

1 [Domestic Partner and Family Protection Rent Ordinance: No rent increase or eviction due to
2 addition of a domestic partner or other member(s) of an integrated household (e.g. a newborn
3 child) or other occupant to a residential rent-controlled unit according to unit size (e.g., four-
4 person maximum in two-bedroom unit), even if pre-existing agreement/lease permits rent
increase or prohibits additional occupants, except rent increase may be granted for increased
costs and total number of occupants may not exceed state law or other local code
maximums.]

5 **Ordinance amending Administrative Code Chapter 37 “Residential Rent Stabilization**
6 **and Arbitration Ordinance” by amending Sections 37.3 and 37.9: to prohibit rent**
7 **increases in existing tenancies due to the addition of one or more occupants (including**
8 **but not limited to a domestic partner or a newborn child or other family member of an**
9 **integrated household as defined), even where a pre-existing rental agreement or lease**
10 **specifically permits a rent increase for additional occupants, except that the landlord**
11 **may petition the Rent Board for a rent increase under Section 37.8(e)(4) based on the**
12 **increased cost for an additional occupant [Section 37.3(a)(11)]; and to prohibit**
13 **evictions based solely on the addition of occupants even where a pre-existing rental**
14 **agreement or lease prohibits additional occupants, unless the total number of**
15 **occupants exceeds two persons per studio rental unit, three per one-bedroom unit,**
16 **four per two-bedroom unit, six per three-bedroom unit and eight per four-bedroom unit,**
17 **except where this total would exceed the number of occupants permitted under state**
18 **law and/or other local codes or otherwise fail to comply with such state law and/or**
19 **local codes (e.g., Planning, Housing and Building Codes) [Section 37.9(a)(2)]; and**
20 **expressing the intent of the Board of Supervisors that the Rent Board Rules and**
21 **Regulations regarding subletting consent procedures be substantially applied to this**
22 **legislation.**

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

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

2
3 Section 1. The San Francisco Administrative Code is hereby amended by amending
4 Section 37.3, to read as follows:

5 SEC. 37.3. RENT LIMITATIONS.

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

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

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

20 (3) Capital Improvements, Rehabilitation, Energy Conservation Improvements, and
21 Renewable Energy Improvements. A landlord may impose rent increases based upon the cost
22 of capital improvements, rehabilitation, energy conservation improvements, or renewable
23 energy improvements, provided that such costs are certified pursuant to Sections 37.7 and
24 37.8B below; provided further that where a landlord has performed seismic strengthening in
25 accordance with Building Code Chapters 16B and 16C, no increase for capital improvements

1 (including but not limited to seismic strengthening) shall exceed, in any 12 month period, 10
2 percent of the tenant's base rent, subject to rules adopted by the Board to prevent landlord
3 hardship and to permit landlords to continue to maintain their buildings in a decent, safe and
4 sanitary condition. A landlord may accumulate any certified increase which exceeds this
5 amount and impose the increase in subsequent years, subject to the 10 percent limitation.
6 Nothing in this subsection shall be construed to supersede any Board rules or regulations with
7 respect to limitations on increases based upon capital improvements whether performed
8 separately or in conjunction with seismic strengthening improvements pursuant to Building
9 Code Chapters 16B and 16C.

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

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

16 (A) The landlord provides tenants with written certification that the following have
17 been installed in all units: (1) permanently installed retrofit devices designed to reduce the
18 amount of water used per flush or low-flow toilets (1.6 gallons per flush); (2) low-flow
19 showerheads which allow a flow of no more than 2.5 gallons per minute; and (3) faucet
20 aerators (where installation on current faucets is physically feasible); and

21 (B) The landlord provides the tenants with written certification that no known
22 plumbing leaks currently exist in the building and that any leaks reported by tenants in the
23 future will be promptly repaired; and

24 (C) The landlord provides the tenants with a copy of the water bill for the period in
25 which the penalty was charged. Only penalties billed for a service period which begins after

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

13 (6) Property Tax. A landlord may impose increases based upon a 100%
14 passthrough of the change in the landlord's property tax resulting from the repayment of
15 general obligation bonds of the City and County of San Francisco approved by the voters
16 between November 1, 1996, and November 30, 1998, as provided in Section 37.2(q) above.

17 A landlord may impose increases based upon a 50% passthrough of the change in the
18 landlord's property tax resulting from the repayment of general obligation bonds of the City
19 and County of San Francisco approved by the voters after November 14, 2002, as provided in
20 Section 37.2(q) above, and subject to the following requirement: Any rent increase for bonds
21 approved after the effective date of this initiative ordinance [November 2000 Proposition H,
22 effective December 20, 2000] must be disclosed and approved by the voters.

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

24 (A) For general obligation bonds approved by the voters between November 1,
25 1996 and November 30, 1998:

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

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

9 (iii) The dollar amount calculated under Subsection (ii) shall be divided by the total
10 number of all units in each property, including commercial units. That figure shall be divided
11 by 12 months, to determine the monthly per unit costs for that tax year of the repayment of
12 general obligation bonds approved by the voters between November 1, 1996, and November
13 30, 1998.

14 (B) For general obligation bonds approved by the voters after November 14, 2002
15 where any rent increase has been disclosed and approved by the voters:

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

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

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

1 repayment of general obligation bonds approved by the voters after November 14, 2002.

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

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

18 (E) Landlords must provide to tenants, on or before the date that notice is served on
19 the tenant of a passthrough permitted under this Subsection (6), a copy of the completed form
20 described in Subsection (D). This completed form shall be provided in addition to the Notice of
21 Rent Increase required under Section 37.3(b)(5). A tenant may petition for a hearing under the
22 procedure described in Section 37.8 where the tenant alleges that a landlord has imposed a
23 charge which exceeds the limitations set forth in this Subsection (6). In such a hearing, the
24 burden of proof shall be on the landlord. Tenant petitions regarding this passthrough must be
25 filed within one year of the effective date of the passthrough.

1 (F) The Board may amend its rules and regulations as necessary to implement this
2 Subsection (6).

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

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

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

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

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

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

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

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

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

18 (11) No extra rent may be charged solely for an additional occupant (including, but not
19 limited to, a newborn child, or family member as defined by Section 401 of the Housing Code, or a
20 domestic partner as defined in Administrative Code Sections 62.1 through 62.8) to an existing tenancy,
21 notwithstanding a rental agreement or lease that specifically permits a rent increase for an additional
22 occupant, so long as one or more of the occupants of the unit pursuant to the existing tenancy
23 agreement with the owner remains an occupant in lawful possession of the unit, or so long as a lawful
24 sublessee or assignee who resided in the unit prior to January 1, 1996 remains in possession of the
25 unit. Such "extra rent" provisions in written or oral rental agreements or leases are deemed to be

1 contrary to public policy. Except that, a landlord may petition the Rent Board for a rent increase
2 pursuant to Section 37.8(e)(4) based on increased costs, and the petition may be granted, where an
3 additional occupant causes an increase in costs. Rent increases otherwise permitted by California
4 Civil Code Section 1954.53(d)(1) (as it may be amended from time to time) or any successor section
5 are not prohibited or limited by this Administrative Code Section 37.3(a)(11).

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

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

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

16 (3) Which portion of the rent increase reflects the passthrough of charges for gas
17 and electricity, or bond measure costs described in Section 37.3(a)(6) above, which charges
18 shall be explained in writing on a form provided by the Board as described in Section
19 37.3(a)(6)(E);

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

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

24 (6) With respect to rental units occupied by recipients of tenant-based rental
25 assistance, the notice requirements of this Subsection (b) shall be required in addition to any

1 notice required as part of the tenant-based rental assistance program.

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

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

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

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

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

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

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

3 (C) An owner's right to establish subsequent rental rates under Subsection
4 37.3(d)(1) shall not apply to a dwelling or unit which contains serious health, safety, fire or
5 building code violations, excluding those caused by disasters, for which a citation has been
6 issued by the appropriate governmental agency and which has remained unabated for six
7 months or longer preceding the vacancy.

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

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

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

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

25 (iii) The cited violation had not been abated when the prior tenant vacated and had

1 remained unabated for 60 days or for a longer period of time. However, the 60-day time
2 period may be extended by the appropriate governmental agency that issued the citation.

3 (B) This Subsection 37.3(d)(2) shall not apply to partial changes in occupancy of a
4 dwelling or unit where one or more of the occupants of the premises, pursuant to the
5 agreement with the owner provided for above (37.3(d)(2)), remains an occupant in lawful
6 possession of the dwellings or unit, or where a lawful sublessee or assignee who resided at
7 the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit.
8 Nothing contained in this Subsection 37.3(d)(2) shall be construed to enlarge or diminish an
9 owner's right to withhold consent to a sublease or assignment.

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

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

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

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

25 (C) The rental rate for any new tenancy established during the three-year period in

1 that vacated dwelling or unit shall be at the same rate as the rent under the terminated or
2 nonrenewed contract or recorded agreement, plus any increases authorized under this
3 Chapter 37 after the date of termination/non renewal.

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

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

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

14 (e) Effect of Deferred Maintenance on Passthroughs for Lead Remediation
15 Techniques.

16 (1) When lead hazards, which have been remediated or abated pursuant to San
17 Francisco Health Code Article 26, are also violations of State or local housing health and
18 safety laws, the costs of such work shall not be passed through to tenants as either a capital
19 improvement or an operating and maintenance expense if the Administrative Law Judge finds
20 that the deferred maintenance, as defined herein, of the current or previous landlord caused
21 or contributed to the existence of the violation of law.

22 (2) In any unit occupied by a lead-poisoned child and in which there exists a lead
23 hazard, as defined in San Francisco Health Code Article 26, there shall be a rebuttable
24 presumption that violations of State or local housing health and safety laws caused or created
25 by deferred maintenance, caused or contributed to the presence of the lead hazards. If the

1 landlord fails to rebut the presumption, that portion of the petition seeking a rent increase for
2 the costs of lead hazard remediation or abatement shall be denied. If the presumption is
3 rebutted, the landlord shall be entitled to a rent increase if otherwise justified by the standards
4 set forth in this Chapter.

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

13
14 Section 2. The San Francisco Administrative Code is hereby amended by amending
15 Section 37.9, to read as follows:

16 SEC. 37.9. EVICTIONS. Notwithstanding Section 37.3, this Section shall apply as of
17 August 24, 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

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

19 (1) The tenant:

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

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

24 (ii) Except that, commencing August 10, 2001, to and including February 10, 2003,
25 a landlord shall not endeavor to recover or recover possession of a rental unit for failure of a

1 tenant to pay that portion of rent attributable to a capital improvement passthrough certified
2 pursuant to a decision issued after April 10, 2000, where the capital improvement passthrough
3 petition was filed prior to August 10, 2001, and a landlord shall not impose any late fee(s)
4 upon the tenant for such non-payment of capital improvement costs; or

5 (B) Habitually pays the rent late; or

6 (C) Gives checks which are frequently returned because there are insufficient funds
7 in the checking account; or

8 (2) The tenant has violated a lawful obligation or covenant of tenancy other than the
9 obligation to surrender possession upon proper notice or other than an obligation to pay a
10 charge prohibited by Police Code Section 919.1, and failure to cure such violation after having
11 received written notice thereof from the landlord, provided further that notwithstanding any
12 lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental
13 unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably
14 withheld the right to sublet following a written request by the tenant, so long as the tenant
15 continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of
16 the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen
17 (14) days of receipt of the tenant's written request, the tenant's request shall be deemed
18 approved by the landlord. In addition, a landlord shall not endeavor to recover possession of a
19 rental unit including a residential hotel unit, as a result of the addition by the tenant of additional
20 occupants to the rental unit, notwithstanding a rental agreement or lease that specifically prohibits or
21 limits additional occupants, unless the total number of occupants in a studio exceeds two persons, the
22 total number of occupants in a one-bedroom rental unit exceeds three persons, the total number of
23 occupants in a two-bedroom rental unit exceeds four persons, the total number of occupants in a three-
24 bedroom rental unit exceeds six persons, or the total number of occupants in a four-bedroom rental
25 unit exceeds eight persons, or unless the total number of occupants exceeds the number permitted

1 under state law and/or other local codes such as the Planning and Building and Housing Codes or
2 otherwise fails to comply with such state law and local codes; or

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

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

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

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

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

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

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

23 (ii) For the use or occupancy of the landlord's grandparents, grandchildren, parents,
24 children, brother or sister, or the landlord's spouse, or the spouses of such relations, as their
25 principal place of residency for a period of at least 36 months, in the same building in which

1 the landlord resides as his or her principal place of residency, or in a building in which the
2 landlord is simultaneously seeking possession of a rental unit under Section 37.9(a)(8)(i). For
3 purposes of this Section 37.9(a)(8)(ii), the term spouse shall include domestic partners as
4 defined in San Francisco Administrative Code Sections 62.1 through 62.8.

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

16 (iv) A landlord may not recover possession under this Section 37.9(a)(8) if a
17 comparable unit owned by the landlord is already vacant and is available, or if such a unit
18 becomes vacant and available before the recovery of possession of the unit. If a comparable
19 unit does become vacant and available before the recovery of possession, the landlord shall
20 rescind the notice to vacate and dismiss any action filed to recover possession of the
21 premises. Provided further, if a noncomparable unit becomes available before the recovery of
22 possession, the landlord shall offer that unit to the tenant at a rent based on the rent that the
23 tenant is paying, with upward or downward adjustments allowed based upon the condition,
24 size, and other amenities of the replacement unit. Disputes concerning the initial rent for the
25 replacement unit shall be determined by the Rent Board. It shall be evidence of a lack of

1 good faith if a landlord times the service of the notice, or the filing of an action to recover
2 possession, so as to avoid moving into a comparable unit, or to avoid offering a tenant a
3 replacement unit.

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

8 (vi) Once a landlord has successfully recovered possession of a rental unit pursuant
9 to Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of
10 any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this
11 Section that only one specific unit per building may be used for such occupancy under Section
12 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under
13 Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with
14 the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that
15 disability or other similar hardship prevents him or her from occupying a unit which was
16 previously occupied by the landlord.

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

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

24 (10) The landlord seeks to recover possession in good faith in order to demolish or to
25 otherwise permanently remove the rental unit from housing use and has obtained all the

1 necessary permits on or before the date upon which notice to vacate is given, and does so
2 without ulterior reasons and with honest intent; provided that a landlord who seeks to
3 demolish an unreinforced masonry building pursuant to Building Code Chapters ~~14~~ 16B and ~~15~~
4 16C must provide the tenant with the relocation assistance specified in Section 37.9A below
5 prior to the tenant's vacating the premises; or

6 (11) The landlord seeks in good faith to remove temporarily the unit from housing use
7 in order to be able to carry out capital improvements or rehabilitation work and has obtained
8 all the necessary permits on or before the date upon which notice to vacate is given, and does
9 so without ulterior reasons and with honest intent. Any tenant who vacates the unit under
10 such circumstances shall have the right to reoccupy the unit at the prior rent adjusted in
11 accordance with the provisions of this Chapter. The tenant will vacate the unit only for the
12 minimum time required to do the work. On or before the date upon which notice to vacate is
13 given, the landlord shall advise the tenant in writing that the rehabilitation or capital
14 improvement plans are on file with the Central Permit Bureau of the Department of Building
15 Inspection and that arrangements for reviewing such plans can be made with the Central
16 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of
17 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as
18 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be
19 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;
20 provided, however, that such time period may be extended by the Board or its Administrative
21 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to
22 implement the application procedure. Any landlord who seeks to recover possession under
23 this Section 37.9(a)(11) shall pay the tenant actual costs up to \$1,000 for moving and
24 relocation expenses not less than 10 days prior to recovery of possession; or

25 (12) The landlord seeks to recover possession in good faith in order to carry out

1 substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary
2 permits on or before the date upon which notice to vacate is given, and does so without
3 ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall
4 endeavor to recover possession of any unit subject to a RAP loan as set forth in Section
5 37.2(m) of this Chapter except as provided in Section 32.69 of the San Francisco
6 Administrative Code; or

7 (13) The landlord wishes to withdraw from rent or lease all rental units within any
8 detached physical structure and, in addition, in the case of any detached physical structure
9 containing three or fewer rental units, any other rental units on the same lot, and complies in
10 full with Section 37.9A with respect to each such unit; provided, however, that a unit classified
11 as a residential unit under Chapter 41 of this Code which is vacated under this Section
12 37.9(a)(13) may not be put to any use other than that of a residential hotel unit without
13 compliance with the provisions of Section 41.9 of this Code; or

14 (14) The landlord seeks in good faith to temporarily recover possession of the unit for
15 less than 30 days solely for the purpose of effecting lead remediation or abatement work, as
16 required by San Francisco Health Code Article 26. The relocation rights and remedies,
17 established by San Francisco Administrative Code Chapter 72, including but not limited to, the
18 payment of financial relocation assistance, shall apply to evictions under this Section
19 37.9(a)(14).

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

22 (c) A landlord shall not endeavor to recover possession of a rental unit unless at
23 least one of the grounds enumerated in Section 37.9(a) or (b) above is the landlord's
24 dominant motive for recovering possession and unless the landlord informs the tenant in
25 writing on or before the date upon which notice to vacate is given of the grounds under which

1 possession is sought and that advice regarding the notice to vacate is available from the
2 Residential Rent Stabilization and Arbitration Board, before endeavoring to recover
3 possession. A copy of all notices to vacate except three-day notices to vacate or pay rent and
4 a copy of any additional written documents informing the tenant of the grounds under which
5 possession is sought shall be filed with the Board within 10 days following service of the
6 notice to vacate. The District Attorney shall determine whether the units set forth on the list
7 compiled in accordance with Section 37.6(k) are still being occupied by the tenant who
8 succeeded the tenant upon whom the notice was served. In cases where the District Attorney
9 determines that Section 37.9(a)(8) has been violated, the District Attorney shall take whatever
10 action he deems appropriate under this Chapter or under State law.

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

18 (e) It shall be unlawful for a landlord or any other person who wilfully assists the
19 landlord to endeavor to recover possession or to evict a tenant except as provided in Section
20 37.9(a) and (b). Any person endeavoring to recover possession of a rental unit from a tenant
21 or evicting a tenant in a manner not provided for in Section 37.9(a) or (b) without having a
22 substantial basis in fact for the eviction as provided for in Section 37.9(a) shall be guilty of a
23 misdemeanor and shall be subject, upon conviction, to the fines and penalties set forth in
24 Section 37.10A. Any waiver by a tenant of rights under this Chapter except as provided in
25 Section 37.10A(g), shall be void as contrary to public policy.

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

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

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

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

22 (1) A landlord may not recover possession of a unit from a tenant under Section
23 37.9(a)(8) if the landlord has or receives notice, any time before recovery of possession, that
24 any tenant in the rental unit:

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

1 more; or

2 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been residing
3 in the unit for 10 years or more, or is catastrophically ill within the meaning of Section
4 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

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

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

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

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

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

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

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

1 Section 3. It is the intent of the Board of Supervisors that the provisions (as modified
2 from time to time) of Residential Rent Stabilization and Arbitration Board Rules and
3 Regulations Section 6.15A and 6.15B regarding consent procedures in subletting also
4 substantially apply to this legislation, and that the Rent Board amend its Rules and
5 Regulations as necessary to so provide.

6

7 APPROVED AS TO FORM:
8 DENNIS J. HERRERA, City Attorney

9 By: MARIE CORLETT BLITS
10 Deputy City Attorney

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25