

1 [Rent Control Ordinance amendment providing a six month period during which landlords may
2 not evict tenants for non-payment of capital improvement passthrough costs certified at the
3 Rent Board after April 10, 2000, pursuant to petitions filed prior to August 10, 2001.]

4 **Ordinance providing a six-month period commencing August 10, 2001, during which**
5 **landlords are prevented from evicting tenants for non-payment of that portion of rent**
6 **attributable to capital improvement passthrough petitions decided at the Rent Board**
7 **after April 10, 2000, pursuant to capital improvement petitions filed prior to August 10,**
8 **2001.**

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

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

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

16
17 **SEC. 37.9. EVICTIONS.**

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

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

22 (1) The tenant has failed to pay the rent to which the landlord is lawfully
23 entitled under the oral or written agreement between the tenant and landlord or habitually
24 pays the rent late or gives checks which are frequently returned because there are insufficient
25 funds in the checking account; except that, for a six (6) month period commencing August 10, 2001,

1 to and including February 10, 2002, a landlord shall not endeavor to recover possession of a rental
2 unit for failure of a tenant to pay that portion of rent attributable to a capital improvement passthrough
3 certified pursuant to a decision issued after April 10, 2000, where the capital improvement passthrough
4 petition was filed prior to August 10, 2001; or

5 (2) The tenant has violated a lawful obligation or covenant of tenancy other
6 than the obligation to surrender possession upon proper notice and failure to cure such
7 violation after having received written notice thereof from the landlord, provided further that
8 notwithstanding any lease provision to the contrary, a landlord shall not endeavor to recover
9 possession of a rental unit as a result of subletting of the rental unit by the tenant if the
10 landlord has unreasonably withheld the right to sublet following a written request by the
11 tenant, so long as the tenant continues to reside in the rental unit and the sublet constitutes a
12 one-for-one replacement of the departing tenant(s). If the landlord fails to respond to the
13 tenant in writing within fourteen (14) days of receipt of the tenant's written request, the
14 tenant's request shall be deemed approved by the landlord; or

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

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

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

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

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

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

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

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

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

1 only, two individuals registered as domestic partners as defined in San Francisco
2 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at
3 least 25 percent.

4 (iv) A landlord may not recover possession under this Section 37.9(a)(8) if a
5 comparable unit owned by the landlord is already vacant and is available, or if such a unit
6 becomes vacant and available before the recovery of possession of the unit. If a comparable
7 unit does become vacant and available before the recovery of possession, the landlord shall
8 rescind the notice to vacate and dismiss any action filed to recover possession of the
9 premises. Provided further, if a noncomparable unit becomes available before the recovery of
10 possession, the landlord shall offer that unit to the tenant at a rent based on the rent that the
11 tenant is paying, with upward or downward adjustments allowed based upon the condition,
12 size, and other amenities of the replacement unit. Disputes concerning the initial rent for the
13 replacement unit shall be determined by the Rent Board. It shall be evidence of a lack of good
14 faith if a landlord times the service of the notice, or the filing of an action to recover
15 possession, so as to avoid moving into a comparable unit, or to avoid offering a tenant a
16 replacement unit.

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

21 (vi) Once a landlord has successfully recovered possession of a rental unit
22 pursuant to Section 37.9(a)(8)(i), then no other current or future landlords may recover
23 possession of any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention
24 of this Section that only one specific unit per building may be used for such occupancy under
25 Section 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies

1 under Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a
2 petition with the Rent Board, or at the landlord's option, commence eviction proceedings,
3 claiming that disability or other similar hardship prevents him or her from occupying a unit
4 which was previously occupied by the landlord.

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

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

12 (10) The landlord seeks to recover possession in good faith in order to
13 demolish or to otherwise permanently remove the rental unit from housing use and has
14 obtained all the necessary permits on or before the date upon which notice to vacate is given,
15 and does so without ulterior reasons and with honest intent; provided that a landlord who
16 seeks to demolish an unreinforced masonry building pursuant to Building Code Chapters 14
17 and 15 must provide the tenant with the relocation assistance specified in Section 37.9A(f)
18 below prior to the tenant's vacating the premises; or

19 (11) The landlord seeks in good faith to remove temporarily the unit from
20 housing use in order to be able to carry out capital improvements or rehabilitation work and
21 has obtained all the necessary permits on or before the date upon which notice to vacate is
22 given, and does so without ulterior reasons and with honest intent. Any tenant who vacates
23 the unit under such circumstances shall have the right to reoccupy the unit at the prior rent
24 adjusted in accordance with the provisions of this Chapter. The tenant will vacate the unit only
25 for the minimum time required to do the work. On or before the date upon which notice to

1 vacate is given, the landlord shall advise the tenant in writing that the rehabilitation or capital
2 improvement plans are on file with the Central Permit Bureau of the Department of Building
3 Inspection and that arrangements for reviewing such plans can be made with the Central
4 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of
5 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as
6 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be
7 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;
8 provided, however, that such time period may be extended by the Board or its Administrative
9 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to
10 implement the application procedure. Any landlord who seeks to recover possession under
11 this Section 37.9(a)(11) shall pay the tenant actual costs up to \$1,000 for moving and
12 relocation expenses not less than 10 days prior to recovery of possession; or

13 (12) The landlord seeks to recover possession in good faith in order to carry
14 out substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary
15 permits on or before the date upon which notice to vacate is given, and does so without
16 ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor
17 to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this
18 Chapter except as provided in Section 32.69 of the San Francisco Administrative Code; or

19 (13) The landlord wishes to withdraw from rent or lease all rental units within
20 any detached physical structure and, in addition, in the case of any detached physical
21 structure containing three or fewer rental units, any other rental units on the same lot, and
22 complies in full with Section 37.9A with respect to each such unit; provided, however, that a
23 unit classified as a residential unit under Chapter 41 of this Code which is vacated under this
24 Section 37.9(a)(13) may not be put to any use other than that of a residential hotel unit without
25 compliance with the provisions of Section 41.9 of this Code; or

1 (14) The landlord seeks in good faith to temporarily recover possession of the
2 unit for less than 30 days solely for the purpose of effecting lead remediation or abatement
3 work, as required by San Francisco Health Code Article 26. The relocation rights and
4 remedies, established by San Francisco Administrative Code Chapter 72, including but not
5 limited to, the payment of financial relocation assistance, shall apply to evictions under this
6 Section 37.9(a)(14).

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

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

23 (d) No landlord may cause a tenant to quit involuntarily or threaten to bring
24 any action to recover possession, or decrease any services, or increase the rent, or take any
25 other action where the landlord's dominant motive is retaliation for the tenant's exercise of any

1 rights under the law. Such retaliation shall be a defense to any action to recover possession.
2 In an action to recover possession of a rental unit, proof of the exercise by the tenant of rights
3 under the law within six months prior to the alleged act of retaliation shall create a rebuttable
4 presumption that the landlord's act was retaliatory.

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

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

23 (g) The provisions of this Section 37.9 shall apply to any rental unit as
24 defined in Sections 37.2(r)(4)(A) and 37.2(r)(4)(B), including where a notice to vacate/quit any
25 such rental unit has been served as of the effective date of this Ordinance No. 250-98 but

1 where any such rental unit has not yet been vacated or an unlawful detainer judgment has not
2 been issued as of the effective date of this Ordinance No. 250-98.

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

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

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

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

14 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been
15 residing in the unit for 10 years or more, or is catastrophically ill within the meaning of Section
16 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

17 (i) A “disabled” tenant is defined for purposes of this Section 37.9(i)(1)(B) as
18 a person who is disabled or blind within the meaning of the federal Supplemental Security
19 Income/California State Supplemental Program (SSI/SSP), and who is determined by
20 SSI/SSP to qualify for that program or who satisfies such requirements through any other
21 method of determination as approved by the Rent Board;

22 (ii) A “catastrophically ill” tenant is defined for purposes of this Section
23 37.9(i)(1)(B) as a person who is disabled as defined by Section 37.9(i)(1)(B)(i), and who is
24 suffering from a life threatening illness as certified by his or her primary care physician.

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

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

11 (4) Within 30 days of personal service by the landlord of a written request, or,
12 at the landlord's option, a notice of termination of tenancy under Section 37.9(a)(8), the tenant
13 must submit a statement, with supporting evidence, to the landlord if the tenant claims to be a
14 member of one of the classes protected by Section 37.9(i). The written request or notice shall
15 contain a warning that a tenant's failure to submit a statement within the 30 day period shall
16 be deemed an admission that the tenant is not protected by Section 37.9(i). The landlord shall
17 file a copy of the request or notice with the Rent Board within 10 days of service on the tenant.
18 A tenant's failure to submit a statement within the 30 day period shall be deemed an
19 admission that the tenant is not protected by Section 37.9(i). A landlord may challenge a
20 tenant's claim of protected status either by requesting a hearing with the Rent Board or, at the
21 landlord's option, through commencement of eviction proceedings, including service of a
22 notice of termination of tenancy. In the Rent Board hearing or the eviction action, the tenant
23 shall have the burden of proof to show protected status. No civil or criminal liability under
24 Section 37.9(e) or (f) shall be imposed upon a landlord for either requesting or challenging a
25 tenant's claim of protected status.

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

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