

1 [Administrative Code - Residential Rent Ordinance - Temporary Good Samaritan Occupancy/
2 Reduced Rent After Emergency Tenant Dislocation, Just Cause Eviction or Higher Rent at
3 End of Period]

4 **Ordinance amending Administrative Code Chapter 37 Residential Rent Arbitration and**
5 **Stabilization Ordinance, by amending Sections 37.2(a) and 37.9 to provide for**
6 **temporary Good Samaritan occupancy with reduced rent rate and, upon expiration of**
7 **the temporary Good Samaritan Status, to provide that the landlord may either evict the**
8 **tenant for just cause or increase the rent to a previously agreed base rent rate; Section**
9 **37.2 by adding Subsection 37.2(a)(1)(D) to permit creation of temporary Good**
10 **Samaritan Status when a landlord and new tenant agree in writing for the tenant to**
11 **commence occupancy following an emergency such as fire ~~or~~ earthquake ~~or~~ landslide**
12 **or similar emergency situation that required unexpected vacation of the tenant's**
13 **previous unit, and the agreement includes a reduced rent rate for ~~up to the first three~~**
14 **~~hundred sixty-five (365) days of occupancy~~ a specified period of time up to twelve (12)**
15 **months; ~~initial base rent for purposes of calculating annual CPI increases per Section~~**
16 **~~37.3 shall be the rent payable upon expiration of the Original Good Samaritan Status~~**
17 **~~Period, or upon expiration of any, which may be extended for a combined total of no~~**
18 **more than twenty-four (24) months ~~as agreed by the landlord and tenant in writing, for~~**
19 **~~a total of no more than 730 days of Original and Extended Good Samaritan Status days~~**
20 **~~combined~~; Good Samaritan ~~s~~ Status may be utilized only upon written certification by a**
21 **specified City Official, that identifies the emergency and the resulting unit vacation on**
22 **grounds of public health, safety, and habitability; and Section 37.9 by adding**
23 **Subsection 37.9(a)(16) to permit eviction for just cause upon expiration of the Original**
24 **Good Samaritan Status period plus any Extended Good Samaritan Status Period.**

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

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

5 Section 1. The San Francisco Administrative Code is hereby amended by amending
6 Section 37.2, to read as follows:

7 Sec. 37.2. - DEFINITIONS.

8 (a) Base Rent.

9 (1) That rent which is charged a tenant upon initial occupancy plus any rent increase
10 allowable and imposed under this Chapter; provided, however, that :

11 (A) ~~Base~~ rent shall not include increases imposed pursuant to Section 37.7, ~~and~~

12 (B) ~~Base~~ rent shall not include utility passthroughs or water revenue bond
13 passthroughs or general obligation bond passthroughs pursuant to Sections 37.2(q),
14 37.3(a)(5)(B), and 37.3(a)(6).

15 (C) Base rent for tenants of RAP rental units in areas designated on or after July 1,
16 1977, shall be that rent which was established pursuant to Section 32.73-1 of the San
17 Francisco Administrative Code. Rent increases attributable to the City Administrator's
18 amortization of an RAP loan in an area designated on or after July 1, 1977, shall not be
19 included in the base rent.

20 (D) **Good Samaritan Status.** As of February 8, 2011 and after, ~~for tenants who commence~~
21 ~~occupancy in Good Samaritan Status, initial base rent for purposes of calculating the annual~~

1 allowable Consumer Price Index increase ("CPI," see Section 37.3(a)(1)) shall be calculated
2 according to that Good Samaritan Status.

3 Good Samaritan occupancy status occurs when a landlord and new tenant agree in writing for
4 the tenant to commence temporary occupancy following an emergency such as fire or, earthquake or,
5 landslide, or similar emergency situation, that required unexpected vacation of the tenant's previous
6 unit, and the agreement includes a reduced rent rate for the replacement unit for a specified period of
7 time up to the first three hundred sixty-five (365) days twelve (12) months ("Original Good
8 Samaritan Status Period"). "Reduced rent rate" means the base rent the tenant was paying for the
9 previous unit at the time of the emergency or an amount up to ten (10) percent above that amount,
10 except that if the owner of the previous unit is the same as the owner of the replacement unit then
11 "reduced rent rate" means the rent the tenant was paying for the previous unit at the time of the
12 emergency. For Good Samaritan Status to exist, the written agreement as referenced in this
13 Subsection must include a statement that the agreement is temporary in nature, must refer to
14 this Subsection, and must state that the tenant has been displaced from his or her previous
15 unit as certified in Subsection (iii), below.

16 The initial base rent used for calculation of the annual allowable Consumer Price Index
17 increase (see Section 37.3(a)(1)) shall be the rent rate applicable on the day after expiration
18 of the Original Good Samaritan Status Period, or the rent payable as of the day following
19 expiration of any landlord and tenant Extended Good Samaritan Status agreement (see
20 Section 37.2(a)(1)(D)(i)).

21 (i) The landlord and tenant may agree, in writing, to extend the reduced rent rate for a period
22 of time beyond the Original Good Samaritan Status Period, up to a total of seven hundred thirty
23 (730) twenty-four (24) months from the beginning to the end of all Good Samaritan Status
24 ("Extended Good Samaritan Status Period").

1 (ii) By accepting occupancy in Good Samaritan Status, a tenant does not waive any right to
2 compensation or any right to return to the tenant's previous unit that he or she otherwise may
3 have under Chapter 37 or other source of law, to compensation based on the emergency vacation of
4 the tenant's previous unit.

5 (iii) Good Samaritan Status may only be utilized upon certification in writing by one of the
6 following officials, or his or her designee, that as a result of fire, earthquake, landslide, or similar
7 emergency situation, the tenant's previous unit is in such condition that, as a matter of public health
8 and safety and as a matter of habitability, the tenant cannot or should not reside there until the unit has
9 been appropriately repaired:

- 10 Mayor;
- 11 Fire Chief;
- 12 Director of the Department of Building Inspection;
- 13 Director of the Department of Public Health; or
- 14 Other Official as authorized by law.

15 The Rent Board shall make a form available, that the Official may use for this purpose.

16 ~~(iv) The Rent Board shall make a form available explaining that tenant occupancy in~~
17 ~~Good Samaritan Status is temporary in nature, and that the landlord may reset the rent to a~~
18 ~~higher base rent upon expiration of the Good Samaritan rental agreement. The Good~~
19 ~~Samaritan landlord is strongly encouraged to provide the tenant with this disclosure form.~~
20 ~~However, failure by the Rent Board to make such a disclosure form available or failure by the~~
21 ~~landlord to provide the tenant with such disclosure form will not prevent the landlord from~~
22 ~~setting a new base rent upon expiration of the Good Samaritan agreement (whether Original~~
23 ~~or Extended), or otherwise impact any rights that the landlord may have regarding the~~
24 ~~tenancy.~~

1 (iv) The tenant's rent increase anniversary date for a Good Samaritan occupancy shall
2 be the date the tenancy commenced; the first annual allowable increase shall take effect no
3 less than one year from the anniversary date, but when imposed after one year, shall set a
4 new anniversary date for the imposition of future rent increases. The base rent used for
5 calculation of the annual allowable increase pursuant to Section 37.3(a)(1) during a Good
6 Samaritan occupancy, shall be the reduced rent rate in effect on the day the Good Samaritan
7 occupancy commences.

8 (v) The landlord may serve a notice of termination of tenancy under Section
9 37.9(a)(16) within 60 days after expiration of the Original and any Extended Good Samaritan
10 Status Period. Alternatively, within sixty (60) days after expiration of the Original and any
11 Extended Good Samaritan Status Period, if the Good Samaritan rental agreement states the
12 dollar amount of the tenant's initial base rent that can be imposed after expiration of the
13 Original and any Extended Good Samaritan Status Period, the landlord may give legal notice
14 of the rent increase to the tenant and then increase the tenant's rent from the temporary
15 reduced rent rate to the previously agreed upon initial base rent for the unit.

16 (vi) The Rent Board shall make a form available that explains the temporary nature of
17 tenant occupancy in Good Samaritan Status, and describes the other provisions of Section
18 37.2(a)(1)(D)(v).

19 The Good Samaritan landlord shall provide the tenant with this disclosure form prior to
20 commencement of the Good Samaritan tenancy. However, failure by the landlord to provide
21 the tenant with such disclosure form:

- 22 • Will not prevent the landlord from serving a notice of termination of tenancy under
23 Section 37.9(a)(16) within sixty (60) days after expiration of the Original and any
24 Extended Good Samaritan Status Period.

- 1 • Will not prevent the landlord from serving a notice of rent increase within sixty (60)
2 days after expiration of the Original and any Extended Good Samaritan Status Period,
3 to increase to the previously agreed upon initial base rent for the unit, as provided in
4 Section 37.2(a)(1)(D)(v).
- 5 • Will not otherwise impact any rights that the landlord may have regarding the tenancy.

6 (2) From and after the effective date of this ordinance, the base rent for tenants
7 occupying rental units which have received certain tenant-based or project-based rental
8 assistance shall be as follows:

9 (A) With respect to tenant-based rental assistance:

10 (i) For any tenant receiving tenant-based assistance as of the effective date of this
11 ordinance (except where the rent payable by the tenant is a fixed percentage of the tenant's
12 income, such as in the Section 8 certificate program and the rental subsidy program for the
13 HOPWA program), and continuing to receive tenant-based rental assistance following the
14 effective date of this ordinance, the base rent for each unit occupied by such tenant shall be
15 the rent payable for that unit under the Housing Assistance Payments contract, as amended,
16 between the San Francisco Housing Authority and the landlord (the "HAP contract") with
17 respect to that unit immediately prior to the effective date of this ordinance (the "HAP" contract
18 rent").

19 (ii) For any tenant receiving tenant-based rental assistance (except where the rent
20 payable by the tenant is a fixed percentage of the tenant's income, such as in the Section 8
21 certificate program and the rental subsidy program for the HOPWA program), and
22 commencing occupancy of a rental unit following the effective date of this ordinance, the base
23 rent for each unit occupied by such a tenant shall be the HAP contract rent in effect as of the
24 date the tenant commences occupancy of such unit.

1 (iii) For any tenant whose tenant-based rental assistance terminates or expires, for
2 whatever reason, following the effective date of this ordinance, the base rent for each such
3 unit following expiration or termination shall be the HAP contract rent in effect for that unit
4 immediately prior to the expiration or termination of the tenant-based rental assistance.

5 (B) For any tenant occupying a unit upon the expiration or termination, for whatever
6 reason, of a project-based HAP contract under Section 8 of the United States Housing Act of
7 1937 (42 USC Section 1437f, as amended), the base rent for each such unit following
8 expiration or termination shall be the "contract rent" in effect for that unit immediately prior to
9 the expiration or termination of the project-based HAP contract.

10 (C) For any tenant occupying a unit upon the prepayment or expiration of any
11 mortgage insured by the United States Department of Housing and Urban Development
12 ("HUD"), including but not limited to mortgages provided under Sections 221(d)(3), 221(d)(4)
13 and 236 of the National Housing Act (12 USC Section 1715z-1), the base rent for each such
14 unit shall be the "basic rental charge" (described in 12 USC 1715z-1(f), or successor
15 legislation) in effect for that unit immediately prior to the prepayment of the mortgage, which
16 charge excludes the "interest reduction payment" attributable to that unit prior to the mortgage
17 prepayment or expiration.

18 (b) Board. The Residential Rent Stabilization and Arbitration Board.

19 (c) Capital Improvements. Those improvements which materially add to the value of
20 the property, appreciably prolong its useful life, or adapt it to new uses, and which may be
21 amortized over the useful life of the improvement of the building.

22 (d) CPI. Consumer Price Index for all Urban Consumers for the San Francisco-
23 Oakland Metropolitan Area, U.S. Department of Labor.

24 (e) Energy Conservation Improvements. Work performed pursuant to the requirements
25 of Chapter 12 of the San Francisco Housing Code.

1 (f) Administrative Law Judge. A person, designated by the Board, who arbitrates and
2 mediates rental increase disputes, and performs other duties as required pursuant to this
3 Chapter 37.

4 (f.1) Reserved.

5 (g) Housing Services. Services provided by the landlord connected with the use or
6 occupancy of a rental unit including, but not limited to: quiet enjoyment of the premises,
7 without harassment by the landlord as provided in Section 10B; repairs; replacement;
8 maintenance; painting; light; heat; water; elevator service; laundry facilities and privileges;
9 janitor service; refuse removal; furnishings; telephone; parking; rights permitted the tenant by
10 agreement, including the right to have a specific number of occupants, whether express or
11 implied, and whether or not the agreement prohibits subletting and/or assignment; and any
12 other benefits, privileges or facilities.

13 (h) Landlord. An owner, lessor, sublessor, who receives or is entitled to receive rent for
14 the use and occupancy of any residential rental unit or portion thereof in the City and County
15 of San Francisco, and the agent, representative or successor of any of the foregoing.

16 (i) Member. A member of the Residential Rent Stabilization and Arbitration Board.

17 (j) Over FMR Tenancy Program. A regular certificate tenancy program whereby the
18 base rent, together with a utility allowance in an amount determined by HUD, exceeds the fair
19 market rent limitation for a particular unit size as determined by HUD.

20 (k) Payment Standard. An amount determined by the San Francisco Housing Authority
21 that is used to determine the amount of assistance paid by the San Francisco Housing
22 Authority on behalf of a tenant under the Section 8 Voucher Program (24 CFR Part 887).

23 (l) RAP. Residential Rehabilitation Loan Program (Chapter 32, San Francisco
24 Administrative Code).

1 (m) RAP Rental Units. Residential dwelling units subject to RAP loans pursuant to
2 Chapter 32, San Francisco Administrative Code.

3 (n) Real Estate Department. A city department in the City and County of San
4 Francisco.

5 (o) Rehabilitation Work. Any rehabilitation or repair work done by the landlord with
6 regard to a rental unit, or to the common areas of the structure containing the rental unit,
7 which work was done in order to be in compliance with State or local law, or was done to
8 repair damage resulting from fire, earthquake or other casualty or natural disaster.

9 (p) Rent. The consideration, including any bonus, benefits or gratuity, demanded or
10 received by a landlord for or in connection with the use or occupancy of a rental unit, or the
11 assignment of a lease for such a unit, including but not limited to monies demanded or paid
12 for parking, furnishing, food service, housing services of any kind, or subletting.

13 (q) Rent Increases. Any additional monies demanded or paid for rent as defined in
14 item (p) above, or any reduction in housing services without a corresponding reduction in the
15 monies demanded or paid for rent; provided, however, that: (1) where the landlord has been
16 paying the tenant's utilities and the cost of those utilities increases, the landlord's passing
17 through to the tenant of such increased costs pursuant to this Chapter does not constitute a
18 rent increase; (2) where there has been a change in the landlord's property tax attributable to
19 a general obligation bond approved by the voters between November 1, 1996 and November
20 30, 1998, or after November 14, 2002, the landlord's passing through to the tenant of such
21 increased costs in accordance with this Chapter (see Section 37.3(a)(6)) does not constitute a
22 rent increase; (3) where there has been a change in the landlord's property tax attributable to
23 a San Francisco Unified School District or San Francisco Community College District general
24 obligation bond approved by the voters after November 1, 2006, the landlord's passing
25 through to the tenant of such increased costs in accordance with this Chapter (see Section

1 37.3(a)(6)) does not constitute a rent increase; and, (4) where water bill charges are
2 attributable to water rate increases resulting from issuance of water revenue bonds authorized
3 at the November 5, 2002 election, the landlord's passing through to the tenant of such
4 increased costs in accordance with this Chapter (see Section 37.3(a)(5)(B)) does not
5 constitute a rent increase.

6 (r) Rental Units. All residential dwelling units in the City and County of San Francisco
7 together with the land and appurtenant buildings thereto, and all housing services, privileges,
8 furnishings and facilities supplied in connection with the use or occupancy thereof, including
9 garage and parking facilities.

10 Garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks,
11 patios, or gardens on the same lot, or kitchen facilities or lobbies in single room occupancy
12 (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not be severed
13 from the tenancy by the landlord without just cause as required by Section 37.9(a). Any
14 severance, reduction or removal permitted under this Section 37.2(r) shall be offset by a
15 corresponding reduction in rent. Either a landlord or a tenant may file a petition with the Rent
16 Board to determine the amount of the rent reduction.

17 The term "rental units" shall not include:

18 (1) Housing accommodations in hotels, motels, inns, tourist houses, rooming and
19 boarding houses, provided that at such time as an accommodation has been occupied by a
20 tenant for 32 continuous days or more, such accommodation shall become a rental unit
21 subject to the provisions of this Chapter; provided further, no landlord shall bring an action to
22 recover possession of such unit in order to avoid having the unit come within the provisions of
23 this Chapter. An eviction for a purpose not permitted under Section 37.9(a) shall be deemed
24 to be an action to recover possession in order to avoid having a unit come within the
25 provisions of this Chapter;

1 (2) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a
2 majority of the residents or dwelling units solely owned by a nonprofit public benefit
3 corporation governed by a board of directors the majority of which are residents of the
4 dwelling units and where it is required in the corporate by-laws that rent increases be
5 approved by a majority of the residents;

6 (3) Housing accommodation in any hospital, convent, monastery, extended care
7 facility, asylum, residential care or adult day health care facility for the elderly which must be
8 operated pursuant to a license issued by the California Department of Social Services, as
9 required by California Health and Safety Chapters 3.2 and 3.3; or in dormitories owned and
10 operated by an institution of higher education, a high school, or an elementary school;

11 (4) Except as provided in Subsections (A), (B) and (C), dwelling units whose rents are
12 controlled or regulated by any government unit, agency or authority, excepting those
13 unsubsidized and/or unassisted units which are insured by the United States Department of
14 Housing and Urban Development; provided, however, that units in unreinforced masonry
15 buildings which have undergone seismic strengthening in accordance with Building Code
16 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
17 ordinance is not in conflict with the seismic strengthening bond program or with the program's
18 loan agreements or with any regulations promulgated thereunder;

19 (A) For purposes of Sections 37.2, 37.3(a)(10)(A), 37.4, 37.5, 37.6, 37.9, 37.9A,
20 37.10A, 37.11A and 37.13, and the arbitration provisions of Sections 37.8 and 37.8A
21 applicable only to the provisions of Sections 37.3(a)(10)(A), the term "rental units" shall
22 include units occupied by recipients of tenant-based rental assistance where the tenant-based
23 rental assistance program does not establish the tenant's share of base rent as a fixed
24 percentage of a tenant's income, such as in the Section 8 voucher program and the "Over-
25 FMR Tenancy" program defined in 24 CFR Section 982.4;

1 (B) For purposes of Sections 37.2, 37.3(a)(10)(B), 37.4, 37.5, 37.6, 37.9, 37.9A,
2 37.10A, 37.11A and 37.13, the term "rental units" shall include units occupied by recipients of
3 tenant-based rental assistance where the rent payable by the tenant under the tenant-based
4 rental assistance program is a fixed percentage of the tenant's income; such as in the Section
5 8 certificate program and the rental subsidy program for the Housing Opportunities for
6 Persons with Aids ("HOPWA") program (42 U.S.C. Section 12901 et seq., as amended);

7 (C) The term "rental units" shall include units in a building for which tax credits are
8 reserved or obtained pursuant to the federal low income housing tax credit program (LIHTC,
9 Section 42 of the Internal Revenue Code, 26 U.S.C. Section 42), that satisfy the following
10 criteria:

11 (i) Where a tenant's occupancy of the unit began before the applicable LIHTC
12 regulatory agreement was recorded; and,

13 (ii) Where the rent is not controlled or regulated by any use restrictions imposed by the
14 City and County of San Francisco, the San Francisco Redevelopment Agency, the State of
15 California Office of Housing and Community Development, or the United States Department of
16 Housing and Urban Development.

17 Nothing in this Section 37.2(r)(4)(C) precludes a landlord from seeking an exemption
18 from rent regulation on the basis of substantial rehabilitation under Section 37.2(r)(6).

19 This Section 37.2(r)(4)(C) definition of "rental unit" shall apply to any unit where the
20 qualifying tenant (see Section 37.2(r)(4)(C)(i)) is in possession of the unit on or after the
21 effective date of this ordinance (Ord. No. 281-06), including but not limited to any unit where
22 the tenant has been served with a notice to quit but has not vacated the unit and there is no
23 final judgment against the tenant for possession of the unit as of the effective date of this
24 ordinance (Ord. No. 281-06).

1 (5) Rental units located in a structure for which a certificate of occupancy was first
2 issued after the effective date of this ordinance; (A) except as provided for certain categories
3 of units and dwellings by Section 37.3(d) and Section 37.9A(b) of this Chapter, (B) except as
4 provided in a development agreement entered into by the City under San Francisco
5 Administrative Code Chapter 56; and (C) except as provided for foreclosed units and
6 dwellings by Section 37.9D.

7 (6) Dwelling units in a building which has undergone substantial rehabilitation after the
8 effective date of this ordinance; provided, however, that RAP rental units are not subject to
9 this exemption; and except as provided for foreclosed units and dwellings by Section 37.9D.

10 (7) Dwellings or units otherwise subject to this Chapter 37, to the extent such dwellings
11 or units are partially or wholly exempted from rent increase limitations by the Costa-Hawkins
12 Rental Housing Act (California Civil Code Sections 1954.50, et seq.) and/or San Francisco
13 Administrative Code Section 37.3(d).

14 (s) Substantial Rehabilitation. The renovation, alteration or remodeling of residential
15 units of 50 or more years of age which have been condemned or which do not qualify for
16 certificates of occupancy or which require substantial renovation in order to conform the
17 building to contemporary standards for decent, safe and sanitary housing. Substantial
18 rehabilitation may vary in degree from gutting and extensive reconstruction to extensive
19 improvements that cure substantial deferred maintenance. Cosmetic improvements alone
20 such as painting, decorating and minor repairs, or other work which can be performed safely
21 without having the unit vacated do not qualify as substantial rehabilitation.

22 (t) Tenant. A person entitled by written or oral agreement, sub-tenancy approved by
23 the landlord, or by sufferance, to occupy a residential dwelling unit to the exclusion of others.

24 (u) Tenant-Based Rental Assistance. Rental assistance provided directly to a tenant or
25 directly to a landlord on behalf of a particular tenant, which includes but shall not be limited to

1 certificates and vouchers issued pursuant to Section 8 of the United States Housing Act of
2 1937, as amended (42 U.S.C. Section 1437f) and the HOPWA program.

3 (v) Utilities. The term "utilities" shall refer to gas and electricity exclusively.
4

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

7 SEC. 37.9. - EVICTIONS.

8 Notwithstanding Section 37.3, this Section shall apply as of August 24, 1980, to all
9 landlords and tenants of rental units as defined in Section 37.2(r).

10 (a) A landlord shall not endeavor to recover possession of a rental unit unless:

11 (1) The tenant:

12 (A) Has failed to pay the rent to which the landlord is lawfully entitled under the oral or
13 written agreement between the tenant and landlord:

14 (i) Except that a tenant's nonpayment of a charge prohibited by Section 919.1 of the
15 Police Code shall not constitute a failure to pay rent; and

16 (ii) Except that, commencing August 10, 2001, to and including February 10, 2003, a
17 landlord shall not endeavor to recover or recover possession of a rental unit for failure of a
18 tenant to pay that portion of rent attributable to a capital improvement passthrough certified
19 pursuant to a decision issued after April 10, 2000, where the capital improvement passthrough
20 petition was filed prior to August 10, 2001, and a landlord shall not impose any late fee(s)
21 upon the tenant for such non-payment of capital improvements costs; or

22 (B) Habitually pays the rent late; or

23 (C) Gives checks which are frequently returned because there are insufficient funds in
24 the checking account; or
25

1 (2) The tenant has violated a lawful obligation or covenant of tenancy other than the
2 obligation to surrender possession upon proper notice or other than an obligation to pay a
3 charge prohibited by Police Code Section 919.1, and failure to cure such violation after having
4 received written notice thereof from the landlord.

5 (A) Provided that notwithstanding any lease provision to the contrary, a landlord shall
6 not endeavor to recover possession of a rental unit as a result of subletting of the rental unit
7 by the tenant if the landlord has unreasonably withheld the right to sublet following a written
8 request by the tenant, so long as the tenant continues to reside in the rental unit and the
9 sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails to
10 respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written
11 request, the tenant's request shall be deemed approved by the landlord.

12 (B) Provided further that where a rental agreement or lease provision limits the number
13 of occupants or limits or prohibits subletting or assignment, a landlord shall not endeavor to
14 recover possession of a rental unit as a result of the addition to the unit of a tenant's child,
15 parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as
16 defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as a result of
17 the addition of the spouse or domestic partner of a tenant, so long as the maximum number of
18 occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not exceeded, if the landlord has
19 unreasonably refused a written request by the tenant to add such occupant(s) to the unit. If
20 the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the
21 tenant's written request, the tenant's request shall be deemed approved by the landlord. A
22 landlord's reasonable refusal of the tenant's written request may not be based on the
23 proposed additional occupant's lack of creditworthiness, if that person will not be legally
24 obligated to pay some or all of the rent to the landlord. A landlord's reasonable refusal of the
25 tenant's written request may be based on, but is not limited to, the ground that the total

1 number of occupants in a unit exceeds (or with the proposed additional occupant(s) would
2 exceed) the lesser of (i) or (ii):

3 (i) Two persons in a studio unit, three persons in a one-bedroom unit, four persons in a
4 two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-bedroom
5 unit; or

6 (ii) The maximum number permitted in the unit under state law and/or other local
7 codes such as the Building, Fire, Housing and Planning Codes; or

8 (3) The tenant is committing or permitting to exist a nuisance in, or is causing
9 substantial damage to, the rental unit, or is creating a substantial interference with the
10 comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such
11 nuisance, damage or interference is specifically stated by the landlord in writing as required
12 by Section 37.9(c); or

13 (4) The tenant is using or permitting a rental unit to be used for any illegal purpose; or

14 (5) The tenant, who had an oral or written agreement with the landlord which has
15 terminated, has refused after written request or demand by the landlord to execute a written
16 extension or renewal thereof for a further term of like duration and under such terms which are
17 materially the same as in the previous agreement; provided, that such terms do not conflict
18 with any of the provisions of this Chapter; or

19 (6) The tenant has, after written notice to cease, refused the landlord access to the
20 rental unit as required by State or local law; or

21 (7) The tenant holding at the end of the term of the oral or written agreement is a
22 subtenant not approved by the landlord; or

23 (8) The landlord seeks to recover possession in good faith, without ulterior reasons
24 and with honest intent:
25

1 (i) For the landlord's use or occupancy as his or her principal residence for a period of
2 at least 36 continuous months;

3 (ii) For the use or occupancy of the landlord's grandparents, grandchildren, parents,
4 children, brother or sister, or the landlord's spouse, or the spouses of such relations, as their
5 principal place of residency for a period of at least 36 months, in the same building in which
6 the landlord resides as his or her principal place of residency, or in a building in which the
7 landlord is simultaneously seeking possession of a rental unit under Section 37.9(a)(8)(i). For
8 purposes of this Section 37.9(a)(8)(ii), the term spouse shall include domestic partners as
9 defined in San Francisco Administrative Code Sections 62.1 through 62.8

10 (iii) For purposes of this Section 37.9(a)(8) only, as to landlords who become owners
11 of record of the rental unit on or before February 21, 1991, the term "landlord" shall be defined
12 as an owner of record of at least 10 percent interest in the property or, for Section 37.9(a)(8)(i)
13 only, two individuals registered as domestic partners as defined in San Francisco
14 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at
15 least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who become
16 owners of record of the rental unit after February 21, 1991, the term "landlord" shall be
17 defined as an owner of record of at least 25 percent interest in the property or, for Section
18 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco
19 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at
20 least 25 percent.

21 (iv) A landlord may not recover possession under this Section 37.9(a)(8) if a
22 comparable unit owned by the landlord is already vacant and is available, or if such a unit
23 becomes vacant and available before the recovery of possession of the unit. If a comparable
24 unit does become vacant and available before the recovery of possession, the landlord shall
25 rescind the notice to vacate and dismiss any action filed to recover possession of the

1 premises. Provided further, if a noncomparable unit becomes available before the recovery of
2 possession, the landlord shall offer that unit to the tenant at a rent based on the rent that the
3 tenant is paying, with upward or downward adjustments allowed based upon the condition,
4 size, and other amenities of the replacement unit. Disputes concerning the initial rent for the
5 replacement unit shall be determined by the Rent Board. It shall be evidence of a lack of good
6 faith if a landlord times the service of the notice, or the filing of an action to recover
7 possession, so as to avoid moving into a comparable unit, or to avoid offering a tenant a
8 replacement unit.

9 (v) It shall be rebuttably presumed that the landlord has not acted in good faith if the
10 landlord or relative for whom the tenant was evicted does not move into the rental unit within
11 three months and occupy said unit as that person's principal residence for a minimum of 36
12 continuous months.

13 (vi) Once a landlord has successfully recovered possession of a rental unit pursuant to
14 Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of any
15 other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this Section
16 that only one specific unit per building may be used for such occupancy under Section
17 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under
18 Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with
19 the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that
20 disability or other similar hardship prevents him or her from occupying a unit which was
21 previously occupied by the landlord.

22 (vii) If any provision or clause of this amendment to Section 37.9(a)(8) or the
23 application thereof to any person or circumstance is held to be unconstitutional or to be
24 otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other
25 chapter provisions, and clauses of this Chapter are held to be severable; or

1 (9) The landlord seeks to recover possession in good faith in order to sell the unit in
2 accordance with a condominium conversion approved under the San Francisco subdivision
3 ordinance and does so without ulterior reasons and with honest intent; or

4 (10) The landlord seeks to recover possession in good faith in order to demolish or to
5 otherwise permanently remove the rental unit from housing use and has obtained all the
6 necessary permits on or before the date upon which notice to vacate is given, and does so
7 without ulterior reasons and with honest intent; provided that a landlord who seeks to recover
8 possession under this Section 37.9(a)(10) shall pay relocation expenses as provided in
9 Section 37.9C except that a landlord who seeks to demolish an unreinforced masonry building
10 pursuant to Building Code Chapters 16B and 16C must provide the tenant with the relocation
11 assistance specified in Section 37.9A(f) below prior to the tenant's vacating the premises; or

12 (11) The landlord seeks in good faith to remove temporarily the unit from housing use
13 in order to be able to carry out capital improvements or rehabilitation work and has obtained
14 all the necessary permits on or before the date upon which notice to vacate is given, and does
15 so without ulterior reasons and with honest intent. Any tenant who vacates the unit under such
16 circumstances shall have the right to reoccupy the unit at the prior rent adjusted in
17 accordance with the provisions of this Chapter. The tenant will vacate the unit only for the
18 minimum time required to do the work. On or before the date upon which notice to vacate is
19 given, the landlord shall advise the tenant in writing that the rehabilitation or capital
20 improvement plans are on file with the Central Permit Bureau of the Department of Building
21 Inspection and that arrangements for reviewing such plans can be made with the Central
22 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of
23 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as
24 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be
25 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;

1 provided, however, that such time period may be extended by the Board or its Administrative
2 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to
3 implement the application procedure. Any landlord who seeks to recover possession under
4 this Section 37.9(a)(11) shall pay relocation expenses as provided in Section 37.9C or

5 (12) The landlord seeks to recover possession in good faith in order to carry out
6 substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary
7 permits on or before the date upon which notice to vacate is given, and does so without
8 ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor
9 to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this
10 Chapter except as provided in Section 32.69 of the San Francisco Administrative Code; Any
11 landlord who seeks to recover possession under this Section 37.9(a)(12) shall pay relocation
12 expenses as provided in Section 37.9C; or

13 (13) The landlord wishes to withdraw from rent or lease all rental units within any
14 detached physical structure and, in addition, in the case of any detached physical structure
15 containing three or fewer rental units, any other rental units on the same lot, and complies in
16 full with Section 37.9A with respect to each such unit; provided, however, that guestrooms or
17 efficiency units within a residential hotel, as defined in Section 50519 of the Health and Safety
18 Code, may not be withdrawn from rent or lease if the residential hotel has a permit of
19 occupancy issued prior to January 1, 1990, and if the residential hotel did not send a notice of
20 intent to withdraw the units from rent or lease (Administrative Code Section 37.9A(f),
21 Government Code Section 7060.4(a)) that was delivered to the Rent Board prior to January 1,
22 2004; or

23 (14) The landlord seeks in good faith to temporarily recover possession of the unit
24 solely for the purpose of effecting lead remediation or abatement work, as required by San
25 Francisco Health Code Articles 11 or 26. The tenant will vacate the unit only for the minimum

1 time required to do the work. The relocation rights and remedies, established by San
2 Francisco Administrative Code Chapter 72, including but not limited to, the payment of
3 financial relocation assistance, shall apply to evictions under this Section 37.9(a)(14).

4 (15) The landlord seeks to recover possession in good faith in order to demolish or to
5 otherwise permanently remove the rental unit from housing use in accordance with the terms
6 of a development agreement entered into by the City under Chapter 56 of the San Francisco
7 Administrative Code.

8 (16) The tenant's Good Samaritan Status (Section 37.2(a)(1)(D)) has expired, and the
9 landlord exercises the right to recover possession by serving a notice of termination of
10 tenancy under this Section 37.9(a)(16) within 60 days after expiration of the Original and any
11 Extended Good Samaritan Status Period.

12 (b) A landlord who resides in the same rental unit with his or her tenant may evict said
13 tenant without just cause as required under Section 37.9(a) above.

14 (c) A landlord shall not endeavor to recover possession of a rental unit unless at least
15 one of the grounds enumerated in Section 37.9(a) or (b) above is the landlord's dominant
16 motive for recovering possession and unless the landlord informs the tenant in writing on or
17 before the date upon which notice to vacate is given of the grounds under which possession is
18 sought and that advice regarding the notice to vacate is available from the Residential Rent
19 Stabilization and Arbitration Board, before endeavoring to recover possession. A copy of all
20 notices to vacate except three-day notices to vacate or pay rent and a copy of any additional
21 written documents informing the tenant of the grounds under which possession is sought shall
22 be filed with the Board within 10 days following service of the notice to vacate. The District
23 Attorney shall determine whether the units set forth on the list compiled in accordance with
24 Section 37.6(k) are still being occupied by the tenant who succeeded the tenant upon whom
25 the notice was served. In cases where the District Attorney determines that Section 37.9(a)(8)

1 has been violated, the District Attorney shall take whatever action he deems appropriate
2 under this Chapter or under State law.

3 (d) No landlord may cause a tenant to quit involuntarily or threaten to bring any action
4 to recover possession, or decrease any services, or increase the rent, or take any other action
5 where the landlord's dominant motive is retaliation for the tenant's exercise of any rights under
6 the law. Such retaliation shall be a defense to any action to recover possession. In an action
7 to recover possession of a rental unit, proof of the exercise by the tenant of rights under the
8 law within six months prior to the alleged act of retaliation shall create a rebuttable
9 presumption that the landlord's act was retaliatory.

10 (e) It shall be unlawful for a landlord or any other person who willfully assists the
11 landlord to endeavor to recover possession or to evict a tenant except as provided in Section
12 37.9(a) and (b). Any person endeavoring to recover possession of a rental unit from a tenant
13 or evicting a tenant in a manner not provided for in Section 37.9(a) or (b) without having a
14 substantial basis in fact for the eviction as provided for in Section 37.9(a) shall be guilty of a
15 misdemeanor and shall be subject, upon conviction, to the fines and penalties set forth in
16 Section 37.10A. Any waiver by a tenant of rights under this Chapter except as provided in
17 Section 37.10A(g), shall be void as contrary to public policy.

18 (f) Whenever a landlord wrongfully endeavors to recover possession or recovers
19 possession of a rental unit in violation of Sections 37.9 and/or 37.10 as enacted herein, the
20 tenant or Board may institute a civil proceeding for injunctive relief, money damages of not
21 less than three times actual damages, (including damages for mental or emotional distress),
22 and whatever other relief the court deems appropriate. In the case of an award of damages
23 for mental or emotional distress, said award shall only be trebled if the trier of fact finds that
24 the landlord acted in knowing violation of or in reckless disregard of Section 37.9 or 37.10A
25 herein. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant

1 to order of the court. The remedy available under this Section 37.9(f) shall be in addition to
2 any other existing remedies which may be available to the tenant or the Board.

3 (g) The provisions of this Section 37.9 shall apply to any rental unit as defined in
4 Sections 37.2(r)(4)(A) and 37.2(r)(4)(B), including where a notice to vacate/quit any such
5 rental unit has been served as of the effective date of this Ordinance No. 250-98 but where
6 any such rental unit has not yet been vacated or an unlawful detainer judgment has not been
7 issued as of the effective date of this Ordinance No. 250-98.

8 (h) With respect to rental units occupied by recipients of tenant-based rental
9 assistance, the notice requirements of this Section 37.9 shall be required in addition to any
10 notice required as part of the tenant-based rental assistance program, including but not limited
11 to the notice required under 24 CFR Section 982.310(e)(2)(ii).

12 (i) The following additional provisions shall apply to a landlord who seeks to recover a
13 rental unit by utilizing the grounds enumerated in Section 37.9(a)(8):

14 (1) A landlord may not recover possession of a unit from a tenant under Section
15 37.9(a)(8) if the landlord has or receives notice, any time before recovery of possession, that
16 any tenant in the rental unit:

17 (A) Is 60 years of age or older and has been residing in the unit for 10 years or more;

18 or

19 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been residing in
20 the unit for 10 years or more, or is catastrophically ill within the meaning of Section
21 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

22 (i) A "disabled" tenant is defined for purposes of this Section 37.9(i)(1)(B) as a person
23 who is disabled or blind within the meaning of the federal Supplemental Security
24 Income/California State Supplemental Program (SSI/SSP), and who is determined by
25

1 SSI/SSP to qualify for that program or who satisfies such requirements through any other
2 method of determination as approved by the Rent Board;

3 (ii) A "catastrophically ill" tenant is defined for purposes of this Section 37.9(i)(1)(B) as
4 a person who is disabled as defined by Section 37.9(i)(1)(B)(i), and who is suffering from a life
5 threatening illness as certified by his or her primary care physician.

6 (2) The foregoing provisions of Sections 37.9(i)(1)(A) and (B) shall not apply where
7 there is only one rental unit owned by the landlord in the building, or where each of the rental
8 units owned by the landlord in the same building where the landlord resides (except the unit
9 actually occupied by the landlord) is occupied by a tenant otherwise protected from eviction by
10 Sections 37.9(i)(1)(A) or (B) and where the landlord's qualified relative who will move into the
11 unit pursuant to Section 37.9(a)(8) is 60 years of age or older.

12 (3) The provisions established by this Section 37.9(i) include, but are not limited to,
13 any rental unit where a notice to vacate/quit has been served as of the date this amendment
14 takes effect but where the rental unit has not yet been vacated or an unlawful detainer
15 judgment has not been issued.

16 (4) Within 30 days of personal service by the landlord of a written request, or, at the
17 landlord's option, a notice of termination of tenancy under Section 37.9(a)(8), the tenant must
18 submit a statement, with supporting evidence, to the landlord if the tenant claims to be a
19 member of one of the classes protected by Section 37.9(i). The written request or notice shall
20 contain a warning that a tenant's failure to submit a statement within the 30 day period shall
21 be deemed an admission that the tenant is not protected by Section 37.9(i). The landlord shall
22 file a copy of the request or notice with the Rent Board within 10 days of service on the tenant.
23 A tenant's failure to submit a statement within the 30 day period shall be deemed an
24 admission that the tenant is not protected by Section 37.9(i). A landlord may challenge a
25 tenant's claim of protected status either by requesting a hearing with the Rent Board or, at the

1 landlord's option, through commencement of eviction proceedings, including service of a
2 notice of termination of tenancy. In the Rent Board hearing or the eviction action, the tenant
3 shall have the burden of proof to show protected status. No civil or criminal liability under
4 Section 37.9(e) or (f) shall be imposed upon a landlord for either requesting or challenging a
5 tenant's claim of protected status.

6 (5) This Section 37.9(i) is severable from all other sections and shall be of no force or
7 effect if any temporary moratorium on owner/relative evictions adopted by the Board of
8 Supervisors after June 1, 1998 and before October 31, 1998 has been invalidated by the
9 courts in a final decision.

10 (j) The following additional provision shall apply to a landlord who seeks to recover a
11 rental unit by utilizing the grounds enumerated in Section 37.9(a)(8):

12 (1) It shall be a defense to an eviction under Section 37.9(a)(8) if any tenant in the
13 rental unit has a custodial or family relationship with a child under the age of 18 who is
14 residing in the unit, the tenant with the custodial or family relationship has resided in the unit
15 for 12 months or more, and the effective date of the notice of termination of tenancy falls
16 during the school year. The term "school year" as used in this Section 37.9(j) means the first
17 day of instruction for the Fall Semester through the last day of instruction for the Spring
18 Semester, as posted on the San Francisco Unified School District website for each year.

19 (2) The foregoing provision Section 37.9(j)(1) shall not apply where there is only one
20 rental unit owned by the landlord in the building, or where the owner who will move into the
21 unit pursuant to a Section 37.9(a)(8) eviction has a custodial or family relationship with a child
22 under the age of 18 who will reside in the unit with the owner.

23 (3) Within 30 days of personal service by the landlord of a written request, or, at the
24 landlord's option, a notice of termination of tenancy under Section 37.9(a)(8), the tenant must
25 submit a statement with supporting evidence to the landlord, if the tenant claims to be a

1 member of the class protected from eviction by Section 37.9(j). The landlord's written request
2 or notice shall contain a warning that a tenant's failure to submit a statement within the 30 day
3 period shall be deemed an admission that the tenant is not protected from eviction by Section
4 37.9(j). The landlord shall file a copy of the landlord's request or notice with the Rent Board
5 within 10 days of service on the tenant. A tenant's failure to submit a statement within the 30
6 day period shall be deemed an admission that the tenant is not protected from eviction by
7 Section 37.9(j). A landlord may challenge a tenant's claim of protected status either by
8 requesting a hearing with the Rent Board or, at the landlord's option, through commencement
9 of eviction proceedings, including service of a notice of termination of tenancy. In the Rent
10 Board hearing or the eviction action, the tenant shall have the burden of proof to show
11 protected status. No civil or criminal liability under Section 37.9(e) or (f) shall be imposed upon
12 a landlord for either requesting or challenging a tenant's claim of protected status.

13 (4) For purposes of this Section 37.9(j), the term "custodial relationship" means that
14 the person is a legal guardian of the child, or has a court-recognized caregiver authorization
15 affidavit for the child, or that the person has provided full-time custodial care of the child
16 pursuant to an agreement with the child's legal guardian or court-recognized caregiver and
17 has been providing that care for at least one year or half of the child's lifetime, whichever is
18 less. The term "family relationship" means that the person is the parent, grandparent, brother,
19 sister, aunt or uncle of the child, or the spouse or domestic partner of such relations.

20 (k) Disclosure of Rights to Tenants Before and After Sale of Rental Units Subject to
21 Section 37.9

22 (1) Disclosure to Tenants By Seller of the Property. Before property containing rental
23 units subject to Section 37.9 may be sold, the owner/seller shall disclose to tenants of the
24 property the rights of tenants during and after the sale of the property. This disclosure shall be
25 in writing and shall include:

1 (A) A statement in bold type of at least 12 points that tenants can not be evicted or
2 asked to move solely because a property is being sold or solely because a new owner has
3 purchased that property.

4 (B) A statement in bold type of at least 12 points that tenants cannot have their rent
5 increased above that permitted by Chapter 37 solely because a property is being sold or
6 solely because a new owner has purchased that property.

7 (C) A statement in bold type of at least 12 points that the rental agreements of tenants
8 cannot be materially changed solely because a property is being sold or solely because a new
9 owner has purchased that property.

10 (D) A statement that the owner's right to show units to prospective buyers is governed
11 by California Civil Code section 1954, including a statement that tenants must receive notice
12 as provided by Section 1954, and a statement that a showing must be conducted during
13 normal business hours unless the tenant consents to an entry at another time.

14 (E) A statement that tenants are not required to complete or sign any estoppel
15 certificates or estoppel agreements, except as required by law or by that tenant's rental
16 agreement. The statement shall further inform tenants that tenant rights may be affected by
17 an estoppel certificate or agreement and that the tenants should seek legal advice before
18 completing or signing an estoppel certificate or agreement.

19 (F) A statement that information on these and other tenant's rights are available at the
20 San Francisco Rent Board, 25 Van Ness Ave, San Francisco, California, and at the
21 counseling telephone number of the Rent Board and at its web site.

22 (2) Disclosure to Tenants by Purchaser of the Property. Within 30 days of acquiring
23 title to rental units subject to Section 37.9, the new purchaser/owner shall disclose to tenants
24 of the property the rights of tenants following this sale of the property. This disclosure shall be
25 in writing and shall include:

1 (A) A statement in bold type of at least 12 points that tenants cannot be evicted or
2 asked to move solely because a new owner has purchased that property.

3 (B) A statement in bold type of at least 12 points that tenants cannot have their rent
4 increased above that permitted by Chapter 37 solely because a new owner has purchased
5 that property.

6 (C) A statement in bold type of at least 12 points that the rental agreements of tenants
7 cannot be materially changed solely because a new owner has purchased that property.

8 (D) A statement in bold type of at least 12 points that any tenants, sub-tenants or
9 roommates who were lawful occupants at the time of the sale remain lawful occupants.

10 (E) A statement in bold type of at least 12 points: that tenants' housing services as
11 defined in Section 37.2(r) first paragraph cannot be changed or severed from the tenancy
12 solely because a new owner has purchased that property; and that tenants' housing services
13 as defined in Section 37.2(r) second paragraph that were supplied in connection with the use
14 or occupancy of a unit at the time of sale (such as laundry rooms, decks, or storage space)
15 cannot be severed from the tenancy by the new purchaser/owner without just cause as
16 required by Section 37.9(a).

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18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By: _____
22 MARIE CORLETT BLITS
23 Deputy City Attorney
24
25