

1 [Residential Rent Ordinance: conform to State Ellis Act amendments--new tenancies retain
2 prior rent controls for five-year periods; pay one-half tenant relocation payment before move-
out; notice if tenant's elderly/disabled status is disputed.]

3

4 **Ordinance (1) conforming the Residential Rent Stabilization and Arbitration Ordinance**
5 **(Administrative Code Chapter 37) to State law amendments to the Ellis Act (California**
6 **Government Code Sections 7060 et seq.), by amending Section 37.9A to provide that,**
7 **for new tenancies established after December 31, 2002, the same rent control**
8 **restrictions that were in effect for the unit at the time a notice of intent to withdraw the**
9 **unit from the rental or leased housing market was filed with the Rent Board remain in**
10 **effect for any and all new or subsequent tenancies established during the five year**
11 **period after filing the notice of intent, and for the five year period following actual**
12 **withdrawal of the unit from the rental or leased housing market; (2) amending Section**
13 **37.9A to provide that half of the required relocation payment due to low-income, elderly**
14 **or disabled tenants is due within fifteen (15) days of the landlord's receipt of the**
15 **tenant's notice of entitlement, and the remaining half is due when the tenant vacates**
16 **the unit; (3) amending Section 37.9A to require that an owner notify the Rent Board if**
17 **the owner disputes a tenant's claim of entitlement to one-year notice due to being**
18 **elderly or disabled; and, (4) conforming numbering.**

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20 Note: Additions are *single-underline italics Times New Roman font*;
21 deletions are *strikethrough italics Times New Roman font*.
22 Board amendment additions are double underlined Arial font;
23 Board amendment deletions are ~~strikethrough Arial font~~.

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

25

1 Section 1. The San Francisco Administrative Code is hereby amended by amending
2 Section 37.9A, to read as follows:

3 SEC. 37.9A. TENANT RIGHTS IN CERTAIN DISPLACEMENTS UNDER SECTION
4 37.9(a)(13). This Section 37.9A applies to certain tenant displacements under Section 37.9(a)(13), as
5 specified.

6 (a) Rent Allowed.

7 (1) Except as provided in Section 37.9A(a)(2) below, Any rental unit which a tenant
8 vacates after receiving a notice to quit relying on Section 37.9(a)(13) (withdrawal of rental
9 units from rent or lease under the Ellis Act, California Government Code Sections 7060 et
10 seq.) if again offered for rent or lease at any time, must be offered and rented or leased at a rent
11 not greater than that which would have been allowed had the prior tenant or tenants remained in
12 continuous occupancy during the entire period of the vacancy the lawful rent in effect at the time the
13 notice of intent to withdraw rental units is filed with the Board, plus annual rent increases available
14 under this Chapter 37.

15 (A) The provisions of Section 37.9A(a)(1) apply to all tenancies commenced during either of
16 the following time periods:

17 (i) The five-year period after a notice of intent to withdraw the rental units is filed with the
18 Board, whether or not the notice of intent is rescinded or the withdrawal of the units is completed
19 pursuant to that notice;

20 (ii) The five-year period after the rental units are withdrawn.

21 (B) This Section 37.9(A)(a)(1) shall prevail over any conflicting provision of law
22 authorizing the landlord to establish the rental rate upon the initial hiring of the unit.

23 (C) If it is asserted that a rent increase or increases could have taken place during the
24 vacancy in question, the owner shall bear the burden of showing by a preponderance of the evidence
25 that the rent could have been legally increased during the period. If it is asserted that the increase

1 ~~is~~ based ~~in whole or part~~ on capital improvements, rehabilitation or substantial rehabilitation,
2 the owner must petition the Rent Board pursuant to the procedures of Section 37.7 of this
3 Chapter. No increase shall be allowed on account of any expense incurred in connection with
4 withdrawing any unit from rent or lease.

5 (2) If a new tenancy was lawfully created in a unit before January 1, 2003, following a
6 lawful withdrawal of the unit from rent or lease under Section 37.9(a)(13), any subsequent new
7 tenancies for that rental unit are not subject to the rent limitations in Section 37.9A(a)(1).

8 (b) Treatment of Replacement Units. If one or more units covered by Subsection
9 (a) is demolished, and one or more new units qualifying as rental units under this Chapter but
10 for the date on which they first receive a certificate of final completion and occupancy are
11 constructed on the same property, and offered for rent or lease within five years of the date
12 the last of the original units became vacant, the newly constructed units shall be offered at
13 rents not greater than those reasonably calculated to produce a fair and reasonable return on
14 the newly constructed units, notwithstanding Section 37.2(r)(5) or any other provision of this
15 Chapter. The provisions of this Chapter shall thereafter apply. The Board shall adopt rules
16 for determining the rents necessary to provide a fair and reasonable return.

17 (c) Rights to Re-Rent. Any owner who again offers for rent or lease any unit
18 covered by Subsection (a) shall first offer the unit for rent or lease to the tenants or lessees
19 displaced from the unit as follows:

20 (1) If any tenant or lessee has advised the owner in writing within 30 days of
21 displacement of his or her desire to consider an offer to renew the tenancy and has furnished
22 the owner with an address to which that offer is to be directed, the owner must make such an
23 offer whenever the unit is again offered for rent or lease within two years of withdrawal. That
24 tenant, lessee, or former tenant or lessee may advise the owner at any time of a change of
25 address to which an offer is to be directed.

1 (2) Notwithstanding Subsection (c)(1), if the unit is offered for rent or lease within 10
2 years of withdrawal, the owner shall notify the Rent Board in writing of the intention to re-rent
3 the unit and make an offer to the tenant or lessee whenever the tenant or lessee requests the
4 offer in writing within 30 days after the owner has notified the City of an intention to re-rent the
5 unit. If the unit is offered for rent or lease more than two years after the date the unit was
6 withdrawn from rent or lease, the owner shall be liable to any tenant or lessee who was
7 displaced for failure to comply with this Subsection (c)(2), for punitive damages in an amount
8 which does not exceed the contract rent for six months.

9 (3) If any former tenant or lessee has requested an offer to renew the tenancy, either
10 directly to the landlord or after notice from the Rent Board, then the owner shall offer to
11 reinstitute a rental agreement or lease at rents permitted under Subsection (a) *and on terms*
12 *equivalent to those available to that displaced tenant or lessee prior to displacement*. This offer shall
13 be deposited in the United States mail, by registered or certified mail with postage prepaid,
14 addressed to the displaced tenant or lessee at the address furnished to the owner as provided
15 by the tenant and shall describe the terms of the offer. The displaced tenant or lessee shall
16 have 30 days from the deposit of the offer in the mail to accept the offer by personal delivery
17 of that acceptance or by deposit of the acceptance in the United States mail by registered or
18 certified mail with postage prepaid.

19 (4) If more than one tenant or lessee attempts to accept the offer for a given unit,
20 the landlord shall notify each tenant or lessee so accepting that other acceptances have been
21 received, and shall further advise each such tenant or lessee of the names and addresses of
22 the others. If all such tenants or lessees do not within 30 days thereafter agree and notify the
23 landlord of which tenant(s) or lessee(s) will reoccupy the unit, the tenant(s) or lessee(s) who
24 first occupied the unit previously shall be entitled to accept the landlord's offer. If more than
25 one eligible tenant or lessee initially occupied the unit on the same date, then the first such

1 tenant or lessee to have originally sent notice accepting the landlord's offer shall be entitled to
2 occupy the unit.

3 (d) Re-Rental Within Two Years. If a unit covered by Subsection (a) is offered for
4 rent or lease within two years of the date of withdrawal:

5 (1) The owner shall be liable to any tenant or lessee who was displaced from the
6 property for actual and exemplary damages. Any action by a tenant or lessee pursuant to this
7 paragraph shall be brought within three years of withdrawal of the unit from the rent or lease.
8 However, nothing in this paragraph precludes a tenant from pursuing any alternative remedy
9 available under the law.

10 (2) The City may institute a civil proceeding against the owner who has again
11 offered the unit for rent or lease, for exemplary damages for displacement of tenants or
12 lessees. Any action by the City pursuant to this paragraph shall be brought within three years
13 of the withdrawal of the unit from rent or lease.

14 (e) Payments to Low-Income, Elderly and Disabled Tenants. Where a landlord
15 seeks eviction based upon Section 37.9(a)(13), the relocation payments described in this
16 Subsection shall be limited to tenants who are members of lower income households, who are
17 elderly, or who are disabled, as defined below.

18 (1) Tenants who are members of lower income households, as defined by Section
19 50079.5 of the California Health and Safety Code, and who receive a notice to quit based
20 upon Section 37.9(a)(13), in addition to all rights under any other provisions of law, shall be
21 entitled to receive \$4,500 ~~before vacating the premises, \$2,250 of which shall be paid within fifteen~~
22 (15) calendar days of the landlord's receipt of written notice from the tenants of their entitlement to the
23 relocation payment, and \$2,250 of which shall be paid when the tenants vacate the unit.

24

25

1 (2) With respect to Subsection ~~(e)(1)(A)-(C)~~ above, the Mayor's Office of Housing
2 or its successor agency shall annually determine the income limits for lower income
3 households, adjusted for household size.

4 (3) Notwithstanding Subsection (e)(1), and irrespective of the size of the unit, any
5 tenant who receives a notice to quit under Section 37.9(a)(13) and who, at the time such
6 notice is served, is 62 years of age or older, or who is disabled within the meaning of Section
7 12995.3 of the California Government Code, shall be entitled to receive \$3,000, \$1,500 of
8 which shall be paid within fifteen (15) calendar days of the landlord's receipt of written notice from the
9 tenant of entitlement to the relocation payment, and \$1,500 of which shall be paid when the tenant
10 vacates the unit.

11 (4) The payments due pursuant to this Subsection (e) for any unit which is occupied
12 by more than one tenant shall be divided equally among all the occupying tenants, excluding
13 those tenants who are separately entitled to payments under Subsection (e)(3) above.

14 (5) Any notice to quit pursuant to Section 37.9(a)(13) shall notify the tenant or
15 tenants concerned of the right to receive payment under this Subsection and the amount of
16 payment which the landlord believes to be due.

17 (f) Notice to Rent Board; Recordation of Notice; Effective Date of Withdrawal.

18 (1) Any owner who intends to withdraw from rent or lease any rental unit shall notify
19 the Rent Board in writing of said intention. Said notice shall contain statements, under penalty
20 of perjury, providing information on the number of residential units, the address or location of
21 those units, the name or names of the tenants or lessees of the units, and the rent applicable
22 to each residential rental unit. Said notice shall be signed by all owners of record of the
23 property under penalty of perjury and shall include a certification that actions have been
24 initiated as required by law to terminate existing tenancies through service of a notice of
25 termination of tenancy. The notice must be served by certified mail or any other manner

1 authorized by law prior to delivery to the Rent Board of the notice of intent to withdraw the
2 rental units. Information respecting the name or names of the tenants, the rent applicable to
3 any unit, or the total number of units, is confidential and shall be treated as confidential
4 information by the City for purposes of the Information Practices Act of 1977, as contained in
5 Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
6 Code. The City shall, to the extent required by the preceding sentence, be considered an
7 "agency," as defined by Subdivision (b) of Section 1798.3 of the Civil Code.

8 (2) Prior to the effective date of withdrawal of rental units under this Section, the
9 owner shall cause to be recorded with the County Recorder a memorandum of the notice
10 required by Subsection (f)(1) summarizing its provisions, other than the confidential
11 provisions, in substantially the following form:

12
13 **Memorandum of Notice Regarding Withdrawal of Rental Unit From Rent or Lease**

14 This memorandum evidences that the undersigned, as the owner(s) of the property
15 described in Exhibit A attached, has filed a notice, whose contents are certified under penalty
16 of perjury, stating the intent to withdraw from rent or lease all units at said property, pursuant
17 to San Francisco Administrative Code Section 37.9A and the Ellis Act (California Government
18 Code Sections 7060 et seq).

19
20
21 _____
22 (Signature)

23
24 (3) For a notice of intent to withdraw rental units filed with the Rent Board on or
25 before December 31, 1999, the date on which the units are withdrawn from rent or lease for

1 purposes of this Chapter and the Ellis Act is 60 days from the delivery in person or by first-
2 class mail of the Subsection (f)(1) notice of intent to the Rent Board.

3 (4) For a notice of intent to withdraw rental units filed with the Rent Board on or after
4 January 1, 2000, the date on which the units are withdrawn from rent or lease for purposes of
5 this Chapter and the Ellis Act is 120 days from the delivery in person or by first-class mail of
6 the Subsection (f)(1) notice of intent to the Rent Board. Except that, if the tenant or lessee is
7 at least 62 years of age or disabled as defined in Government Code § 12955.3, and has lived
8 in his or her unit for at least one year prior to the date of delivery to the Rent Board of the
9 Subsection (f)(1) notice of intent to withdraw, then the date of withdrawal of the unit of that
10 tenant or lessee shall be extended to one year after the date of delivery of that notice to the
11 Rent Board, provided that the tenant or lessee gives written notice of his or her entitlement to
12 an extension of the date of withdrawal to the owner within 60 days of the date of delivery to
13 the Rent Board of the Subsection (f)(1) notice of intent to withdraw. In that situation, the
14 following provisions shall apply:

15 (A) The tenancy shall be continued on the same terms and conditions as existed on
16 the date of delivery to the Rent Board of the notice of intent to withdraw, subject to any
17 adjustments otherwise available under Administrative Code Chapter 37.

18 (B) No party shall be relieved of the duty to perform any obligation under the lease
19 or rental agreement.

20 (C) The owner may elect to extend the date of withdrawal on any other units up to
21 one year after date of delivery to the Rent Board of the Subsection (f)(1) notice of intent to
22 withdraw, subject to Subsections (f)(4)(A) and (B).

23 (D) Within 30 days of the notification by the tenant or lessee to the owner of his or
24 her entitlement to an extension of the date of withdrawal, the owner shall give written notice to
25 the Rent Board of the claim that the tenant or lessee is entitled to stay in their unit for one year

1 after the date of delivery to the Rent Board of the Subsection (f)(1) notice of intent to
2 withdraw.

3 (E) Within 90 days of the date of delivery to the Rent Board of the notice of intent to
4 withdraw, the owner shall give written notice to the Rent Board and the affected tenant or
5 lessee *of the following*:

6 (i) Whether or not the owner disputes the tenant's claim of extension;

7 (ii) The new date of withdrawal under Section 37.9A(f)(4)(C), if the owner does not dispute
8 the tenant's claim of extension; and,

9 (iii) Whether or not of the owner's ~~elections~~ to extend the date of withdrawal ~~and the~~
10 new date of withdrawal under Subsection 37.9A(f)(4)(C) to other units on the property.

11 (5) Within 15 days of delivery of a Subsection (f)(1) notice of intent to the Rent
12 Board, the owner shall provide notice to any tenant or lessee to be displaced of the following:

13 (A) That the Rent Board has been notified pursuant to Subsection (f)(1);

14 (B) That the notice to the Rent Board specified the name and the amount of rent
15 paid by the tenant or lessee as an occupant of the rental unit;

16 (C) The amount of rent the owner specified in the notice to the Rent Board;

17 (D) The tenant's or lessee's rights to reoccupancy and to relocation assistance
18 under Subsections 37.9A(c) and (e); and

19 (E) The rights of qualified elderly or disabled tenants as described under Subsection
20 (f)(4), to extend their tenancy to one year after the date of delivery to the Rent Board of the
21 Subsection (f)(1) notice of intent to withdraw.

22 (6) Within 30 days after the effective date of withdrawal of rental units under this
23 Section 37.9A, the Rent Board shall record a notice of constraints with the County Recorder
24 which describes the property and the dates of applicable restrictions on the property under
25 this Section.

1 (g) Successor Owners. The provisions of this Section 37.9A shall apply to the
2 owner of a rental unit at the time displacement of a tenant or tenants is initiated and to any
3 successor in interest of the owner, subject to the provisions of Chapter 12.75 of Division 7 of
4 Title 1 of the California Government Code (Sections 7060 et seq.).

5 (h) Reports Required.

6 (1) Not later than the last day of the third and sixth calendar months following the
7 month in which notice is given to the Board under Subsection (f)(1), and thereafter not later
8 than December 31st of each calendar year for a period of five years, beginning with the year
9 in which the six-month notice is given, the owner of any property which contains or formerly
10 contained one or more rental units which a tenant or tenants vacated pursuant to Section
11 37.9(a)(13) shall notify the Board, in writing, under penalty of perjury, for each such unit:

12 (A) Whether the unit has been demolished;

13 (B) If the unit has not been demolished, whether it is in use;

14 (C) If it is in use, whether it is in residential use;

15 (D) If it is in residential use, the date the tenancy began, the name of the tenant(s),
16 and the amount of rent charged.

17 If the unit has been demolished, and one or more new units constructed on the lot, the
18 owner shall furnish the information required by items (B), (C) and (D) for each new unit. The
19 Board shall maintain a record of the notices received under Subsection (f) and all notices
20 received under this Section for each unit subject to this reporting requirement.

21 (2) The Board shall notify each person who is reported as having become a tenant
22 in a vacated or new unit subject to the reporting requirements of Subsection (h)(1) that it
23 maintains the records described in Subsection (h)(1), and that the rent of the unit may be
24 restricted pursuant to Subsection (a).

