

1 [Administrative Code - Tenant Relocation Assistance Payment]

2

3 **Ordinance amending the Administrative Code to mitigate adverse impacts of tenant**
4 **evictions to provide that when residential units are withdrawn from the rental market**
5 **under the Ellis Act, each relocated tenant is entitled to the greater of the existing rent**
6 **relocation payment or the difference between the tenant's current rent and the**
7 **prevailing rent for a comparable apartment in San Francisco over a two year period;**
8 **and allowing a landlord, through a hearing process, to obtain a revised relocation**
9 **payment obligation based on an undue financial hardship adjustment or recalculated**
10 **rent differential amount.**

11 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
12 **Additions to Codes** are in *single-underline italics Times New Roman font*.
13 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
14 **Board amendment additions** are in double-underlined Arial font.
15 **Board amendment deletions** are in ~~strikethrough Arial font~~.
16 **Asterisks (* * * *)** indicate the omission of unchanged Code
17 subsections or parts of tables.

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

19

20 Section 1. The Administrative Code is hereby amended by revising Section 37.9A to
21 read as follows:

22

23 **SEC. 37.9A. TENANT RIGHTS IN CERTAIN DISPLACEMENTS UNDER SECTION**
24 **37.9(a)(13).**

25 This Section 37.9A applies to certain tenant displacements under Section
37.9(a)(13), as specified.

1 * * * *

2 **(e) Relocation Payments to Tenants.**

3 * * * *

4 **(3) On or After** ~~(Effective Date of Ordinance Amendments)~~ **February 20, 2005**. Where a
5 landlord seeks eviction based upon Section 37.9(a)(13), and the notice of intent to withdraw
6 rental units is filed with the Board on or after ~~(effective date of ordinance amendments)~~February 20,
7 2005, relocation payments shall be paid to the tenants as follows:

8 (A) Subject to Subsections 37.9(e)(3)(B)(C) and (D) below, each tenant shall be
9 entitled to receive \$4,500, one-half of which shall be paid at the time of the service of the
10 notice of termination of tenancy, and one-half of which shall be paid when the tenant vacates
11 the unit;

12 (B) In the event there are more than three tenants in a unit, the total relocation
13 payment shall be \$13,500.00, which shall be divided equally by the number of tenants in the
14 unit; and

15 (C) Notwithstanding Subsections 37.9A(e) (3)(A) and (B), any tenant who, at the
16 time the notice of intent to withdraw rental units is filed with the Board, is 62 years of age or
17 older, or who is disabled within the meaning of Section 12955.3 of the California Government
18 Code, shall be entitled to receive an additional payment of \$3,000.00, \$1,500.00 of which
19 shall be paid within fifteen (15) calendar days of the landlord's receipt of written notice from
20 the tenant of entitlement to the relocation payment, and \$1,500.00 of which shall be paid
21 when the tenant vacates the unit.

22 (D) Commencing March 1, 2005, the relocation payments specified in
23 Subsections 37.9A(e)(3)(A) and (B) and (C) shall increase annually at the rate of increase in the
24 "rent of primary residence" expenditure category of the Consumer Price Index (CPI) for All
25 Urban Consumers in the San Francisco-Oakland-San Jose Region for the preceding calendar

1 year, as that data is made available by the United States Department of Labor and published
2 by the Board.

3 (E) Notwithstanding Subsections 37.9A(e)(3)(A) – (D), as of ~~90 days after~~ the effective
4 date of the ordinance creating this subsection (E) (Ordinance No. _____), each tenant shall be entitled to
5 the greater of:

6 (i) the payment specified in Subsections 37.9A(e)(3)(A) – (D); or
7 (ii) an amount equal to the difference between the unit’s rental rate at the time
8 the landlord files the notice of intent to withdraw rental units with the Board, and the market rental rate
9 for a comparable unit in San Francisco as determined by the Controller’s Office, multiplied to cover a
10 two-year period, and divided equally by the number of tenants in the unit (the “Rental Payment
11 Differential”). The landlord shall pay one-half of the Rental Payment Differential at the time of the
12 service of the notice of termination of tenancy, and the remaining one-half when the tenant vacates the
13 unit. The Controller shall establish a San Francisco Rental Payment Differential Schedule within ~~90-5~~
14 days of the effective date of the ordinance creating this subsection (E) (Ordinance No. _____), and
15 thereafter by March 1 of each calendar year. The Controller shall provide such Schedule to the Rent
16 Board, which shall make the Schedule publicly available on the Rent Board’s website and at the Rent
17 Board office. In addition to receiving the Rental Payment Differential, any tenant who qualifies for
18 payment under Subsections 37.9A(e)(3)(C) as adjusted by (D) shall also receive that payment. In
19 determining annual changes in the rental market, the Controller shall rely on market data that
20 reasonably reflects a representative sample of rental apartments in San Francisco.

21 (F) Any tenant who has received a notice of termination of tenancy, but who has not yet
22 vacated the unit by the operative date of the ordinance creating subsection (E) and this subsection (F)
23 (Ordinance No. _____), shall be entitled to the Rental Payment Differential, reduced by any payment the
24 tenant has received under Subsections 37.9A(e)(3)(C) as adjusted by (D), upon vacating the unit.

1 (G) (i) If payment of the Rental Payment Differential under Subsection
2 37.9A(e)(3)(E)(ii) would constitute an undue financial hardship for a landlord in light of all of
3 the resources available to the landlord, the landlord may file a written request, on a form
4 provided by the Rent Board, for a hearing for a hardship adjustment (“Hardship Adjustment
5 Request”) with the Rent Board, with supporting evidence. The Board, or its designated
6 Administrative Law Judges, may order a reduction, payment plan, or any other relief they
7 determine is justified following a hearing on the request.

8 (ii) At a hearing for hardship adjustment under Subsection (i), the Board,
9 or its designated Administrative Law Judges, shall consider all relevant factors, including the
10 number of units in the building and any evidence submitted regarding the landlord’s age,
11 length of ownership of the building, ownership of any other buildings, income, expenses, other
12 assets, debt, health, and health care costs, except as provided in Subsection (iii).

13 (iii) At a hearing for hardship adjustment under Subsection (i), the Board,
14 or its designated Administrative Law Judges, shall not consider any of the following types of
15 assets owned by the landlord:

- 16 a. Assets held in retirement accounts; and
- 17 b. Non-liquid personal property.

18 ~~The Board, or its designated Administrative Law Judges, may order a reduction,~~
19 ~~payment plan, or any other relief they determine is justified following a hearing on the request.~~

20 (H) Without limiting or otherwise affecting the landlord’s right to obtain a
21 hardship adjustment under Subsection 37.9A(e)(3)(G), the landlord may file a written request,
22 on a form provided by the Rent Board, for a hearing with the Rent Board claiming that the San
23 Francisco Rental Payment Differential Schedule established in Subsection 37.9A(e)(3)(E)(ii)
24 does not reasonably reflect the market rental rate for a comparable unit in San Francisco and
25 would result in an overpayment by the landlord (“Rent Differential Recalculation Request”).

1 The landlord shall include evidence in support of the request. If the Board, or its designated
2 Administrative Law Judges, grant(s) the request in whole or part, they shall order an
3 appropriate adjustment of the payment due from the landlord.

4 (I) For purposes of considering Hardship Adjustment and Rent Differential
5 Recalculation Requests under Subsections 37.9(e)(3)(G) and (H), the Board shall follow a
6 process consistent with the existing Board hearing process under Section 37.8. If a landlord
7 submits both types of hearing requests, the Board may consolidate its hearing of the two
8 requests.

9 (4) Any notice to quit pursuant to Section 37.9(a)(13) shall notify the tenant or
10 tenants concerned of the right to receive payment under Subsections 37.9A(e)(1) or (2) or (3)
11 and the amount of payment which the landlord believes to be due.

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

13 (1) Any owner who intends to withdraw from rent or lease any rental unit shall
14 notify the Rent Board in writing of said intention. Said notice shall contain statements, under
15 penalty of perjury, providing information on the number of residential units, the address or
16 location of those units, the name or names of the tenants or lessees of the units, and the rent
17 applicable to each residential rental unit. Said notice shall be signed by all owners of record of
18 the property under penalty of perjury and shall include a certification that actions have been
19 initiated as required by law to terminate existing tenancies through service of a notice of
20 termination of tenancy. The notice must be served by certified mail or any other manner
21 authorized by law prior to delivery to the Rent Board of the notice of intent to withdraw the
22 rental units. Information respecting the name or names of the tenants, the rent applicable to
23 any unit, or the total number of units, is confidential and shall be treated as confidential
24 information by the City for purposes of the Information Practices Act of 1977, as contained in
25 Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil

1 Code. The City shall, to the extent required by the preceding sentence, be considered an
2 "agency," as defined by Subdivision (b) of Section 1798.3 of the Civil Code.

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

7 Memorandum of Notice
8 Regarding Withdrawal of
9 Rental Unit From Rent or Lease

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

15 _____
16 (Signature)

17 (3) For a notice of intent to withdraw rental units filed with the Rent Board on or
18 before December 31, 1999, the date on which the units are withdrawn from rent or lease for
19 purposes of this Chapter and the Ellis Act is 60 days from the delivery in person or by first-
20 class mail of the Subsection (f)(1) notice of intent to the Rent Board.

21 (4) For a notice of intent to withdraw rental units filed with the Rent Board on or
22 after January 1, 2000, the date on which the units are withdrawn from rent or lease for
23 purposes of this Chapter and the Ellis Act is 120 days from the delivery in person or by first-
24 class mail of the Subsection (f)(1) notice of intent to the Rent Board. Except that, if the tenant
25 or lessee is at least 62 years of age or disabled as defined in Government Code § 12955.3,

1 and has lived in his or her unit for at least one year prior to the date of delivery to the Rent
2 Board of the Subsection (f)(1) notice of intent to withdraw, then the date of withdrawal of the
3 unit of that tenant or lessee shall be extended to one year after the date of delivery of that
4 notice to the Rent Board, provided that the tenant or lessee gives written notice of his or her
5 entitlement to an extension of the date of withdrawal to the owner within 60 days of the date of
6 delivery to the Rent Board of the Subsection (f)(1) notice of intent to withdraw. In that
7 situation, the following provisions shall apply:

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

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

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

16 (D) Within 30 days of the notification by the tenant or lessee to the owner of his
17 or her entitlement to an extension of the date of withdrawal, the owner shall give written notice
18 to the Rent Board of the claim that the tenant or lessee is entitled to stay in their unit for one
19 year after the date of delivery to the Rent Board of the Subsection (f)(1) notice of intent to
20 withdraw.

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

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

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

3 (iii) Whether or not the owner elects to extend the date of withdrawal to other
4 units on the property.

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

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

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

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

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

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

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

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21 * * * *

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23
24 (i) This Section 37.9A is enacted principally to exercise specific authority provided
25 for by Chapter 12.75 of Division 7 of Title 1 of the California Government Code, originally

1 enacted by Stats. 1985, Ch. 1509, Section 1 (the Ellis Act, California Government Code
2 Sections 7060 et seq.). In the case of any amendment to Chapter 12.75 or any other provision
3 of State law which amendment is inconsistent with this Section, this Section shall be deemed
4 to be amended to be consistent with State law, and to the extent it cannot be so amended
5 shall be interpreted to be effective as previously adopted to the maximum extent possible.
6

7 Section 2. ~~Effective Date and Operative Date.~~

8 ~~(a) This ordinance shall become effective 30 days after enactment. Enactment occurs~~
9 ~~when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not~~
10 ~~sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the~~
11 ~~Mayor’s veto of the ordinance.~~

12 ~~(b) As stated in Administrative Code Section 37.9A(e)(3)(E), this ordinance shall~~
13 ~~become operative 90 days after its effective date.~~

14
15 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
19 additions, and Board amendment deletions in accordance with the “Note” that appears under
20 the official title of the ordinance.

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 ADINE K. VARAH
25 Deputy City Attorney

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