

1 [Limited Equity Housing Cooperative Conversions]

2

3 **Ordinance** amending the Subdivision Code by adding Article 11, consisting of Sections
4 1399.1 through 1399.22, to create approving a method for Limited Equity Housing
5 **Cooperatives to convert existing residential buildings to limited-equity housing**
6 **cooperatives, and making findings including findings under the California**
7 **Environmental Quality Act.**

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

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

12 Section 1. Findings. The Planning Department has completed environmental
13 review of this ordinance pursuant to the California Environmental Quality Act ("CEQA"),
14 the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
15 Documentation of that review is on file with the Clerk of the Board of Supervisors in File
16 No. _____.

17 Section 2. The San Francisco Subdivision Code is hereby amended by adding
18 Article 11, consisting of Sections 1399.1 through 1399.23, to read as follows:

19 **Sec. 1399.1. PURPOSE.**

20 *This Article 11 is enacted to establish a method for converting parcels containing 2 or*
21 *more existing residential units into limited equity housing cooperatives. The conversions*
22 *allowable under this Article 11 are intended to:*

23 *(a) promote the expansion of residential ownership opportunities for existing tenants*
24 *by making conversions into limited equity housing cooperatives possible at a level they can*
25 *afford because limited equity housing cooperatives are widely recognized as vehicles to:*

1 (1) provide affordable home ownership opportunities for very low and low-income
2 individuals and families,

3 (2) allow low-income individuals and families the ability to acquire a limited
4 ownership interest in a building,

5 (3) participate, through the voting rights granted to each share owner, in the
6 management of the limited equity cooperative, and

7 (4) restrict the annual appreciation of membership shares to increases not to exceed
8 10% of the original consideration paid for the share in order to provide appreciation for the
9 share owner and continued affordability for other low-income households at resale;

10 (b) balance the interests of home ownership with the need to protect existing tenants
11 from displacement;

12 (c) increase the availability of affordable home ownership opportunities citywide;

13 (d) target affordability levels that reflect the needs and income distribution of the
14 City's residents; and

15 (e) improve the physical condition of the converted housing stock without fueling
16 neighborhood gentrification.

17 **Sec. 1399.2. MODIFICATION TO EXISTING CODE.**

18 This Article modifies applicable provisions of the San Francisco Subdivision Code
19 ("Code") for all conversion applications submitted under Section 1399.17. Article 9 of the Code
20 does not apply to conversions to stock cooperatives under this Article except as expressly noted
21 herein, but would apply in the event that a stock cooperative formed under this Article seeks to
22 convert to a condominium. The provisions of Sections 1332(a), 1341 and 1385 of the Code do
23 not apply to conversions under this Article. Subdivisions permitted by this Article shall not
24 constitute an increase in the limits of Section 1396 for purposes of Sections 1341A(2) or
25 1385A(2).

1 **Sec. 1399.3. DEFINITIONS.**

2 *In addition to the definitions in Section 1308, the definitions below shall govern this*
3 *Article. To the extent that there is a conflict between the definitions below and those in Section*
4 *1308, the definitions in this Section control.*

5 *(a) "Carrying Charge" shall refer to the sole monthly charge to Resident Members*
6 *covering that Resident Member's share of the operating and maintenance costs including, but*
7 *not limited to, debt service on mortgages held by the Limited Equity Housing Cooperative,*
8 *property taxes, management fees, maintenance costs, insurance premiums, common utilities, and*
9 *contributions to reserve funds. Carrying Charge shall not refer to utilities solely attributable to*
10 *the unit occupied by the Resident Member.*

11 *(b) "Department" shall refer to the Department of Public Works.*

12 *(c) "Director" shall refer to the Director of the Department of Public Works.*

13 *(d) "Limited Equity Housing Cooperative" shall refer to a non profit public benefit*
14 *corporation formed as a limited equity housing cooperative as defined under California Civil*
15 *Code section 1351(m) and California Health and Safety Code section 33007.5.*

16 *(e) "Maximum Allowable Allocation" shall mean the maximum number of unit*
17 *conversions permitted per year, beginning on June 1st of each year, and shall equal 200 units*
18 *per year plus any unused allocation from the previous year. Notwithstanding the foregoing,*
19 *the number of unit conversions under this Article shall not exceed 400 in any year.*

20 *(f) "Maximum Annual Rent" shall mean the maximum rent that a Limited Equity*
21 *Housing Cooperative may charge any Resident Tenant who is also a Qualifying Household as*
22 *rent or any Member who is also a Qualifying Household as an annual Carrying Charge for the*
23 *calendar year as published by the Mayor's Office of Housing. The maximum annual rent for a*
24 *unit of the size indicated below shall be no more than 30 percent of the annual gross income for*
25

1 a Qualifying Household as defined in this Section, and as adjusted for the household size
2 indicated below as of the first date of the tenancy or purchase of the Member Share:

3 TABLE INSET:

4

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

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10 (g) “Member Share” shall refer to a share of stock in the Limited Equity Housing
11 Cooperative that provides the owner(s) with an exclusive right of occupancy to a portion of the
12 residential property converted under this Article.

13 (h) “Qualifying Household” shall refer to the residents of a unit in the residential
14 property to be converted who, taken together as a household, earn less than eighty percent
15 (80%) of the San Francisco Median Income, as defined by the San Francisco Mayor’s Office of
16 Housing, and at least one of whom has occupied the unit as his or her primary residence for at
17 least one year prior to the date of submission of the Certificate of Clearance.

18 (i) “Permitted Eviction” shall refer to any attempt to terminate a tenancy of a
19 Resident Tenant pursuant to San Francisco Administrative Code Section 37.9(a)(1) – (4), (6),
20 and (7).

21 (j) “Resident Member” shall refer to a resident of the Limited Equity Housing
22 Cooperative who has purchased a Member Share in the Limited Equity Cooperative.

23 (k) “Resident Tenant” shall refer to a tenant of the Limited Equity Cooperative who
24 has entered into a lease with the Limited Equity Housing Cooperative pursuant to section
25 1399.8A.

1 (l) “Subdivider” shall mean, for purposes of this Article, a nonprofit public benefit
2 corporation formed pursuant to California Corporations Code Section 5110 and their successors
3 in interest.

4 (m) “Total Development Cost” shall mean, for the purposes of this Article, all costs
5 relating to the purchase, improvement, rehabilitation, upgrade, and conversion of the property to
6 be converted under this Article based upon a budget submitted to and approved by the Mayor’s
7 Office of Housing in the application for a Certificate of Clearance.

8 **Sec. 1399.4. APPLICATION.**

9 This Article shall apply to all applications for initial conversion of residential buildings
10 with 2 units or more into a Limited Equity Housing Cooperative, filed on or after the effective
11 date of this ordinance. The Subdivider for an application for initial conversion under this Article
12 must be a non-profit public benefit corporation formed under California Corporation Code
13 Section 5110. Applications for initial conversion shall be filed with the Department of Public
14 Works in accordance with the provisions of Section 1399.17 of this Article.

15 **Sec. 1399.5. LIMITATION ON NUMBER OF CONVERSIONS.**

16 (a) The Department shall not, under this Article, approve applications for
17 conversions of more than the Maximum Allowable Allocation each year, beginning on June 1.
18 The Department shall carry over any unused allocation from year to year.

19 (b) The Department shall keep a list of complete applications in the order that the
20 Department deems the application complete until the cumulative number of units reaches or
21 would exceed the Maximum Allowable Allocation. If a project is within the Maximum Allowable
22 Allocation then the Department shall accept the application for processing. In the event that the
23 number of units represented by completed applications exceeds the Maximum Allowable
24 Allocation, those buildings not accepted for processing by the Department shall be placed on a
25 waiting list and, unless otherwise withdrawn by the Subdivider, shall be given priority in the

1 order that the applications were deemed complete for the following year's Maximum Allowable
2 Allocation.

3 **Sec. 1399.6. MAYOR'S OFFICE OF HOUSING: CERTIFICATE OF**
4 **CLEARANCE; CONVERSION OVERSIGHT AND MONITORING.**

5 The Mayor's Office of Housing shall have the following responsibilities under this
6 ordinance:

7 (a) Certificate of Clearance: The Department of Public Works shall not deem an
8 application for conversion under this ordinance complete unless the applicant includes a
9 "Certificate of Clearance" issued by the Mayor's Office of Housing for the application. MOH
10 must issue a Certificate of Clearance to the Subdivider within (i) 7 days of receiving an
11 application if the Subdivider or Limited Equity Housing Cooperative is a recipient of funding
12 under the Real Ownership Opportunities for Tenants program or (ii) 30 days of receiving an
13 application from any other Subdivider or Limited Equity Housing Cooperative if all of the
14 following criteria have been met:

15 (1) The Subdivider has submitted income verification information for all households
16 in the building pursuant to Section 1399.16 and the Mayor's Office of Housing determines that
17 at least 50% of the existing households at the time of submission are Qualifying Households;

18 (2) Two-thirds of the Qualifying Households have submitted an executed Intention to
19 Purchase form;

20 (3) At least a majority of all households in the building at the time of application
21 submission have submitted an executed Intention to Purchase form;

22 (4) The following offer has been made to any tenant who, in the two years prior to the
23 Subdivider's application for a Certificate of Clearance, surrendered their tenancy or were
24 evicted due to a notice to quit under San Francisco Rent Ordinance Sections 37.9(a)(8) – (15)
25 and who has resided in the building for at least one year prior to their surrender of tenancy or

1 eviction: The former tenant shall receive the option to purchase a member share and occupy a
2 unit appropriate to the size of the household at the time the household surrendered their tenancy
3 under the same terms as a tenant in the building at the time of application. If the Subdivider,
4 after making a reasonably diligent search, cannot locate a tenant, the Subdivider shall document
5 its efforts to reach the tenant and shall request a waiver from this subsection. MOH shall
6 evaluate whether all reasonable measures have been taken to locate the tenant and, if it finds
7 that they have, shall grant such a waiver.

8 (5) The Subdivider and the Mayor's Office of Housing have entered into a binding
9 agreement to record a notice of special restrictions against the property as a condition of
10 subdivision that imposes: (A) all requirements of California Business and Professions Code
11 Section 11003.4(b)(3), (B) the resale restrictions set forth in Section 1399.21, (C) Carrying
12 Charge restrictions set forth in Section 1399.9, (D) subleasing restrictions set forth in Section
13 1399.6(b)(3), and (E) rent restrictions for Resident Tenants set forth in Section 1399.8A. The
14 notice of special restrictions shall run with the land and be binding on the Subdivider, any future
15 Limited Equity Housing Cooperative, or any other successor in interest.

16 (6) A Limited Equity Housing Cooperative has been formed and the Limited Equity
17 Housing Cooperative holds a fee simple interest in the parcel to be converted or entered into a
18 lease of no less than 99 years, or the Subdivider covenants under the agreement above to
19 transfer a fee simple interest to or enter into a lease of no less than 99 years with a duly formed
20 Limited Equity Housing Cooperative.

21 (7) A rental history detailing for each unit the size in square feet, the number of
22 bedrooms, the current or last rental rate, and the names of the current tenant or tenants for each
23 unit, including the names of all occupants 18 years of age or older, to the extent that such
24 information is known or can be made known to the Subdivider.

25 (8) A budget detailing the Total Development Cost.

1 (b) Ongoing Monitoring: On an ongoing basis, the Mayor's Office of Housing shall
2 perform the following monitoring activities:

3 (1) Verify that vacated units purchased by households that are Qualifying
4 Households at the time of the application for a Certificate of Clearance are re-sold to
5 Qualifying Households;

6 (2) Before a proposed resale of a member share, verify that the resale price of the
7 Member Share complies with the requirements of this ordinance;

8 (3) Ensure that each Limited Equity Housing Cooperative converting under this
9 section submit an annual report certifying the following:

10 (A) For Resident Members who purchased their shares as a Qualified Household, (i)
11 the cooperative is their only residence and (ii) they have not subleased their unit for more than
12 12 months in the previous 3 year period;

13 (B) For Resident Tenants, (i) the cooperative is their only residence; and (ii) they
14 have not subleased their unit unless approved in writing by the Limited Equity Housing
15 Cooperative.

16 (4) Prepare an annual monitoring report to the Board of Supervisors that analyzes:
17 (A) the number of conversions per year; (B) the type, location, quantity, affordability, and
18 number of resales of units in each project converted; (C) a list of projects converted under the
19 ordinance including address and contact information; (D) known barriers and issues related to
20 conversion under the ordinance; (E) effectiveness of the ordinance in serving low-income
21 households; and (F) recommendations to the Board for improvements or legislative amendments.

22 (c) Income Verification: The Mayor's Office of Housing shall perform income
23 verification as detailed in Section 1399.16.

24 (d) The Director of the Mayor's Office of Housing may issue administrative citations
25 for violations of this ordinance. San Francisco Administrative Code Chapter 100, "Procedures

1 Governing the Imposition of Administrative Fines," is hereby incorporated in its entirety and
2 shall govern the procedure for imposition, enforcement, collection, and administrative review of
3 administrative citations issued to enforce the Sections set forth in this Subsection 1344 and
4 related provisions of the Subdivision Code. Nothing in this Section shall prevent the City from
5 pursuing other remedies provided by law in addition to or instead of the fines provided for here.

6 **Sec. 1399.7. ADMINISTRATIVE FEES**

7 (a) The Department of Public Works, on behalf of itself and the Mayor's Office of
8 Housing, is authorized to collect fees under Section 1315 of this Code which shall be applicable
9 to all applications for initial conversion filed under this Article 11.

10 (b) The Department of Public Works shall be additionally authorized to collect fees
11 on behalf of the Mayor's Office of Housing in the amount of \$50 per unit for reviewing the
12 tenants' income documentation and issuing an Income Certificate as provided in Section
13 1399.16 of the Code.

14 (c) Within one year after the date this Article becomes effective, and every three
15 years thereafter, the Director shall review the proceeds of the administrative fee, and the costs of
16 administering and monitoring Article 11 and shall prepare a report to the Board of Supervisors.
17 Based upon the result of the review, the Director shall recommend to the Board of Supervisors
18 any necessary adjustment to the fee structure and any necessary legislation to make the
19 processing of such applications more efficient. In the event that the fee proceeds have exceeded,
20 or are anticipated to exceed, the costs of administering and monitoring Article 11, the Director
21 shall recommend legislation to the Board of Supervisors that modifies the applicable fee to
22 ensure that fee proceeds do not exceed the costs of administration. In the event that fee proceeds
23 have under-collected, or are anticipated to under-collect, the Director may recommend
24 legislation to the Board of Supervisors that modifies the applicable fee to more accurately
25 recover the costs for administration and monitoring.

1 **Sec. 1399.8. TENANT PURCHASE RIGHTS.**

2 (a) Each tenant in a building that is converted subject to this Article has the right to
3 purchase a Member Share at a price not to exceed an amount determined by the prescribed
4 purchase price formula, as further defined in Section 1399.9, provided that:

5 (1) The purchasing tenant continues to reside in the unit from the date the application
6 packet as provided in Section 1399.17 is filed up to and including the date of close of escrow on
7 the purchase.

8 (2) Prior to the execution of a purchase and sale agreement, the purchasing tenant
9 obtains income certification as provided in Section 1399.16.

10 (3) If another tenant residing in the same unit with a purchasing tenant does not
11 jointly purchase a Member Share, the purchasing tenant may take possession of his or her unit
12 subject to the lifetime lease rights of the non-purchasing tenant, as provided in Section 1399.8A.

13 (4) For any tenant to accrue a right to purchase, that tenant must have lived in the
14 building for at least 1 year prior to the filing of the Certificate of Clearance with the Mayor's
15 Office of Housing.

16 (b) A tenant may not assign his or her right to purchase a Member Share except that
17 a tenant may jointly purchase a Member Share with another person or persons who reside in the
18 unit with that tenant.

19 (c) A purchasing tenant shall not be made to execute a purchase and sale agreement
20 or to make a non-refundable deposit toward the purchase of a Member Share prior to (i) the
21 issuance of a conditional or final subdivision public report for the property by the California
22 Department of Real Estate or (ii) the filing of a subdivision public reporting exemption with the
23 Department of Real Estate under California Business and Professions Code Section 11003.4 and
24 the recording of a Final Map under this Article.

1 (d) Within 30 calendar days following the issuance of the final subdivision public report
2 by the State Department of Real Estate, the Subdivider shall notify each tenant in writing of the
3 right to purchase a Member Share. The written notice shall be served in person or by certified
4 or registered mail, and shall include the price at which the Member Share may be purchased and
5 the date on which the offering period expires.

6 (e) To effectuate a purchase, a purchasing tenant must:

7 (1) execute a binding purchase and sale agreement that includes all material terms
8 negotiated between the Subdivider and the tenant, and such other usual and customary terms
9 found in an agreement for the purchase and sale of residential property in the City and County
10 of San Francisco, in accordance with the requirements of the California Department of Real
11 Estate and the final subdivision public report authorizing the sale of units in the property,
12 restrictions on resale price consistent with the provisions of Section 1399.22 of this Article 11,
13 and first right-of-refusal for the Limited Equity Housing Cooperative to repurchase the Member
14 Share.

15 (2) execute an occupancy agreement with the Limited Equity Housing Cooperative
16 that includes (i) a description of that portion of the Limited Equity Housing Cooperative to
17 which the Resident Member has an exclusive right of occupancy, provided, however, (ii) a right
18 by the Limited Equity Housing Cooperative to transfer the Resident Member to another unit in
19 the Limited Equity Housing Cooperative for the purpose of alleviating overcrowding or
20 underutilization of the Resident Member's existing unit, (iii) a monthly Carrying Charge for that
21 portion as restricted by Section 1399.9, (iv) the subleasing restrictions set forth in Section
22 1399.6(b)(3), and (v) such other covenants and conditions conducive to maintaining the
23 property in good, clean and habitable condition.

24 (f) Notwithstanding the foregoing, the Subdivider or Limited Equity Housing
25 Cooperative may execute a conditional agreement to sell or finance Member Shares (including

1 an agreement requiring a non-refundable deposit) as provided in California Government Code
2 section 66499.30(e) so long as the following are completed: (i) filing of a subdivision public
3 reporting exemption with the Department of Real Estate as set forth in Section 1399.8(a) above,
4 (ii) issuance of a Certificate of Clearance by the Mayor's Office of Housing, and (iii) inclusion
5 within the agreement to sell or finance Member Shares the restrictions set forth in subsection (e)
6 above.

7 **Sec. 1399.8A TENANT LIFETIME LEASE RIGHTS**

8 (a) A lifetime lease arises as to each tenant who is qualified to purchase under
9 Section 1399.8 but who has not exercised his or her right to do so on the date that the
10 subdivision map for the property is recorded, provided, however, that the Limited Equity
11 Housing Cooperative may from time to time transfer the Resident Tenant to another unit
12 in the property converted under this Article to alleviate overcrowding or underutilization
13 of the Resident Tenant's existing unit. In consideration of the benefit of this Article 11 to the
14 Subdivider and any successors in interest from permitting the conversion of buildings of 2 units
15 or more, the Subdivider and all successors in interest agree to waive any right to any rent
16 increase other than as provided in this subsection that may be permitted under the Costa
17 Hawkins Rental Housing Act, Civil Code Sections 1954.50 et seq. or by any other
18 provision of law, and to waive any claim against the City of a physical taking under the
19 California or United States Constitution based on the lifetime lease provision. These waivers will
20 be binding on any heirs, successors in interest, or assigns.

21 (b) The initial rent payable under the lifetime lease shall not exceed the rent charged
22 on the date the application for the Certificate of Clearance is submitted, plus ten (10) percent.
23 Subsequent annual rent increases may not exceed the average annual percentage increase in
24 Carrying Charges paid by all Resident Members. At no time may rent for a unit occupied by a
25 Qualifying Household exceed the Maximum Annual Rent as defined herein. A tenant receiving a

1 lifetime lease under this Section 1399.8A may exempt himself or herself from the restrictions on
2 rent imposed by this limitation at any time if the tenant enters into an express agreement waiving
3 the requirements of this subsection. A Subdivider or Limited Equity Housing Cooperative that is
4 applying to or has converted under this ordinance may not evict a Resident Tenant based on his
5 or her refusal to enter into such a waiver agreement. Any written waiver under this
6 subsection 1399.8A(b) shall be invalid and unenforceable unless the following
7 statement is printed in bold and all capital letters on the first line of the written waiver
8 agreement:

9 **REFUSAL TO ENTER INTO THIS WAIVER AGREEMENT WILL NOT**
10 **TERMINATE YOUR RIGHT TO CONTINUE TO OCCUPY YOUR UNIT UNDER**
11 **A LIFETIME LEASE WITH THE LIMITED EQUITY HOUSING COOPERATIVE.**
12 **REFUSAL TO ENTER INTO THIS WAIVER AGREEMENT CANNOT BE USED**
13 **AS A BASIS FOR EVICTING YOU.**

14 (c) The lifetime lease shall contain a provision allowing the Resident Tenant to
15 terminate the lease and vacate the unit upon thirty days written notice to the landlord.

16 (d) The lifetime lease shall terminate on the death of the Resident Tenant or the date
17 on which the tenant ceases to actually and continuously reside in the unit as his or her sole
18 residence, whichever occurs first. The landlord may terminate the lease during its term only for
19 a Permitted Eviction.

20 (e) There shall be no decrease in maintenance of the unit occupied by a Resident
21 Tenant under a lifetime lease.

22 (f) If, on the date the application packet as provided in Section 1399.17 is submitted,
23 the tenant jointly occupies the unit with a person who is not a tenant or a Resident Member but
24 who is a related party, then, at the request of the tenant, the related party shall become a tenant
25 under the lifetime lease. A “related party” is an adult who is a grandparent, grandchild, parent,

1 child, brother, sister, or spouse of the tenant, or person registered as a domestic partner of the
2 tenant pursuant to San Francisco Administrative Code 62.1-62.8, and who, for purposes of this
3 ordinance, has occupied the unit for at least one year prior to the date of submission of the
4 application for a Certificate of Clearance.

5 (g) A tenant's rights under a lifetime lease are not transferable, and any attempted
6 transfer shall be of no force or effect. The foregoing does not prevent a Resident Tenant with a
7 lifetime lease from allowing other persons to occupy the unit with him or her to the same extent
8 as allowed Resident Members, provided that (i) the Resident Tenant continues to actually reside
9 in the unit as his or her principal residence, and (ii) no other person residing in the unit who is
10 not a party to the lifetime lease shall have the rights of a Resident Tenant. A Resident Tenant
11 must provide the landlord with the name of each person who occupies the unit with the tenant as
12 well as emergency contact information for that person in writing. The Resident Tenant must also
13 give any other occupant of the unit a written notice that the occupant is not a tenant and has no
14 rights under the lifetime lease.

15 (h) The Resident Member occupying a unit subject to a lifetime lease or his or her
16 successor in interest may require a lifetime lease tenant to enter into a written agreement
17 documenting the tenant's lifetime lease rights. The lifetime lease shall include the terms set forth
18 in this Section and shall also include the terms of the existing written rental agreement between
19 the landlord and the tenant to the extent those terms do not conflict with this Section. If there is
20 no existing written rental agreement, the written agreement shall include the usual and
21 customary terms of residential rental agreements in the City and County of San Francisco that
22 do not conflict with the terms of this Section. Where the Resident Tenant has the right to use
23 certain common areas of the property, as, for example, parking or storage, or the right to have
24 pets, those rights shall be included in the written agreement.

1 (i) A Notice of Right to Lifetime Lease shall be in the following form, printed in 12

2 point type or larger:

3 NOTICE OF RIGHT TO LIFETIME LEASE

4 TO: (name of tenant)

5 RE: (address of unit)

6 This Notice of Right to Lifetime Lease is given to you as required by Section 1399.8A of the San
7 Francisco Subdivision Code. If the property in which you live becomes a Limited Equity
8 Housing Cooperative and you do not purchase a members share, you will have a lifetime lease.

9 A. The lifetime lease will start on the date that the subdivision map for the Limited Equity
10 Housing Cooperative is recorded with the San Francisco Recorder. In consideration of the
11 benefit of this Article 11 to the Subdivider and any successors in interest from permitting the
12 conversion of buildings of 2 units or more, the Subdivider and all subsequent owners shall agree
13 to waive any right to any rent increase other than as provided in Article 11 that may be
14 permitted under the Costa Hawkins Rental Housing Act, Civil Code Sections 1954.50 et
15 seq. or by any other provision of law, and to waive any claim against the City of a physical
16 taking under the California or United States Constitution based on the lifetime lease provision.
17 The waivers will be binding on any heirs, successors in interest, or assigns.

18 B. The following terms will be incorporated into your lifetime lease.

19 1. The initial rent payable under the lifetime lease shall not exceed the rent charged on the date
20 the application for the Certificate of Clearance is submitted, plus ten (10) percent. Subsequent
21 annual rent increases may not exceed the average annual percentage increase in Carrying
22 Charges paid by all Resident Members. At no time may rent for a unit occupied by a Qualifying
23 Household exceed the Maximum Annual Rent as provided in the San Francisco Subdivision
24 Code Section 1399.3.

25 2. You have a right to terminate your lifetime lease at any time on thirty days prior written
notice to your landlord.

3. The lifetime lease automatically terminates only on the death of the last person named as a
tenant in the lease or when you no longer actually and continuously reside in the unit as your
sole place of residence.

4. Your landlord may terminate the lifetime lease during its term only if:

a. you fail to pay the rent to which the landlord is lawfully entitled under the oral or written
agreement between you and the landlord or you habitually pay the rent late or give checks which
are frequently returned because there are insufficient funds in the checking account;

b. you have violated a lawful obligation or covenant of tenancy other than the obligation to
surrender possession upon proper notice and you have failed to cure the violation after having

1 received written notice of it from the landlord; provided that notwithstanding any lease provision
2 to the contrary, your landlord shall not endeavor to recover possession of your unit as a result of
3 your subletting the unit if your landlord has unreasonably withheld the right to sublet following
4 a written request from you, so long as you continue to reside in the rental unit and the sublet
5 constitutes a one-for-one replacement of the departing tenant(s) as set forth in Rent Board
6 Regulations 6.15A(d) and 6.15B(b).

7 c. you are committing or permitting to exist a nuisance in or are causing substantial damage to
8 the rental unit, or you are creating a substantial interference with the comfort, safety or
9 enjoyment of the landlord or tenants in the building;

10 d. you are using or permitting the unit to be used for any illegal purpose;

11 e. you have, after written notice to cease, refused the landlord access to the unit as required by
12 state or local law; or

13 f. you are a subtenant holding at the end of the term of an oral or written lease not approved by
14 the landlord.

15 5. If, on the date the application for conversion is submitted to the San Francisco Department of
16 Public Works, one of the following persons lives with you at the unit and is an adult and who, for
17 purposes of this ordinance, has occupied the unit for at least one year prior to the date of
18 submission of the application for a Certificate of Clearance, at your request the landlord must
19 name that person as a tenant on the lifetime lease, even if the landlord has not previously
20 accepted that person as a tenant: your grandparent, grandchild, parent, child, brother, sister,
21 spouse, or domestic partner.

22 6. You may not assign or transfer the lifetime lease. However, you may allow other persons to
23 occupy the unit with you to the same extent as allowed under the existing agreement between you
24 and your landlord so long as you actually and continually reside in the unit as your sole place of
25 residence and you give the landlord the name of each person who resides in the unit with you
and emergency contact information for that person. You must give any person who resides in the
unit with you notice that he or she is not a tenant and has no rights under the lifetime lease.

7. At your landlord's request, you must enter into a written lease with your landlord that
includes those terms of your existing rental agreement that do not conflict with your rights under
the lifetime lease. If you do not have a written rental agreement, the written lifetime lease will
contain provisions usually and customarily found in a residential rental agreement in San
Francisco that do not conflict with your rights under the lifetime lease.

Date: _____

Signature of Subdivider

1 (j) If any provision of this Section 1399.8A is found to be unenforceable in a court
2 of law, then the Department shall no longer accept and cease to process any
3 applications for conversion submitted under this Article XI as of the date of the
4 determination by the court.

5 **Sec. 1399.9 FORMULA FOR DETERMINING INITIAL PURCHASE PRICE OF**
6 **MEMBER SHARE AND MEMBER CARRYING CHARGE FOR QUALIFYING**
7 **HOUSEHOLDS.**

8 (a) The initial purchase price for each Member Share under this Article shall be
9 determined by a formula as specified in this Section.

10 (b) The initial purchase price at conversion shall be set as of the date of the
11 Subdivider's Notice of Intent to Convert and shall not exceed the following:

12 (1) For purchasing tenants who are members of a Qualifying Household, the initial
13 purchase price may not exceed: $(10\% \times [\text{Total Development Cost}]) \div [\text{total number of units to}$
14 be converted].

15 (2) For all other purchasing tenants there is no limit on the initial purchase price for
16 a member share.

17 (c) The Carrying Charge for Resident Members who reside in a Qualifying
18 Household shall not exceed the Maximum Annual Rent as provided herein.

19 **Sec. 1399.10. SUBDIVIDER'S NOTICE OF INTENT TO CONVERT.**

20 (a) For projects receiving funding under the Real Ownership Opportunities program,
21 the Subdivider must provide a written Notice of Intent to Convert as provided in California
22 Government Code sections 66452.8 and 66452.9 no later than 60 days prior to filing the
23 application packet under Section 1399.17. For all other projects, the Subdivider shall provide a
24 written Notice of Intent to Convert to each of the tenants in the building as provided in
25 California Government Code sections 66452.8 and 66452.9 as applicable, outlining the tenant's

1 rights under this Code, and the method by which the purchase price for a Member Share shall be
2 calculated no later than 60 days prior to filing the application packet under Section 1399.17
3 (“Conversion Notice”).

4 (b) Subdividers required to provide a Conversion Notice shall indicate the initial
5 purchase price as provided in Section 1399.9 in the Conversion Notice.

6 (d) Subdividers required to provide a Conversion Notice shall attach to the
7 Conversion Notice an “Intent to Purchase” form and a “Notice of Right to Lifetime Lease”
8 form, both to be executed by the tenant or tenants who intend to purchase. The Intent to
9 Purchase form shall be in the form provided in Section 1399.15. The Notice of Right to Lifetime
10 Lease shall be in the form provided in Section 1399.8A(i).

11 (e) In the event that a Subdivider required to provide a Conversion Notice has not
12 been able to obtain a majority “opt-in” response along with the required Income Certificates
13 after providing proper notice, the Subdivider may extend the compliance deadlines by sending an
14 extension notice to all of the tenants.

15 **Sec. 1399.11. TENANT OPT-IN.**

16 (a) Within 30-days of the date of the Conversion Notice, a tenant or tenants who wish
17 to purchase a Member Share shall “opt-in” by providing to the Subdivider a completed, signed
18 and notarized “Intent to Purchase” form and an “Income Certificate” from the Mayor’s Office
19 of Housing verifying their qualified income level, as provided in Section 1399.16.

20 (b) Prior to entering into a Purchase and Sale Agreement for a Member Share, a
21 prospective buyer must provide proof of a valid Income Certificate to the seller.

22 **Sec. 1399.13. SALE OF VACANT UNITS.**

23 The following shall apply to the sale of vacant units in a building:

24 (a) Beginning at the issuance by the Mayor’s Office of Housing of a Certificate of
25 Clearance until at least ~~50%~~ 66% of Member Shares representing the total number of converted

1 units are bought by Qualifying Households, Member Shares must be sold (or conditionally sold)
2 first to Qualifying Households at the price established in Section 1399.9. The Subdivider or
3 Limited Equity Housing Cooperative may adjust the purchase price annually up to an inflation
4 allowance at a rate determined by the Mayor's Office of Housing and published on their website
5 but which shall not exceed a 10% annual increase on the price initially established in Section
6 1399.9 on the date an application for a Certificate of Clearance was submitted .

7 (b) After at least ~~50%~~ 66% of Member Shares representing the total number of
8 converted units are bought by Qualifying Households, the Limited Equity Housing Cooperative
9 may sell Member Shares at any price.

10 (c) Existing tenants living in overcrowded conditions within a building subject to
11 conversion under this Article, shall be given the right of first refusal to purchase a Member
12 Share and occupy any vacant units at the time of initial conversion. In the event that there are
13 multiple tenants competing for a Member Share and the right to occupy a vacant unit, the
14 Subdivider shall conduct a lottery among the interested and eligible candidates. For purposes of
15 this Section, "overcrowded conditions" shall be defined as existing households containing more
16 than 2 persons per bedroom plus one.

17 **Sec. 1399.15 INTENT TO PURCHASE FORM.**

18 (a) An "Intent to Purchase" form required to establish majority tenant participation for a
19 conversion under this Article shall be in the following form, in 12 point type or larger:

20 Intent to Purchase

21 The undersigned states that:

22 I. I reside at _____, Unit _____ and I have received a Conversion
23 Notice dated _____ from _____. By signing below, I indicate my
24 intent to purchase a Member Share upon its authorized conversion from a rental unit to a
25 limited equity housing cooperative in accordance with the purchase price formula stated on
the Conversion Notice.

1 2. I represent and warrant that the above referenced address is my sole place of residence.

2 3. I represent and warrant that the following are the names of all adults over the age of 18 that
3 are presently residing in my unit, whether or not they have signed this Intent to Purchase:

4 _____
5 _____
6 _____

7 4. I understand that any adult person who lives in my unit with me, who does not purchase a
8 Member Share with me has a right to remain in the unit under a lifetime lease once I become
9 the owner of a Member Share with the right to occupy the unit.

10 5. I understand that I have 20 days from the date of this Intent to Purchase to provide sufficient
11 income documentation to the Mayor's Office of Housing in order to obtain a Certificate of
12 Income Verification. The Mayor's Office of Housing will have 7 days to provide me with a
13 Certificate after receipt of all required documentation. If I do not provide a copy of the
14 Income Certificate to the Subdivider within 30 days of the date of the Conversion Notice, this
15 Intent to Purchase will be deemed withdrawn.

16 6. I understand that if I purchase a Member Share, it will be subject to resale price restrictions
17 to keep it affordable to future buyers.

18 7. I understand that signing this Intent to Purchase does not create a contractual obligation to
19 purchase a Member Share. However, as of this date, it is my intention to purchase a Member
20 Share when it is authorized for conversion and made available for sale.

21 8. I understand that this Intent to Purchase will be filed with the City and County of San
22 Francisco in order to establish that the building qualifies for conversion, and that my signed
23 Intent to Purchase is irrevocable for establishing that purpose unless my signature was
24 obtained by fraud or duress.

25 9. I have been advised that I have a right to seek legal counsel or other professional assistance
in connection with my rights to purchase and have either obtained such assistance or have
waived my right to do so.

I/We declare, under penalty of perjury, that the foregoing statements are true and correct.

Signature: _____ Print Name: _____ Date: _____

Signature: _____ Print Name: _____ Date: _____

Signature: _____ Print Name: _____ Date: _____

1 Signature: _____ Print Name: _____ Date: _____

2
3 **Sec. 1399.16. INCOME CERTIFICATION.**

4 (a) Each prospective buyer of a Member Share subject to this Article 11 must register
5 with the Mayor's Office of Housing and provide sufficient documentation of income to determine
6 whether the tenant's household constitutes a Qualifying Household.

7 (b) The Mayor's Office of Housing shall verify the income information provided and
8 shall issue a Certificate of Income Verification ("Income Certificate") which shall indicate
9 whether the tenant is a member of a Qualify Household. The Mayor's Office of Housing shall
10 promulgate rules and regulations regarding the process of determining whether a household
11 qualifies as a Qualifying Household.

12 (c) The Mayor's Office of Housing shall provide an Income Certificate to the buyer
13 within 7 days of receipt of the information required by Section 1399.16.(b).

14 **Sec. 1399.17. ADDITIONS AND DELETIONS TO THE APPLICATION PACKET**
15 **FOR SUBDIVISIONS UNDER THIS ARTICLE.**

16 (a) Application packets for initial conversions under this Article 11 shall contain the
17 following items in addition to the requirements of Sections 1322, 1323, 1324 and, where
18 applicable, 1333.2 of this Code.

19 (1) A Certificate of Clearance issued by the Mayor's Office of Housing within the last
20 60 days;

21 (2) Copies of each Notice of Intent to Convert or Conversion Notice sent to the
22 tenants in the building, showing the initial purchase price as provided in Section 1399.9
23 applicable to each Member Share. Each Conversion Notice shall contain a description of the
24 rights of tenants as herein provided, including the right to purchase a Member Share and the
25 right of all non-purchasing tenants to a lifetime lease;

1 (3) A declaration from the Subdivider, executed under penalty of perjury, stating that
2 every tenant has been offered the right to execute an Intent to Purchase with respect to a
3 Member Share and all of the information in the application packet is true and correct to the best
4 of the Subdivider's knowledge;

5 (4) A report of residential record ("3-R Report"), obtained from the Department of
6 Building Inspection;

7 (5) A building inspector's report made by either the Department of Building
8 Inspection or a certified engineer or architect acceptable to the Department of Building
9 Inspection with said report to contain any Housing Code violations and incipient or potential
10 deficiencies including electrical, plumbing and boiler and energy conservation requirements.
11 Where a building to be converted is two years old or less, an Income Certificate of Completion
12 issued by the Department of Building Inspection may be accepted in lieu of a building inspector's
13 report;

14 (6) A statement of repairs and improvements and the projected cost of same that
15 Subdivider plans to make as a condition of sale of the Member Shares. Such costs shall include
16 a detailed breakdown by trade along with a delineation of whether each repair and improvement
17 will be made prior to or subsequent to the conveyance of Member Shares;

18 (7) A summary of Subdivider's outreach efforts including all meetings held with
19 tenants and all information provided to them about the project and their own options;

20 (8) A statement of the proposed sales program for any vacant or vacated units,
21 particularly plans to promote affirmative action in housing; this information to be used to assure
22 compliance with the requirements of this Code and SMA;

23 (9) A written description of the proposed program for temporary relocation services,
24 if such relocation is necessary to complete the stated repairs and improvements;

25 (10) A copy of the draft purchase and sale agreement to be used for the project;

1 (11) A copy of all draft management documents submitted to the California State
2 Department of Real Estate, including the Limited Equity Housing Cooperative’s Budget, the
3 Articles of Incorporation, Bylaws and CC&R’s.

4 (12) A preliminary soil report prepared in accordance with the provisions of Section
5 1358 of the Code or, where no new buildings or additions are contemplated, a Statement of
6 Known Soil and Geologic Conditions prepared by the engineer or surveyor who prepared the
7 Tentative Map, containing information on the following as taken from the latest U.S. Geologic
8 Maps:

9 (i) Soil deposits;

10 (ii) Rock formations;

11 (iii) Faults;

12 (iv) Groundwater; and

13 (v) Landslides.

14 (b) Application packets for conversions under this Article shall not require the following
15 information otherwise required by this Code:

16 (1) Except as otherwise required by the provisions of Section 1399.17(a), the
17 statements required by Sections 1323(a), paragraphs 1, 2, 3, and 4 shall be deleted.

18 (2) The provisions of Section 1323(a)(6) shall be deleted.

19 (3) Except where a Vesting Tentative Map has been requested, the Environmental
20 Evaluation data required by Section 1323(b) shall be deleted.

21 **Sec. 1399.18. ACTION ON APPLICATION PACKET; CONDITIONS OF APPROVAL**

22 (a) The Director shall review an application packet as provided in Section 1399.17
23 for completeness within 30 days after the date the application packet was submitted. An
24 application shall be considered “filed” when the Director determines that it is complete. If the
25 Director fails within the 30-day period to notify the Subdivider of the items required to make an

1 application packet complete, the application packet will be deemed filed on the 30th day after it
2 has been submitted.

3 (b) The Director shall approve or conditionally approve an application within 50
4 days after filing unless the Director finds that:

5 (1) the application fails to meet the requirements of Section 1399.17; or

6 (2) the signature on any Intent to Purchase was obtained as the result of fraud or
7 duress; or

8 (3) any of the other statements in the Subdivider's declaration are false; or

9 (4) the application fails to meet any mandatory requirement of the Subdivision Map
10 Act, Government Code Section 66410, et seq. or this Code.

11 (c) If the Director fails to approve, conditionally approve, or disapprove a Tentative
12 Map within 50 days after it has been filed, the Tentative Map is deemed approved.

13 (d) A Tentative Map filed under this Article 11 that complies with all applicable laws
14 shall be approved subject to the condition that, concurrently with recording of the Final Map,
15 the Subdivider shall record against the property a Notice of Conditions of Approval, signed and
16 notarized by the City and the Subdivider, that provides the following for a period of 99 years
17 from the date of conversion, or the economic life of the building, whichever is less:

18 (1) Each Member Share is subject to a lien in favor of the Limited Equity Housing
19 Cooperative creating a right of first refusal upon the resale of said Member Share, and notice of
20 such deed restriction shall be provided in accordance with the provisions of Section 1399.22;
21 and

22 (2) The converted property shall be subject to the restrictions set forth in the binding
23 agreement between the Subdivider and the Mayor's Office of Housing set forth in Sections
24 1399.6(a)(5) and (6).

1 (e) The recorded Conditions of Approval shall constitute an agreement between the
2 Subdivider and any successors in interest and the City. The City and each tenant shall have the
3 right, but not the obligation, to specific enforcement of the agreement in addition to any other
4 remedies provided by law.

5 **Sec. 1399.21. RESALE FORMULA.**

6 (a) The Resale Price for a Member Share shall be as follows:

7 (1) For shares purchased under the Qualifying Household formula as provided in
8 Section 1399.9(b), the Limited Equity Housing Cooperative must repurchase the Member Share
9 and resell it to another Qualifying Household at a price not to exceed the limitations set forth in
10 California Health and Safety Code Section 33007.5(b), provided that the Mayor’s Office of
11 Housing shall set and publish on its website the maximum inflation allowance as set forth in
12 California Health and Safety Code Section 33007.5(b)(3).

13 (2) For all other Resident Members, the Limited Equity Housing Cooperative must
14 purchase and resell their shares at a price not to exceed the limitations set forth in Health and
15 Safety Code Section 33007.5(b).

1 Sec. 1399.22 FINAL MAPS AND PARCEL MAPS; DEED RESTRICTIONS.

2 (a) In addition to complying with the requirements of Article 7 of this Code, a Final
3 Map or Parcel Map filed for a property subject to initial conversion under the provisions of this
4 Article 11 shall comply with the following:

5 (1) The Final Map or Parcel Map shall contain notes specifying restrictions that:

6 (i) specify that each Member Share in the building is subject to sale and resale price
7 restrictions and include the terms and formulas for those restrictions.

8 (ii) identify the number vacant units in the project at the time of recordation and
9 specify that the corresponding number of Member Shares shall be sold according to the
10 restrictions set forth in Section 1399.13.

11 (iii) include the restrictions set forth in Section 1399.18(d) and (e).

12 (2) These restrictions also shall be specified in the declaration for the Limited Equity
13 Housing Ccooperative as required by California Civil Code Section 1352(a).

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By: SUSAN CLEVELAND-KNOWLES
18 Deputy City Attorney