

BOARD of SUPERVISORS



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## MEMORANDUM

### LAND USE & ECONOMIC DEVELOPMENT COMMITTEE

#### SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Sophie Maxwell, Chair  
Land Use & Economic Development Committee

FROM: Alisa Somera, Committee Clerk

DATE: December 7, 2009

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, December 8, 2009

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, December 8, 2009. This item was acted upon at the Committee Meeting on December 7, 2009 at 1:00 p.m., by the vote indicated.

**Item No. 40**                      **File No. 090583**

Ordinance amending Administrative Code Chapter 37 "Residential Rent Stabilization and Arbitration Ordinance:" by amending Sections 37.2 and 37.3 to extend just cause eviction requirements and protections to tenants in units that are not now subject to eviction controls (e.g., most residential rental units with a certificate of occupancy issued after June 13, 1979); by amending Section 37.9 to provide that 37.9(a)(8)(vi) limitations on owner move-in evictions do not apply to these newly protected units (new Section 37.9(a)(8)(viii)); by amending Section 37.9 to add a 16th just cause for eviction, to provide for eviction from a condominium unit with separable title that was rented by the developer for a limited time period prior to sale of the unit, where the developer has given specified advance notice to the renters (new Section 37.9(a)(16)); and by amending Chapter 37A "Rent Stabilization and Arbitration Fee" by amending Section 37A.1 to extend the City's current residential rental unit fee to these units; findings in support of the legislation; severability clause; technical corrections.

Amendment of the Whole, Bearing the Same Title.  
**RECOMMENDED AS AMENDED AS A COMMITTEE REPORT**

Vote: Supervisor Maxwell - Aye  
Supervisor Eric Mar - Aye  
Supervisor Chiu - Aye

cc: Angela Calvillo, Clerk of the Board  
Cheryl Adams, Deputy City Attorney  
Board of Supervisors



1 [Just cause eviction protections for residential tenants, extend to non-rent controlled units.]

2  
3 **Ordinance amending Administrative Code Chapter 37 "Residential Rent Stabilization**  
4 **and Arbitration Ordinance:" by amending Sections 37.2 and 37. 3 to extend just cause**  
5 **eviction requirements and protections to tenants in units that are not now subject to**  
6 **eviction controls (e.g., most residential rental units with a certificate of occupancy**  
7 **issued after June 13, 1979); by amending Section 37.9 to provide that 37.9(a)(8)(vi)**  
8 **limitations on owner move-in evictions do not apply to these newly protected units**  
9 **(new Section 37.9(a)(8)(viii)); by amending Section 37.9 to add a 16th just cause for**  
10 **eviction, to provide for eviction from a condominium unit with separable title that was**  
11 **rented by the developer for a limited time period prior to sale of the unit, where the**  
12 **developer has given specified advance notice to the renters (new Section 37.9(a)(16));**  
13 **and by amending Chapter 37A "Rent Stabilization and Arbitration Fee" by amending**  
14 **Section 37A.1 to extend the City's current residential rental unit fee to these units;**  
15 **findings in support of the legislation; severability clause; technical corrections.**

16 NOTE: Additions are *single-underline italics Times New Roman font*;  
17 deletions are *strike-through italics Times New Roman font*.  
18 Board amendment additions are double-underlined Arial font;  
Board amendment deletions are ~~strikethrough Arial font~~.

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

20  
21 Section 1. The San Francisco Administrative Code is hereby amended by amending  
22 Section 37.2 to delete Sections 37.2(r)(5), (6), and (7), to read as follows:

23 SEC. 37.2. DEFINITIONS.

24 (a) Base Rent.

25 (1) That rent which is charged a tenant upon initial occupancy plus any rent increase

1 allowable and imposed under this Chapter; provided, however, that base rent shall not include  
2 increases imposed pursuant to Section 37.7, and base rent shall not include utility  
3 passthroughs or water revenue bond passthroughs or general obligation bond passthroughs  
4 pursuant to Sections 37.2(q), 37.3(a)(5)(B), and 37.3(a)(6). Base rent for tenants of RAP  
5 rental units in areas designated on or after July 1, 1977, shall be that rent which was  
6 established pursuant to Section 32.73-1 of the San Francisco Administrative Code. Rent  
7 increases attributable to the City Administrator's amortization of an RAP loan in an area  
8 designated on or after July 1, 1977, shall not be included in the base rent.

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

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

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

22 (ii) For any tenant receiving tenant-based rental assistance (except where the rent  
23 payable by the tenant is a fixed percentage of the tenant's income, such as in the Section 8  
24 certificate program and the rental subsidy program for the HOPWA program), and  
25 commencing occupancy of a rental unit following the effective date of this ordinance, the base

1 rent for each unit occupied by such a tenant shall be the HAP contract rent in effect as of the  
2 date the tenant commences occupancy of such unit.

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

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

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

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

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

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

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

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

6 (f.1) Reserved.

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

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

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

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

22 (k) Payment Standard. An amount determined by the San Francisco Housing  
23 Authority that is used to determine the amount of assistance paid by the San Francisco  
24 Housing Authority on behalf of a tenant under the Section 8 Voucher Program (24 CFR Part  
25 887).

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

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

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

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

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

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

1 obligation bond approved by the voters after November 1, 2006, the landlord's passing  
2 through to the tenant of such increased costs in accordance with this Chapter (see Section  
3 37.3(a)(6)) does not constitute a rent increase; and, (4) where water bill charges are  
4 attributable to water rate increases resulting from issuance of water revenue bonds authorized  
5 at the November 5, 2002 election, the landlord's passing through to the tenant of such  
6 increased costs in accordance with this Chapter (see Section 37.3(a)(5)(B)) does not  
7 constitute a rent increase.

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

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

19 The term "rental units" shall not include:

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



1 to be an action to recover possession in order to avoid having a unit come within the  
2 provisions of this Chapter;

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

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

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

21 (A) For purposes of Sections 37.2, 37.3(a)(10)(A), 37.4, 37.5, 37.6, 37.9, 37.9A,  
22 37.10A, 37.11A and 37.13, and the arbitration provisions of Sections 37.8 and 37.8A  
23 applicable only to the provisions of Sections 37.3(a)(10)(A), the term "rental units" shall  
24 include units occupied by recipients of tenant-based rental assistance where the tenant-based  
25 rental assistance program does not establish the tenant's share of base rent as a fixed

1 percentage of a tenant's income, such as in the Section 8 voucher program and the "Over-  
2 FMR Tenancy" program defined in 24 CFR Section 982.4;

3 (B) For purposes of Sections 37.2, 37.3(a)(10)(B), 37.4, 37.5, 37.6, 37.9, 37.9A,  
4 37.10A, 37.11A and 37.13, the term "rental units" shall include units occupied by recipients of  
5 tenant-based rental assistance where the rent payable by the tenant under the tenant-based  
6 rental assistance program is a fixed percentage of the tenant's income; such as in the Section  
7 8 certificate program and the rental subsidy program for the Housing Opportunities for  
8 Persons with Aids ("HOPWA") program (42 U.S.C. Section 12901 et seq., as amended);

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

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

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

19 Nothing in this Section 37.2(r)(4)(C) precludes a landlord from seeking an exemption  
20 from rent regulation on the basis of substantial rehabilitation, under Sections ~~37.2(r)(6)~~ 37.3(e)  
21 and (f).

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

1 final judgment against the tenant for possession of the unit as of the effective date of this  
2 ordinance (Ord. No. 281-06).

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

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 this~~  
9 ~~exemption.~~

10 ~~(7) Dwellings or units otherwise subject to this Chapter 37, to the extent such dwellings or~~  
11 ~~units are partially or wholly exempted from rent increase limitations by the Costa Hawkins Rental~~  
12 ~~Housing Act (California Civil Code Sections 1954.50, et seq.) and/or San Francisco Administrative~~  
13 ~~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  
25 or directly to a landlord on behalf of a particular tenant, which includes but shall not be limited

1 to 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

6 Section 2. The San Francisco Administrative Code is hereby amended by amending  
7 Section 37.3 to add new Sections 37.3(e), (f), (g) and (h), and renumber current Section  
8 37.3(e) as 37.3(~~f~~)(i), to read as follows:

9 SEC. 37.3. RENT LIMITATIONS.

10 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose rent  
11 increases upon tenants in occupancy only as provided below and as provided by Subsection  
12 37.3(d):

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

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

24 (3) Capital Improvements, Rehabilitation, and Energy Conservation Improvements,  
25 and Renewable Energy Improvements. A landlord may impose rent increases based upon the

1 cost of capital improvements, rehabilitation, energy conservation improvements, or renewable  
2 energy improvements, provided that such costs are certified pursuant to Sections 37.7 and  
3 37.8B below; provided further that where a landlord has performed seismic strengthening in  
4 accordance with Building Code Chapters 16B and 16C, no increase for capital improvements  
5 (including but not limited to seismic strengthening) shall exceed, in any 12 month period, 10  
6 percent of the tenant's base rent, subject to rules adopted by the Board to prevent landlord  
7 hardship and to permit landlords to continue to maintain their buildings in a decent, safe and  
8 sanitary condition. A landlord may accumulate any certified increase which exceeds this  
9 amount and impose the increase in subsequent years, subject to the 10 percent limitation.  
10 Nothing in this subsection shall be construed to supersede any Board rules or regulations with  
11 respect to limitations on increases based upon capital improvements whether performed  
12 separately or in conjunction with seismic strengthening improvements pursuant to Building  
13 Code Chapters 16B and 16C.

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

16 (5) Water: Charges Related to Excess Water Use, and 50% Passthrough of Water Bill  
17 Charges Attributable to Water Rate Increases Resulting From Issuance of Water System  
18 Improvement Revenue Bonds Authorized at the November 2002 Election.

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

23 (i) The landlord provides tenants with written certification that the following have been  
24 installed in all units: (1) permanently installed retrofit devices designed to reduce the amount  
25 of water used per flush or low-flow toilets (1.6 gallons per flush); (2) low-flow showerheads

1 which allow a flow of no more than 2.5 gallons per minute; and (3) faucet aerators (where  
2 installation on current faucets is physically feasible); and

3 (ii) The landlord provides the tenants with written certification that no known plumbing  
4 leaks currently exist in the building and that any leaks reported by tenants in the future will be  
5 promptly repaired; and

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

20 (B) Fifty Percent (50%) Passthrough of Water Bill Charges Attributable to Water  
21 Increases Resulting From Issuance of Water System Improvement Revenue Bonds  
22 Authorized at the November 2002 Election. A landlord may pass through fifty percent (50%) of  
23 the water bill charges attributable to water rate increases resulting from issuance of Water  
24 System Improvement Revenue Bonds authorized at the November 2002 election (Proposition  
25 A), to any unit that is in compliance with any applicable laws requiring water conservation

1 devices. The landlord is not required to file a petition with the Board for approval of such a  
2 cost passthrough. Such cost passthroughs are subject to the following:

3 (i) Affected tenants shall be given notice of any such passthrough as provided by  
4 applicable notice of rent increase provisions of this Chapter 37, including but not limited to  
5 Section 37.3(b)(3).

6 (ii) A tenant may file a hardship application with the Board, and be granted relief from  
7 all or part of such a cost passthrough.

8 (iii) If a tenant's hardship application is granted, the tenant's landlord may utilize any  
9 available Public Utilities Commission low-income rate discount program or similar program for  
10 water bill reduction, based on that tenant's hardship status.

11 (iv) A landlord shall not impose a passthrough pursuant to Section 37.3(a)(5)(B) 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 water bill  
14 charges attributable to water rate increases resulting from issuance of any water revenue  
15 bonds authorized at the November 5, 2002 election was included in the comparison year cost  
16 totals.

17 (v) Where a tenant alleges that a landlord has imposed a water revenue bond  
18 passthrough that is not in compliance with Section 37.3(a)(5)(B), the tenant may petition for a  
19 hearing under the procedures provided by Section 37.8. In such a hearing the landlord shall  
20 have the burden of proving the accuracy of the calculation that is the basis for the increase.  
21 Any tenant petition challenging such a passthrough must be filed within one year of the  
22 effective date of the passthrough.

23 (vi) A tenant who has received a notice of passthrough or a passthrough under this  
24 Section 37.3(a)(5)(B) shall be entitled to receive a copy of the applicable water bill from the  
25 landlord upon request.

1 (vii) The amount of permissible passthrough per unit under this Section 37.3(a)(5)(B)  
2 shall be determined as follows:

3 (1) The San Francisco Public Utilities Commission will determine the charge per unit  
4 of water, if any, that is attributable to water rate increases resulting from issuance of water  
5 system improvement revenue bonds authorized at the November 5, 2002 election.

6 (2) The charge identified in Section 37.3(a)(5)(B)(vii)(1) shall be multiplied by the total  
7 units of water used by each customer, for each water bill. The result is the total dollar amount  
8 of the water bill that is attributable to water rate increases resulting from issuance of water  
9 system improvement revenue bonds authorized at the November 5, 2002 election. That  
10 charge shall be a separate line item on each customer's water bill.

11 (3) The dollar amount calculated under Section 37.3(a)(5)(B)(vii)(2) shall be divided  
12 by two (since a 50% passthrough is permitted), and then divided by the total number of units  
13 covered by the water bill, including commercial units. The resulting dollar figure shall be  
14 divided by the number of months covered by the water bill cycle (most are two-month bill  
15 cycles), to determine the amount of that water bill that may be passed through to each  
16 residential unit for each month covered by that bill.

17 (4) These passthroughs may be imposed on a monthly basis. These passthroughs  
18 shall not become part of a tenant's base rent. The amount of each passthrough may vary from  
19 month to month, depending on the amount calculated under Sections 37.3(a)(5)(B)(vii)(1)  
20 through (3).

21 (viii) The Board may amend its rules and regulations as necessary to implement this  
22 Section 37.3(a)(5)(B).

23 (6) Property Tax. A landlord may impose increases based upon a 100% passthrough  
24 of the change in the landlord's property tax resulting from the repayment of general obligation  
25 bonds of the City and County of San Francisco approved by the voters between November 1,



1 1996, and November 30, 1998 as provided in Section 37.2(q) above.

2 A landlord may impose increases based upon a 50% passthrough of the change in the  
3 landlord's property tax resulting from the repayment of San Francisco Unified School District  
4 or San Francisco Community College District general obligation bonds approved by the voters  
5 after November 1, 2006, as provided in Section 37.2(q) above.

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

7 (A) For general obligation bonds of the City and County of San Francisco approved by  
8 the voters between November 1, 1996 and November 30, 1998:

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

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

17 (iii) The dollar amount calculated under Subsection (ii) shall be divided by the total  
18 number of all units in each property, including commercial units. That figure shall be divided  
19 by 12 months, to determine the monthly per unit costs for that tax year of the repayment of  
20 general obligation bonds approved by the voters between November 1, 1996, and November  
21 30, 1998.

22 (B) For general obligation bonds of the City and County of San Francisco approved by  
23 the voters after November 14, 2002 where any rent increase has been disclosed and  
24 approved by the voters:

25 (i) The Controller and the Board of Supervisors will determine the percentage of the

1 property tax rate, if any, in each tax year attributable to general obligation bonds approved by  
2 the voters after November 14, 2002 and repayable within such tax year.

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

7 (iii) The dollar amount calculated under Subsection (ii) shall be divided by two, and  
8 then by the total number of all units in each property, including commercial units. That figure  
9 shall be divided by 12 months, to determine the monthly per unit costs for that tax year of the  
10 repayment of general obligation bonds approved by the voters after November 14, 2002.

11 (C) For general obligation bonds of the San Francisco Unified School District or San  
12 Francisco Community College District approved by the voters after November 1, 2006:

13 (i) The Controller and the Board of Supervisors will determine the percentage of the  
14 property tax rate, if any, in each tax year attributable to San Francisco Unified School District  
15 or San Francisco Community College District general obligation bonds approved by the voters  
16 after November 1, 2006 and repayable within such tax year.

17 (ii) This percentage shall be multiplied by the total amount of the net taxable value for  
18 the applicable tax year. The result is the dollar amount of property taxes for that tax year for a  
19 particular property attributable to the repayment of San Francisco Unified School District or  
20 San Francisco Community College District general obligation bonds approved by the voters  
21 after November 1, 2006.

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

1 District general obligation bonds approved by the voters after November 1, 2006.

2 (D) Landlords may pass through to each unit in a particular property the dollar amount  
3 calculated under these Subsections 37.3(a)(6)(A) and (B) and (C). 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) and (C). Each annual passthrough  
8 shall 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 (E) The Board will have available a form which explains how to calculate the  
17 passthrough.

18 (F) 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 (E). This completed form shall be provided in addition to the Notice of  
21 Rent Increase required under Section 37.3(b)(5). Where a tenant alleges that a landlord has  
22 imposed a charge which exceeds the limitations set forth in this Subsection (6), the tenant  
23 may petition for a hearing under the procedures provided by Section 37.8. In such a hearing,  
24 the landlord shall have the burden of proving the accuracy of the calculation that is the basis  
25 for the increase. Any tenant petitions challenging such a passthrough must be filed within one

1 year of the effective date of the passthrough.

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

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

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

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

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

1 10 percent limit.

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

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

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

9 (ii) If the base rent is less than the payment standard, the rent increase limitations of  
10 this Chapter shall not apply; provided, however, that any rent increase which would result in  
11 the base rent being equal to or greater than the payment standard shall not result in a new  
12 base rent that exceeds the payment standard plus the increase allowable under Section  
13 37.3(a)(1).

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

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

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

24 (2) Which portion of the rent increase reflects costs for increased operating and  
25 maintenance expenses, rents for comparable units, and/or capital improvements,

1 rehabilitation, energy conservation measures improvements, or renewable energy  
2 improvements certified pursuant to Section 37.7. Any rent increase certified due to increases  
3 in operating and maintenance costs shall not exceed seven percent;

4 (3) Which portion of the rent increase reflects the passthrough of charges for: gas and  
5 electricity; or the passthrough of increased water bill charges attributable to water rate  
6 increases resulting from issuance of water revenue bonds authorized at the November 2002  
7 election as provided by Section 37.3(a)(5)(B), which charges and calculations of charges shall  
8 be explained in writing on a form provided by the Board; or the passthrough of general  
9 obligation bond measure costs as provided by Section 37.3(a)(6), which charges shall be  
10 explained in writing on a form provided by the Board as described in Section 37.3(a)(6)(E);

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

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

15 (6) With respect to rental units occupied by recipients of tenant-based rental  
16 assistance, the notice requirements of this Subsection (b) shall be required in addition to any  
17 notice required as part of the tenant-based rental assistance program.

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

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

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

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

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

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

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

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

24 (2) Conditions for Establishing the Initial Rental Rate Upon Sublet or Assignment.  
25 Except as identified in this Subsection 37.3(d)(2), nothing in this Subsection or any other

1 provision of law of the City and County of San Francisco shall be construed to preclude  
2 express establishment in a lease or rental agreement of the rental rates to be applicable in the  
3 event the rental unit subject thereto is sublet, and nothing in this Subsection shall be  
4 construed to impair the obligations of contracts entered into prior to January 1, 1996, subject  
5 to the following:

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

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

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

16 (iii) The cited violation had not been abated when the prior tenant vacated and had  
17 remained unabated for 60 days or for a longer period of time. However, the 60-day time  
18 period may be extended by the appropriate governmental agency that issued the citation.

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



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

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

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

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

16 (C) The rental rate for any new tenancy established during the three-year period in  
17 that vacated dwelling or unit shall be at the same rate as the rent under the terminated or  
18 nonrenewed contract or recorded agreement, plus any increases authorized under this  
19 Chapter 37 after the date of termination/non renewal.

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

1           (4) Subsections 37.3(d) and (e) does not affect the authority of the City and County of  
2 San Francisco to regulate or monitor the basis or grounds for eviction.

3           (5) This Subsections 37.3(d), (e), (f) and (g) is are intended to be and shall be  
4 construed to be consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections  
5 1954.50. et seq.).

6           (e) An owner of residential real property may establish the initial and all subsequent rental  
7 rates for a dwelling or a unit located in a structure for which a certificate of occupancy was first issued  
8 after the effective date of Ordinance 276-79 (June 13, 1979), except:

9           (A-1) Where rent restrictions are provided for certain categories of units and dwellings by  
10 Section 37.3(d) of this Chapter (e.g., Section 37.3(d)(1)(A) last sentence, (d)(1)(B)(i), (d)(1)(C),  
11 (d)(2)(A)(i) – (iii), and (d)(3)), consistent with the Costa-Hawkins Rental Housing Act (California  
12 Civil Code Sections 1954.50, et seq.);

13           (B-2) Where rent restrictions are provided by Section 37.9A(b) of this Chapter, consistent  
14 with the Ellis Act (California Government Code Sections 7060, et seq.); and,

15           (C-3) As provided in a development agreement entered into by the City under San Francisco  
16 Administrative Code Chapter 56.

17           (f) An owner of residential real property may establish the initial and all subsequent  
18 rental rates for dwelling units in a building which has undergone substantial rehabilitation after  
19 the effective date of Ordinance 276-79 (June 13, 1979); provided, however, that RAP rental  
20 units are not subject to this exemption from the rent increase limitations of Chapter 37.

21           (g) An owner of residential real property may establish the initial and all subsequent  
22 rental rates for residential dwellings or units otherwise subject to Chapter 37 that are  
23 exempted from the rent increase limitations of Chapter 37 by the Costa-Hawkins Rental  
24 Housing Act (California Civil Code Sections 1954.50, et seq.).

25           (h) Subsections 37.3(e), (f) and (g) do not affect the authority of the City and County of

1 San Francisco to regulate or monitor the basis or grounds for eviction.

2 ~~(e)(f)(i)~~ Effect of Deferred Maintenance on Passthroughs for Lead Remediation  
3 Techniques.

4 (1) When lead hazards are remediated or abated pursuant to San Francisco Health  
5 Code Articles 11 or 26, are violations of State or local housing health and safety laws, there  
6 shall be a rebuttable presumption that the lead hazards are caused or created by deferred  
7 maintenance as defined herein of the current or previous landlord. If the landlord fails to rebut  
8 the presumption, the costs of such work shall not be passed through to tenants as either a  
9 capital improvement or an operating and maintenance expense. If the landlord rebuts the  
10 presumption, he or she shall be entitled to a rent increase if otherwise justified by the  
11 standards set forth in this Chapter.

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

20  
21  
22 Section 3. The San Francisco Administrative Code is hereby amended by amending  
23 Section 37A.1, to read as follows:

24 SEC. 37A.1. SCOPE.

25 This Chapter is applicable to all residential units in the City and County of San

1 Francisco, including residential units which are exempt from the rent increase limitation  
2 provisions (but not other provisions) of Chapter 37 pursuant to the Costa-Hawkins Rental  
3 Housing Act (Civil Code §§ 1954.50. et seq.) and/or San Francisco Administrative Code  
4 Section 37.3(d), and/or Sections 37.3(e), (f) or (g). For purposes of this Chapter, "residential  
5 units" are dwelling units and guest rooms as those terms are defined in Sections 400 and 401  
6 of the San Francisco Housing Code. The term shall not include:

7 (a) Guest rooms exempted or excluded from regulation under Chapter 41 of this  
8 Code;

9 (b) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a  
10 majority of the residents or dwelling units solely owned by a nonprofit public benefit  
11 corporation governed by a board of directors the majority of which are residents of the  
12 dwelling units and where it is required in the corporate by-laws that rent increases be  
13 approved by a majority of the residents;

14 (c) Housing accommodations in any hospital, convent, monastery, extended care  
15 facility, asylum, residential care or adult day health care facility for the elderly which must be  
16 operated pursuant to a license issued by the California Department of Social Services, as  
17 required by California Health and Safety Chapters 3.2 and 3.3, or in dormitories owned and  
18 operated by an institution of higher education, a high school, or an elementary school;

19 (d) Dwelling units whose rents are controlled or regulated by any government unit,  
20 agency or authority, excepting those units which are subject to the jurisdiction of the  
21 Residential Rent Stabilization and Arbitration Board. However, Section 8 certificate, voucher  
22 and related programs administered by the San Francisco Housing Authority, which are subject  
23 in whole or part to the jurisdiction of the Residential Rent Stabilization and Arbitration Board  
24 shall remain exempt from the fee;

25 (e) Any dwelling unit for which the owner has on file with the Assessor a current

1 homeowner's exemption;

2 (f) Any dwelling unit which is occupied by an owner of record on either a full-time or  
3 part-time basis and which is not rented at any time, provided that the owner file with the Tax  
4 Collector an affidavit so stating;

5 ~~(g) Dwelling units located in a structure for which a certificate of final completion and~~  
6 ~~occupancy was first issued by the Bureau of Building Inspection after June 13, 1979, except that any~~  
7 ~~such units shall be subject to this Chapter 37A if so designated in a development agreement entered~~  
8 ~~into by the City under Chapter 56 of the San Francisco Administrative Code;~~

9 ~~(h) Dwelling units in a building which, after June 13, 1979, has undergone substantial~~  
10 ~~rehabilitation as that term is defined in Chapter 37 of this Code.~~

11  
12  
13 Section 4. The San Francisco Administrative Code is hereby amended by amending  
14 Section 37.9 to add 37.9(a)(8)(viii), and to add Section 37.9(a)(16), as follows:

15 SEC. 37.9. EVICTIONS.

16 Notwithstanding Section 37.3, this Section shall apply as of August 24, 1980, to all  
17 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 or  
21 written agreement between the tenant and landlord:

22 (i) Except that a tenant's nonpayment of a charge prohibited by Section 919.1 of the  
23 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, a  
25 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 improvements costs; or

5 (B) Habitually pays the rent late; or

6 (C) Gives checks which are frequently returned because there are insufficient funds in  
7 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.

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

19 (B) Provided further that where a rental agreement or lease provision limits the number  
20 of occupants or limits or prohibits subletting or assignment, a landlord shall not endeavor to  
21 recover possession of a rental unit as a result of the addition to the unit of a tenant's child,  
22 parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as  
23 defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as a result of  
24 the addition of the spouse or domestic partner of a tenant, so long as the maximum number of  
25 occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not exceeded, if the landlord has

1 unreasonably refused a written request by the tenant to add such occupant(s) to the unit. If  
2 the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the  
3 tenant's written request, the tenant's request shall be deemed approved by the landlord. A  
4 landlord's reasonable refusal of the tenant's written request may not be based on the  
5 proposed additional occupant's lack of creditworthiness, if that person will not be legally  
6 obligated to pay some or all of the rent to the landlord. A landlord's reasonable refusal of the  
7 tenant's written request may be based on, but is not limited to, the ground that the total  
8 number of occupants in a unit exceeds (or with the proposed additional occupant(s) would  
9 exceed) the lesser of (i) or (ii):

10 (i) Two persons in a studio unit, three persons in a one-bedroom unit, four persons in a  
11 two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-bedroom  
12 unit; or

13 (ii) The maximum number permitted in the unit under state law and/or other local codes  
14 such as the Building, Fire, Housing and Planning Codes; 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 (3.1) Eviction Protection for Victims of Domestic Violence or Sexual Assault or Stalking:

21 (A) It shall be a defense to an action for possession of a unit under Subsection  
22 37.9(a)(3) if the court determines that:

23 (i) The tenant or the tenant's household member is a victim of an act or acts that  
24 constitute domestic violence or sexual assault or stalking; and

25 (ii) The notice to vacate is substantially based upon the act or acts constituting

1 domestic violence or sexual assault or stalking against the tenant or a tenant's household  
2 member, including but not limited to an action for possession based on complaints of noise,  
3 disturbances, or repeated presence of police.

4 (B) Evidence Required. In making the determination under Section 37.9(a)(3.1)(A) the  
5 court shall consider evidence, which may include but is not limited to:

6 (i) A copy of a temporary restraining order or emergency protective order issued  
7 pursuant to Part 3 (commencing with Section 6240) or Part 4 (commencing with Section 6300)  
8 or Part 5 (commencing with Section 6400) of the Family Code, Section 136.2 of the Penal  
9 Code, Section 527.6 of the Code of Civil Procedure, or Section 213.5 of the Welfare and  
10 Institutions Code, that protects the tenant or tenant's household member from further  
11 domestic violence, sexual assault, or stalking. And/or.

12 (ii) A copy of a written report by a peace officer employed by a state or local law  
13 enforcement agency acting in his or her official capacity, stating that the tenant or tenant's  
14 household member has filed a report alleging that he or she is a victim of domestic violence,  
15 sexual assault, or stalking. And/or.

16 (iii) Other written documentation from a qualified third party of the acts constituting  
17 domestic violence or sexual assault or stalking.

18 (C) Mutual Allegations of Abuse Between Parties. If two or more co-tenants are parties  
19 seeking relief under Subsection 37.9(a)(3.1)(A), and each alleges that he or she was a victim  
20 of domestic violence or sexual assault or stalking perpetrated by another co-tenant who is  
21 also a party, the court may determine whether a tenant acted as the dominant aggressor in  
22 the acts constituting a domestic violence or sexual assault or stalking offense. In making the  
23 determination, the court shall consider the factors listed in Section 13701(b)(1) of the Penal  
24 Code. A tenant who the court determines was the dominant aggressor in the acts constituting  
25 a domestic violence or sexual assault or stalking offense is not entitled to relief under



1 Subsection 37.9(a)(3.1)(A).

2 (D) Limitations on Relief. Unless the tenant or the tenant's household member has  
3 obtained a protective order against the alleged abuser to vacate or stay from the unit as a  
4 result of acts constituting domestic violence or sexual assault or stalking against the tenant or  
5 tenant's household member, the tenant may not obtain relief under Subsection 37.9(a)(3.1) if:

6 (i) The tenant was granted relief under Subsection 37.9(a)(3.1) in an action for  
7 possession of the unit within the previous five years; and

8 (ii) A subsequent action for possession of the unit has now been filed; and

9 (iii) The notice to vacate in this subsequent action for possession is substantially based  
10 upon continuing acts constituting domestic violence or sexual assault or stalking by the same  
11 person alleged to be the abuser in the previous action for possession.

12 (E) Nothing in this Subsection 37.9(a)(3.1) shall be construed to affect the tenant's  
13 liability for delinquent rent or other sums owed to the landlord, or the landlord's remedies in  
14 recovering against the tenant for such sums.

15 (F) The provisions of Subsection 37.9(a)(3.1) are intended for use consistent with Civil  
16 Code Section 1946.7.

17 (3.2) Confidentiality of Information Received from Victims of Domestic Violence or  
18 Sexual Assault or Stalking. A landlord shall retain in strictest confidence all information that is  
19 received in confidence from a tenant or a tenant's household member who is a victim of  
20 domestic violence or sexual assault or stalking, regarding that domestic violence or sexual  
21 assault or stalking, except to the extent that such disclosure (A) is necessary to provide for a  
22 reasonable accommodation for the victim, or (B) is otherwise required pursuant to applicable  
23 federal, state or local law. The victim may authorize limited or general release of any  
24 information otherwise deemed confidential under this Subsection 37.9(a)(3.2); or

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

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

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

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

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

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

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

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

1 least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who become  
2 owners of record of the rental unit after February 21, 1991, the term "landlord" shall be  
3 defined as an owner of record of at least 25 percent interest in the property or, for Section  
4 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco  
5 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at  
6 least 25 percent.

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

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

24 (vi) Once a landlord has successfully recovered possession of a rental unit pursuant to  
25 Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of any

1 other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this Section  
2 that only one specific unit per building may be used for such occupancy under Section  
3 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under  
4 Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with  
5 the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that  
6 disability or other similar hardship prevents him or her from occupying a unit which was  
7 previously occupied by the landlord.

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

12 (viii) If a unit is exempt from Chapter 37 limits on rent increases pursuant to Section  
13 37.3(e), (f) or (g), then a landlord may seek to recover possession of the unit without regard to  
14 the limitations provided in Section 37.9(a)(8)(vi). Or,

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

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

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

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

1 expenses as provided in Section 37.9C; or

2 (13) The landlord wishes to withdraw from rent or lease all rental units within any  
3 detached physical structure and, in addition, in the case of any detached physical structure  
4 containing three or fewer rental units, any other rental units on the same lot, and complies in  
5 full with Section 37.9A with respect to each such unit; provided, however, that guestrooms or  
6 efficiency units within a residential hotel, as defined in Section 50519 of the Health and Safety  
7 Code, may not be withdrawn from rent or lease if the residential hotel has a permit of  
8 occupancy issued prior to January 1, 1990, and if the residential hotel did not send a notice of  
9 intent to withdraw the units from rent or lease (Administrative Code Section 37.9A(f),  
10 Government Code Section 7060.4(a)) that was delivered to the Rent Board prior to January 1,  
11 2004; or

12 (14) The landlord seeks in good faith to temporarily recover possession of the unit  
13 solely for the purpose of effecting lead remediation or abatement work, as required by San  
14 Francisco Health Code Articles 11 or 26. The tenant will vacate the unit only for the minimum  
15 time required to do the work. The relocation rights and remedies, established by San  
16 Francisco Administrative Code Chapter 72, including but not limited to, the payment of  
17 financial relocation assistance, shall apply to evictions under this Section 37.9(a)(14).

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

22 (16) The landlord intends, in good faith, with honest intent, and without ulterior motives  
23 to sell the unit, and all of the following are true:

24 (A) The unit has not been sold or that title of the unit has not otherwise been  
25 transferred by the developer to a third party member of the public, excluding transfer of title to

1 spouse, domestic partner as defined in San Francisco Administrative Code Chapter 62.1 -  
2 62.8, pursuant to a court order, or a successor legal entity with the formation partners or  
3 incorporators as the initial legal entity that developed the building, prior to issuance of the  
4 certificate of occupancy. This provision may only be utilized once to vacate any unit it would  
5 apply to.

6 (B) The units to the building are condominiums and that title to the unit may be  
7 separable from the title to any other unit.

8 (C) Written notice was given to the tenant that the unit was built with intent to sell and  
9 that the rental is intended to be of limited duration. This notice shall state that the landlord  
10 may evict the tenant based on the grounds stated in section 37.9(a)(16), and shall include a  
11 copy of Section 37.9(a)(16)

12 Such notice shall be given to any prospective tenant before a rental agreement is  
13 finalized. For units rented prior to the effective date of this ordinance, such notice to the  
14 tenants shall be given within 90 days of the effective date of this ordinance.

15 (D) At the landlord's option, either:

16 (i) No fewer than ninety days prior to serving a notice to vacate based on the grounds  
17 stated in Section 37.9(a)(16), the landlord notified the tenant of their intent to sell the unit and  
18 of the date the tenant will be required to vacate the premises; or

19 (ii) The landlord pays relocation benefits as provided in Section 37.9C.

20 (E) If the unit is not actually sold after the landlord serves the notice required by  
21 Section 37.9(a)(16)(F-D) and if the unit is no longer listed for sale, the landlord shall offer the  
22 tenant the option to re-rent. All other remedies concerning the landlord-tenant relationship  
23 shall apply.

24 (F) The unit is exempt from limits on rent increases pursuant to section 37.3(e).

25 (G) For owners with 10 or more units per building, multiple units must be vacated at

1 one time In buildings with ten (10) or more units, if Section 37.9(a)(16) is utilized, it shall be  
2 utilized to vacate at least two or more units at one time.

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

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

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



1 (e) It shall be unlawful for a landlord or any other person who wilfully assists the  
2 landlord to endeavor to recover possession or to evict a tenant except as provided in Section  
3 37.9(a) and (b). Any person endeavoring to recover possession of a rental unit from a tenant  
4 or evicting a tenant in a manner not provided for in Section 37.9(a) or (b) without having a  
5 substantial basis in fact for the eviction as provided for in Section 37.9(a) shall be guilty of a  
6 misdemeanor and shall be subject, upon conviction, to the fines and penalties set forth in  
7 Section 37.10A. Any waiver by a tenant of rights under this Chapter except as provided in  
8 Section 37.10A(g), shall be void as contrary to public policy.

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

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

24 (h) With respect to rental units occupied by recipients of tenant-based rental  
25 assistance, the notice requirements of this Section 37.9 shall be required in addition to any

1 notice required as part of the tenant-based rental assistance program, including but not limited  
2 to the notice required under 24 CFR Section 982.310(e)(2)(ii).

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

5 (1) A landlord may not recover possession of a unit from a tenant under Section  
6 37.9(a)(8) if the landlord has or receives notice, any time before recovery of possession, that  
7 any tenant in the rental unit:

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

10 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been residing in  
11 the unit for 10 years or more, or is catastrophically ill within the meaning of Section  
12 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

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

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

21 (2) The foregoing provisions of Sections 37.9(i)(1)(A) and (B) shall not apply where  
22 there is only one rental unit owned by the landlord in the building, or where each of the rental  
23 units owned by the landlord in the same building where the landlord resides (except the unit  
24 actually occupied by the landlord) is occupied by a tenant otherwise protected from eviction by  
25 Sections 37.9(i)(1)(A) or (B) and where the landlord's qualified relative who will move into the

1 unit pursuant to Section 37.9(a)(8) is 60 years of age or older.

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

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

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

25 (j) Disclosure of Rights to Tenants Before and After Sale of Rental Units Subject to

1 Section 37.9.

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

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

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

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

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

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

24 (F) A statement that information on these and other tenant's rights are available at the  
25 San Francisco Rent Board, 25 Van Ness Ave, San Francisco, California, and at the

1 counseling telephone number of the Rent Board and at its web site.

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

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

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

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

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

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

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1 Section 4-5. The Board of Supervisors hereby finds:

2 1. The City's Residential Rent Stabilization and Arbitration Ordinance (Administrative  
3 Code Chapter 37) applies to most residential rental units in a structure with a certificate of  
4 occupancy issued prior to June 13, 1979 and requires just cause for eviction from residential  
5 rental units subject to Chapter 37, in addition to providing rent controls on those units.  
6 Chapter 37 lists 15 permissible just causes for eviction. Just causes for eviction include non-  
7 payment of rent, maintenance of a nuisance, and owner move-in evictions. Change of  
8 ownership alone is not a just cause for eviction under Chapter 37, even when the change of  
9 ownership is due to foreclosure; so, residential renters in a foreclosed property that is subject  
10 to Chapter 37 are protected from eviction due to the foreclosure.

11 2. Testimony before the Board's Land Use Committee stated that approximately  
12 179,000 residential rental units built before June 1979 are currently covered by the just cause  
13 eviction protections of Chapter 37 (and most are also covered by the rent control provisions of  
14 Chapter 37). Other presentations before the Committee noted that that the number of units  
15 covered by Chapter 37 is diminishing over time, due to events such as demolitions,  
16 condominium conversions, and owner move-in evictions.

17 3. San Francisco residential rental units in structures that were built after June 1979  
18 are not currently subject to the Chapter 37 eviction protections (or to the rent control  
19 provisions). Testimony before the Board's Land Use Committee estimated that currently an  
20 estimated 16,200 – 23,000 residential rental units built after June 1979 are not covered by the  
21 Chapter 37 just cause eviction protections; and that new construction is currently planned for  
22 an estimated additional 7,000 – 10,000 residential rental units, which will not be covered by  
23 the eviction protections either.

24 4. Renters organizations, people from City organizations that counsel and assist  
25 tenants, and individual renters, told the Land Use Committee of evictions and threats of

1 evictions from the post-1979 units, where tenants are not now protected by the Chapter 37  
2 just cause eviction provisions.

3 4- 5. Evictions without just cause from these post-1979 residential rental units are a  
4 growing concern for the City and its residential tenants, due to all evictions without just cause,  
5 but particularly due to the increasing number of no-fault evictions following property  
6 foreclosures. Presentations at the Land Use Committee noted that eviction of tenants from  
7 foreclosed properties is a typical practice of lending institutions.

8 5- 6. According to information presented at the Land Use Committee hearing, the  
9 City's Assessor-Recorder identified 667 foreclosures in San Francisco in 2008, compared with  
10 81 in 2006 and 286 in 2007, which was a 723% increase in foreclosures over that time period.  
11 According to testimony, the Assessor-Recorder has estimated that renters occupy  
12 approximately one-quarter of all buildings that receive default notices, the first stage of  
13 foreclosure; and in the first two months of a program to notify renters of possible foreclosure  
14 (February and March 2009) the Assessor-Recorder's office sent out notices to 75 buildings.

15 6- 7. As a matter of fairness to all residential renters, just cause eviction protections  
16 should be extended to units with a certificate of occupancy first issued after June 13 1979.

17 8. This legislation is intended to extend the existing just cause eviction protections of  
18 Chapter 37 to residential rental units with a certificate of occupancy first issued after the  
19 effective date of Ordinance 276-79 (June 13, 1979), with certain limitations to those eviction  
20 protections as stated in the legislative provisions. This legislation is not intended to limit or  
21 expand or otherwise change the existing rent limitation provisions of Chapter 37.

22  
23  
24 Section 5- 6. Severability Clause.

25 If any provision of this Ordinance, or the application thereof to any person or

1 circumstance, is for any reason held to be invalid or unconstitutional by a decision of any court  
2 of competent jurisdiction, the validity of the remainder of those provisions, including the  
3 application of such provisions to persons or circumstances other than those to which it is held  
4 invalid, shall not be affected thereby and they shall continue in full force and effect. To this  
5 end, the provisions of this Ordinance are severable, and the Board of Supervisors hereby  
6 declares that it would have passed this Ordinance and each and every provision not declared  
7 invalid or unconstitutional without regard to whether any provision of this Ordinance or its  
8 application to any person or circumstance would be subsequently declared invalid or  
9 unconstitutional.

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11  
12  
13 APPROVED AS TO FORM:  
14 DENNIS J. HERRERA, City Attorney

15 By:   
16 MARIE CORLETT BLITS  
17 Deputy City Attorney