diminish an
2 owner's right to withhold consent to a sublease or assignment.

3 (C) Acceptance of rent by the owner shall not operate as a waiver or otherwise
4 prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an
5 owner's rights to establish the initial rental rate unless the owner has received written notice
6 from the tenant that is party to the agreement and thereafter accepted rent.

7 (3) Termination or Nonrenewal of a Contract or Recorded Agreement with a
8 Government Agency Limiting Rent. An owner who terminates or fails to renew a contract or
9 recorded agreement with a governmental agency that provides for a rent limitation to a
10 qualified tenant, shall be subject to the following:

11 (A) The tenant(s) who were beneficiaries of the contract or recorded agreement shall
12 be given at least 90 days' written notice of the effective date of the termination and shall not
13 be obligated to pay more than the tenant's portion of the rent, as calculated under that
14 contract or recorded agreement, for 90 days following receipt of the notice of termination or
15 nonrenewal.

16 (B) The owner shall not be eligible to set an initial rent for three years following the
17 date of the termination or nonrenewal of the contract or agreement.

18 (C) The rental rate for any new tenancy established during the three-year period in
19 that vacated dwelling or unit shall be at the same rate as the rent under the terminated or
20 nonrenewed contract or recorded agreement, plus any increases authorized under this
21 Chapter 37 after the date of termination/non renewal.

22 (D) The provisions of Subsections 37.3(d)(3)(B) and (C) shall not apply to any new
23 tenancy of 12 months or more duration established after January 1, 2000, pursuant to the
24 owner's contract or recorded agreement with a governmental agency that provides for a rent
25 limitation to a qualified tenant unless the prior vacancy in that dwelling or unit was pursuant to

1 a nonrenewed or canceled contract or recorded agreement with a governmental agency that
2 provides for a rent limitation to a qualified tenant.

3 (4) Subsection 37.3(d) does not affect the authority of the City and County of San
4 Francisco to regulate or monitor the basis or grounds for eviction.

5 (5) This Subsection 37.3(d) is intended to be and shall be construed to be consistent
6 with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.).

7 (e) Effect of Deferred Maintenance on Passthroughs for Lead Remediation
8 Techniques.

9 (1) When lead hazards are remediated or abated pursuant to San Francisco Health
10 Code Articles 11 or 26, are violations of State or local housing health and safety laws, there
11 shall be a rebuttable presumption that the lead hazards are caused or created by deferred
12 maintenance as defined herein of the current or previous landlord. If the landlord fails to rebut
13 the presumption, the costs of such work shall not be passed through to tenants as either a
14 capital improvement or an operating and maintenance expense. If the landlord rebuts the
15 presumption, he or she shall be entitled to a rent increase if otherwise justified by the
16 standards set forth in this Chapter.

17 (2) For purposes of the evaluation of petitions for rent increases for lead remediation
18 work, maintenance is deferred if a reasonable landlord under the circumstances would have
19 performed, on a regular basis, the maintenance work required to keep the premises from
20 being in violation of housing safety and habitability standards set forth in California Civil Code
21 Section 1941 and the San Francisco Municipal Code. In order to prevail on a deferred
22 maintenance defense, a tenant must show that the level of repair or remediation currently
23 required would have been lessened had maintenance been performed in a more timely
24 manner.

1 (f) Tenant Financial Hardship Applications. In addition to any existing hardship provisions
2 in the Rent Stabilization and Arbitration Ordinance or Rules and Regulations at the time this
3 Section 37.3(f) becomes effective:

4 (1) A tenant in a household who is either unemployed, or whose wages have been
5 reduced by 20% or more compared to 12 months prior, or whose sole income consists of
6 government benefits such as Social Security, Supplemental Security Income (SSI), State
7 Disability Insurance (SDI), or similar benefits and who has not received a cost of living
8 increase in the past 12 months, may file a petition claiming hardship at any time on grounds of
9 financial hardship with respect to any rent increase pursuant to Section 37.3. Payment of such rent
10 increase(s) set forth in the hardship application shall be stayed for a period of 60 days from the date of
11 filing, or until the hearing is held and the decision of the Administrative Law Judge is issued, whichever
12 date comes later.

13 (2) In determining whether the tenant's claim of financial hardship shall be granted, the Rent
14 Board and Administrative Law Judge shall base their determination solely on:

15 (A) ~~Whether or not~~ a tenant in the household (i) is either unemployed or has had
16 wages reduced by 20% or more compared to 12 months prior, or (ii) whose sole income
17 consists of government benefits such as Social Security, SSI, SDI or similar benefits has not
18 received a cost of living increase in the past 12 months; and

19 (B) Whether the rent including the increase which the tenant claims will cause hardship
20 will result in the tenant's total rent exceeding comprises or will comprise 33% or more of the
21 tenant's gross income.

22 (C) The tenant's assets shall also be considered in making this determination.

23 (3) Upon finding that the tenant has financial hardship, the Administrative Law Judge shall
24 order that the rent increase will not be in effect until such time as the increase would not cause
25 the tenant financial hardship, or until such time as the landlord can demonstrate that their

1 inability to impose the rent increase is causing the landlord greater hardship than the tenant's
2 hardship prospectively for a specific period of time based on the tenant's circumstances, and
3 schedule a review at the end of that period. If that rent increase is later allowed, it will be
4 effective as of the date the tenant's income or assets changed to permit the increase.

5 (4) Hardship applications shall be available in multiple languages. Hardship applications
6 shall be available in languages spoken by substantial numbers of limited-English speakers as
7 defined by Administrative Code Chapter 91 "Equal Access to Services Ordinance," which as
8 of the effective date of this amendment are Chinese, Spanish, Russian, Vietnamese and
9 Tagalog. Under Title VI of the Civil Rights Act, applications shall be made available in other
10 non-English languages upon timely request.

11 (5) Multilingual notice of hardship application procedures shall be mailed with each
12 Administrative Law Judge or Board decision.

13 (6) The Rent Board shall implement a process for direct outreach to landlords and tenants
14 whose primary language is not English, regarding availability and use of the hardship application
15 procedure. The Board shall provide a report to the Board of Supervisors regarding this outreach
16 program, describing the implementation process and any known results.

17 (7) This Section 37.3(f) shall remain in effect only while the City and County of San
18 Francisco unemployment rate exceeds 5%, and shall sunset and no longer be in effect when
19 this unemployment rate drops to 5% or less. The unemployment rate shall be determined by
20 the Rent Board on March 1 of each year, based on the annual average for the prior calendar
21 year as posted by the State of California Employment Development Department on its internet
22 site in the "Monthly Labor Force Data for Counties, Annual Average" or any successor report.

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

25 By: MARIE C. BLITS, Deputy City Attorney