

1 [Condominium conversion with senior, disabled, or catastrophically ill tenant purchase.]

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3 **Ordinance amending the Subdivision Code to add Section 1396.3 to allow**  
4 **condominium conversion for buildings of six (6) or fewer units with senior, disabled, or**  
5 **catastrophically ill tenant purchase of a unit, as provided herein, and making**  
6 **environmental findings.**

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

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

11 Section 1. Environmental Findings. The Planning Department has determined that the  
12 actions contemplated in this Ordinance are in compliance with the California Environmental  
13 Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is  
14 on file with the Clerk of the Board of Supervisors in File No. and is incorporated herein  
15 by reference.

16 Section 2. The San Francisco Subdivision Code is hereby amended by adding Section  
17 1396.3, to read as follows:

18 SEC. 1396.3. CONDOMINIUM CONVERSION WITH SENIOR, DISABLED, OR  
19 CATASTROPHICALLY ILL TENANT PURCHASE.

20 (a) Notwithstanding any provisions in this Code to the contrary, the owner(s) of a building  
21 containing six (6) or fewer units may convert to a residential condominium if the owner(s) satisfies all  
22 of the conditions set forth in subsections (b)-(e).

23 (b) The owner(s) shall submit as part of its condominium conversion application a tenant intent  
24 to purchase form with a qualifying tenant;

25 (1) For purposes of subsection (b), a "qualifying tenant" is a tenant who:

1                   (A) Is a senior, disabled, or catastrophically ill tenant;  
2                   (B) Has no ownership interest in the property;  
3                   (C) Has continuously resided in a unit within the building for at least one year  
4 prior to the date that owner(s) submits a condominium conversion application to the Department of  
5 Public Works;

6                   (2) For purposes of subsection (b), a “tenant intent to purchase form” shall be subject  
7 to the following procedures:

8                   (A) In obtaining or soliciting intent to purchase forms from tenants, subdividers  
9 shall comply with any restrictions set forth in the California Business and Professions Code and  
10 Regulations of the Real Estate Commissioner.

11                   (B) Any tenant intent to purchase forms obtained by way of an inducement of the  
12 subdivider to provide benefits to that tenant beyond those established by the Code shall be so identified  
13 and the specific representations of the subdivider shall be set forth in detail. All such intent to  
14 purchase forms shall become a matter of public record and the subdivider shall be required to comply  
15 with his or her representations as conditions of approval for a tentative map or tentative parcel map.

16                   (C) The intent to purchase forms, once signed by a tenant, shall be irrevocable  
17 by said tenant, for purposes of compliance with this Section, provided, however, that the Director shall  
18 invalidate any such form upon a determination that the subdivider has used coercion, fraud, duress,  
19 misrepresentation or threat in connection with obtaining or soliciting such form.

20                   (D) The form shall specify the proposed sales price for the unit and the  
21 estimated condominium association dues. The sales price listed for the unit shall remain in effect and  
22 shall not be increased by the subdivider until the unit is sold to the tenant or until the tenant has waived  
23 his or her right of first refusal and the City exercises its contingent right of refusal, as set forth below,  
24 and purchases the unit; provided, however, that the sales price may be increased by the following  
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1 amounts: (1) The percentage increase in the Housing Component of the "Bay Area Consumer Price  
2 Index, U.S. Dept. of Labor," above the price index in existence as of the date the application is filed;  
3 and (2) the pro rata actual cost of any repairs or improvements made by the applicant in addition to  
4 those set forth in the application, pursuant to section 1381(a)(4)(B). If the tenant has waived his or her  
5 right of first refusal to purchase the unit and the City has waived its contingent right of refusal to  
6 purchase the unit, the subdivider may make the unit available to the general public subject to the  
7 procedures of the Subdivision Map Act.

8 (E) The unit identified in the tenant intent to purchase shall be a unit in the  
9 subject building, but need not be the unit that the tenant occupies.

10 (F) The form shall contain the signature of the non-owning tenant(s) and the  
11 owner(s) of the property and all such signatures shall be notarized.

12 (3) For purposes of subsection (b)(1)(A), "senior" shall be a person who is 60 years or  
13 older; a "disabled" tenant is defined for purposes of this Section as a person who is disabled within the  
14 meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is defined for  
15 purposes of this Subsection as a person who is disabled as defined above, and who is suffering from a  
16 life threatening illness as certified by his or her primary care physician. In order to be eligible, the  
17 qualifying tenant must be senior, disabled, or catastrophically ill for at least one year prior to the date  
18 that owner(s) submits a condominium conversion application to the Department of Public Works.

19 (4) The unit that the tenant occupies must be occupied exclusive of an individual that has  
20 an ownership interest in the building.

21 (c) Each building that is eligible to convert under the provisions set forth herein shall be  
22 conditioned to require that the qualifying tenant(s) shall continuously reside in the building through  
23 final approval of the condominium subdivision or parcel map. Should the tenant(s) vacate the building  
24 for any reason, including, but not limited to incapacity, death, or an eviction under San Francisco

1 Administrative Code sections 37.9(a)(8), 37.9(a)(10), 37.9(a)(11), or 37.9(a)(13), the Department of  
2 Public Works shall deny the final subdivision or parcel map except as provided below or in subsection  
3 (d). A qualifying tenant may not transfer or assign his or her occupancy obligation or right to  
4 purchase the unit at the price identified in the tenant intent to purchase form to any one other than a  
5 subtenant that otherwise would have satisfied all the requirements of a qualifying tenant; provided,  
6 however, that a spouse or registered domestic partner may take the place of a qualifying tenant should  
7 the qualifying tenant become incapacitated or pre-decease their spouse or domestic partner. In the  
8 case of a qualifying subtenant, spouse, or domestic partner, the owner shall take all necessary actions  
9 to ensure that such individuals acquire all the rights of the qualifying tenant, including the right to  
10 purchase a unit at the price set forth in the tenant intent to purchase form.

11 (d) The City shall be given a contingent right of refusal to purchase the unit offered to a  
12 qualifying tenant. If a qualifying tenant vacates the building for any reason identified in subsection (c)  
13 and there is no qualifying subtenant, spouse, or domestic partner, then the tenant's right of first refusal  
14 shall be automatically transferred to the City. Should the qualifying tenant, subtenant, spouse, or  
15 domestic partner waive his or her right of first refusal, then the City shall automatically acquire the  
16 qualifying tenant's right of refusal. In this case, the City's right of refusal shall extend for 60 days from  
17 the date that the City receives written notice that the qualifying tenant has waived his or her right of  
18 first refusal. The City's period of acceptance of the offer may be extended if such an agreement is  
19 executed in writing by the subdivider and the City, provided that the City may cancel the purchase  
20 agreement if the unit is not conveyed to the City within six months of the agreement to purchase.

21 (1) The Mayor's Office of Housing, or its successor agency, shall administer this  
22 program on behalf of the City.

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1                   (2) The Mayor's Office of Housing shall adopt rules and procedures to administer this  
2 program, including establishment of a lottery process for eligible senior, disabled, and catastrophically  
3 ill tenants.

4                   (3) Nothing herein shall require the City to purchase or occupy the unit(s) for which it  
5 has a contingent right of refusal. The City may assign , in whole or in part, its right to purchase and  
6 occupy the subject unit to eligible tenants as identified in the Mayor's Office of Housing rules and  
7 procedures.

8                   (e) The applicants for condominium conversions subject to this Section shall comply with the  
9 following provisions of Subdivision Code Article 9: sections 1380, 1381 except for subsection  
10 1381(a)(4)(C), 1382, 1383, 1386, 1387, 1389, 1390, 1391, 1392, 1393, 1394, and 1395.

11                   (f) None of the units converted pursuant to this Section shall be counted against the annual  
12 limitation on the number of conversions set forth in Section 1396.

13                   (g) This legislation shall have no effect on Sections 1341A or 1385A.

14                   Section 3. This Section is uncodified. In the event there is a lawsuit filed in any court  
15 challenging any part of Ordinance No. \_\_\_\_\_-06, Clerk of the Board of Supervisors File No.  
16 060443, then this legislation will be suspended unless and until there is a final judgment in the  
17 lawsuit in all courts and the validity of Ordinance No. \_\_\_\_\_-06 is upheld. Specifically, the  
18 special conversion process set forth in Section 1396.3 will not take effect if any of the  
19 provision of Ordinance No. \_\_\_\_\_-06 is challenged.

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

23 By: \_\_\_\_\_  
24 John D. Malamut  
25 Deputy City Attorney

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