

1 [Residential Rent Ordinance: Sellers and Purchasers to Give Tenants Written Disclosure of
2 Rights Before and After Sale of the Rental Property.

3 **Ordinance amending Administrative Code Chapter 37 "Residential Rent Stabilization
4 and Arbitration Ordinance" by adding subsection (j) to Section 37.9, to provide that
5 tenants in units subject to Section 37.9 be given written disclosure of specified rights
6 by sellers and purchasers before and after the sale of such property.**

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

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

11
12 Section 1. The San Francisco Administrative Code is hereby amended by adding
13 subsection (j) to Section 37.9, to read as follows:

14
15 SEC. 37.9. EVICTIONS. Notwithstanding Section 37.3, this Section shall apply as of
16 August 24, 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

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

18 (1) The tenant:

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

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

23 (ii) Except that, commencing August 10, 2001, to and including February 10, 2003, a
24 landlord shall not endeavor to recover or recover possession of a rental unit for failure of a
25 tenant to pay that portion of rent attributable to a capital improvement passthrough certified

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

4 (B) Habitually pays the rent late; or

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

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

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

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

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

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

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

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

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

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

25 (6) The tenant has, after written notice to cease, refused the landlord access to the

1 rental unit as required by State or local law; or

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

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

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

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

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

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

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

18 (vi) Once a landlord has successfully recovered possession of a rental unit pursuant
19 to Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of
20 any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this
21 Section that only one specific unit per building may be used for such occupancy under Section
22 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under
23 Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with
24 the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that
25 disability or other similar hardship prevents him or her from occupying a unit which was

1 previously occupied by the landlord.

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

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

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

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

1 Inspection and that arrangements for reviewing such plans can be made with the Central
2 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of
3 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as
4 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be
5 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;
6 provided, however, that such time period may be extended by the Board or its Administrative
7 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to
8 implement the application procedure. Any landlord who seeks to recover possession under
9 this Section 37.9(a)(11) shall pay relocation expenses as provided in Section 37.9C or

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

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

1 Government Code Section 7060.4(a)) that was delivered to the Rent Board prior to January 1,
2 2004; or

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

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

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

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

1 the notice was served. In cases where the District Attorney determines that Section 37.9(a)(8)
2 has been violated, the District Attorney shall take whatever action he deems appropriate
3 under this Chapter or under State law.

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

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

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

1 herein. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant
2 to order of the court. The remedy available under this Section 37.9(f) shall be in addition to
3 any other existing remedies which may be available to the tenant or the Board.

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

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

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

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

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

20 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been residing in
21 the unit for 10 years or more, or is catastrophically ill within the meaning of Section
22 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

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

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

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

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

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

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

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

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

10 (j) Disclosure of Rights to Tenants Before and After Sale of Rental Units Subject to Section
11 37.9.

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

16 (A) A statement in bold type of at least 12 points that tenants cannot be evicted or asked to
17 move solely because a property is being sold or solely because a new owner has purchased that
18 property.

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

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

25 (D) A statement that the owner's right to show units to prospective buyers is governed by

1 California Civil Code section 1954, including a statement that tenants must receive notice as provided
2 by Section 1954, and a statement that a showing must be conducted during normal business hours
3 unless the tenant consents to an entry at another time.

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

9 (F) A statement that information on these and other tenants' rights are available at the San
10 Francisco Rent Board, 25 Van Ness Ave, San Francisco, California, and at the counseling telephone
11 number of the Rent Board and at its web site.

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

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

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

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

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

24 (E) A statement in bold type of at least 12 points: that tenants' housing services as defined
25 in Section 37.2(r) first paragraph cannot be changed or severed from the tenancy solely because a new

1 owner has purchased that property; and that tenants' housing services as defined in Section 37.2(r)
2 second paragraph that were supplied in connection with the use or occupancy of a unit at the time of
3 sale (such as laundry rooms, decks, or storage space) cannot be severed from the tenancy by the new
4 purchaser/owner without just cause as required by Section 37.9(a).

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

10 By: MARIE CORLETT BLITS
11 Deputy City Attorney

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