

1 [Administrative Code - Owner Move-In Reporting Requirements]

2

3 Ordinance amending the Administrative Code ~~regarding to require a landlord seeking~~
4 ~~to recover possession of a rental unit based on an owner move-in and relative move-in~~
5 ~~("OMI") evictions or relative move-in ("RMI") to require a landlord seeking to recover~~
6 ~~possession of a unit for an OMI to provide a declaration under penalty of perjury~~
7 ~~stating that the landlord intends to occupy the unit for use as the principal place of~~
8 ~~residence of the landlord or the landlord's relative for at least 36 continuous months;~~
9 ~~require a landlord seeking to recover possession of a rental unit based on an OMI or~~
10 ~~RMI to provide the tenant with a form prepared by the Rent Board to be used to advise~~
11 ~~the Rent Board of any change in address; clarify the evidentiary standard for finding~~
12 ~~that an OMI was not performed in good faith; require a landlord to file annual~~
13 ~~documentation with the Rent Board regarding the status of an OMI, and requiring the~~
14 ~~Rent Board to transmit a random sampling of such documentation to the District~~
15 ~~Attorney for three years after an OMI or RMI showing whether the landlord or relative is~~
16 ~~occupying the unit as his or her principal place of residence; extend from three to five~~
17 ~~years the time period after an OMI during which a landlord who intends to re-rent the~~
18 ~~unit must first offer the unit to the displaced tenant; require the Rent Board to annually~~
19 ~~notify the unit occupant of the maximum rent for the unit for five three years after an~~
20 ~~OMI or RMI; and extend the statute of limitations for wrongful eviction claims based on~~
21 ~~an unlawful OMI or RMI from one year to five three-years.~~

22

23 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
24 **Additions to Codes** are in *single-underline italics Times New Roman font*.
25 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.

Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. The Administrative Code is hereby amended by revising Sections 37.6, 37.9, ~~and 37.9B~~, and 37.10A, to read as follows:

SEC. 37.6. POWERS AND DUTIES.

In addition to other powers and duties set forth in this Chapter, and in addition to powers under the Charter and under other City Codes, including powers and duties under Administrative Code Chapter 49 ("Interest Rates on Security Deposits"), the Rent Board shall have the power to:

* * * *

(k) ~~Compile a list at random, on~~On a monthly basis starting January 1, 2018, compile copies at random of 10% percent of the all statements of occupancy filed with the Rent Board pursuant to Section 37.9(a)(8)(vii), and compile a list of all units for which the required statement of occupancy was not filed with the Rent Board~~notices to vacate filed pursuant to Section 37.9(c) which state on the notice or in any additional written document any causes under Section 37.9(a)(8) as the reason for eviction. Said copies and said list shall be transmitted to the District Attorney on a monthly basis for investigation pursuant to Section 37.9(e). In cases where the District Attorney determines that Section 37.9(a)(8) has been violated, the District Attorney shall take whatever action he or she deems appropriate under this Chapter 37 or under State law.~~

* * * *

1 **SEC. 37.9. EVICTIONS.**

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

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

5 * * * *

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

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

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

17 * * * *

18 (v) Commencing January 1, 2018, the landlord shall attach to the ~~The~~ *notice to*
19 *vacate shall include a form prepared by the Rent Board that the tenant can use to keep the Rent Board*
20 *apprised of any future change in address, and shall include in the notice a declaration executed by*
21 *the landlord under penalty of perjury stating that the landlord seeks to recover possession of the unit in*
22 *good faith, without ulterior reasons and with honest intent, for use or occupancy as the principal*
23 *residence of the landlord or the landlord's relative (identified by name and relation to the landlord),*
24 *for a period of at least 36 continuous months, as set forth in subsections 37.9(a)(8)(i) and (ii).* ~~The~~
25 ~~landlord shall file the notice with the Rent Board pursuant to Section 37.9(c). Evidence of any~~

1 ~~of the following shall create a rebuttable presumption that the landlord has not acted in good faith~~
2 ~~may include, but is not limited to, any of the following, unless and until evidence is introduced~~
3 ~~that would support a finding that the landlord has acted in good faith, in which case the trier of~~
4 ~~fact shall determine the existence or nonexistence of the presumed fact from the evidence~~
5 ~~and without regard to the presumption: (1) the landlord has refused to file the notice to vacate with~~
6 ~~the Rent Board as required by Section 37.9B(c), (2) It shall be rebuttably presumed that the~~
7 ~~landlord has not acted in good faith if the landlord or relative for whom the tenant was evicted did~~
8 ~~does not move into the rental unit within three months after the landlord recovered possession and~~
9 ~~then occupy said unit as that person's principal residence for a minimum of 36 consecutive~~
10 ~~months after moving in, or (3) the landlord or relative for whom the tenant was evicted lacks a~~
11 ~~legitimate, bona fide reason for not moving into the unit within three months after the recovery~~
12 ~~of possession and/or then occupying said unit as that person's principal residence for a~~
13 ~~minimum of 36 consecutive months, (4) the landlord did not file a statement of occupancy with~~
14 ~~the Rent Board as required by Section 37.9(a)(8)(vii), (5) the landlord violated Section 37.9B~~
15 ~~by renting the unit to a new tenant at a rent greater than that which would have been the rent had~~
16 ~~the tenant who had been required to vacate remained in continuous occupancy and the rental unit~~
17 ~~remained subject to this Chapter 37 as provided in Section 37.9B, and (6) such other factors as a~~
18 ~~court or the Rent Board may deem relevant.~~

19 * * * *

20 (vii) A landlord who has recovered possession of a unit pursuant to Section 37.9(a)(8)
21 on or after January 1, 2018 must complete a statement of occupancy under penalty of perjury on a
22 form to be prepared by the Rent Board that discloses whether the landlord has recovered
23 possession of the unit. The landlord shall file the statement of occupancy with the Rent Board
24 within 90 days after the date of service, and shall file an updated statement of occupancy
25 every 90 days thereafter, unless the statement of occupancy discloses that the landlord is no

1 longer endeavoring to recover possession of the unit, in which case no further statements of
2 occupancy need be filed. If the statement of occupancy discloses that the landlord has
3 already recovered possession of the unit, the landlord shall file updated statements of
4 occupancy once a year for five years, no later than 12 months, 24 months, 36 months, 48
5 months, and 60 months after the recovery of possession of the unit. Each statement of
6 occupancy filed after the landlord has recovered possession of the unit shall disclose the date
7 of recovery of possession, whether the landlord or relative for whom the tenant was evicted is
8 occupying the unit as that person's principal residence with at least two forms of supporting
9 documentation, the date such occupancy commenced (or alternatively, the reasons why
10 occupancy has not yet commenced), the rent charged for the unit if any, and such other
11 information and documentation as the Rent Board may require in order to effectuate the
12 purposes of this Section 37.9(a)(8). The Rent Board shall make all reasonable efforts to send
13 the displaced tenant a copy of each statement of occupancy within 30 days of the date of
14 filing, or a notice that the landlord did not file a statement of occupancy if no statement of
15 occupancy was filed. The landlord shall file the statement of occupancy with the Rent Board
16 three months after recovery of possession of the unit, and shall file updated statements of
17 occupancy 12 months, 24 months, and 36 months after the recovery of possession of the unit.
18 The statement, including the updates, shall identify whether the unit is (1) occupied as the
19 principal place of residence of the landlord or the relative (identified by name and relation to
20 the landlord) for whom the tenant was evicted, (2) occupied by another person, or (3)
21 unoccupied. If the unit is occupied by a person other than the landlord or relative for whom
22 the tenant was evicted, the statement of occupancy shall also disclose the current rent for the
23 unit; and the Rent Board shall make all reasonable efforts to send the displaced tenant a copy
24 of the statement of occupancy within 30 days of the date of filing, or a notice that the landlord
25 did not file a statement of occupancy if no statement of occupancy was filed. If the unit is

1 occupied by the landlord or the relative for whom the tenant was evicted, the landlord shall
2 also simultaneously file with the Rent Board at least two forms of documentation in which the
3 unit is listed as the landlord or relative's place of residence. Acceptable forms of this
4 documentation shall include at least two of the following categories: (1) current utility services
5 contract or utility billing records from within 45 days of the date of filing; (2) current motor
6 vehicle registration and insurance policy for the vehicle; (3) current homeowner's or renter's
7 insurance policy; (4) correspondence from within 45 days of the date of filing from any
8 government agency, including federal, state, and local taxing authorities; (5) current voter
9 registration; (6) current driver's license; (7) proof that the individual has obtained a
10 homeowner's exemption from property taxes for the unit; or (8) any other credible
11 documentary evidence showing that the landlord or relative actually occupies the rental unit
12 as his or her principal place of residence. Evidence that the landlord did not timely file a
13 statement of occupancy and supporting documentation with the Rent Board shall create a
14 rebuttable presumption that the landlord did not recover possession of the unit in good faith,
15 unless and until evidence is introduced that would support a finding that the landlord did
16 recover possession of the unit in good faith, in which case the trier of fact shall determine the
17 existence or nonexistence of the presumed fact from the evidence and without regard to the
18 presumption.

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

23 * * * *

24 (c) A landlord shall not endeavor to recover possession of a rental unit unless at
25 least one of the grounds enumerated in Section 37.9(a) or (b) above is (1) the landlord's

1 dominant motive for recovering possession and (2) unless the landlord informs the tenant in
2 writing on or before the date upon which notice to vacate is given of the grounds under which
3 possession is sought, and for notices to vacate under Sections 37.9(a)(8), (9), (10), (11), and
4 (14), state in the notice to vacate the lawful rent for the unit at the time the notice is issued,
5 before endeavoring to recover possession. The Board shall prepare a written form that (1)
6 states that a tenant's failure to timely act in response to a notice to vacate may result in a
7 lawsuit by the landlord to evict the tenant, and that advice regarding the notice to vacate is
8 available from the Board; and (2) includes information provided by the Mayor's Office of
9 Housing and Community Development regarding eligibility for affordable housing programs.
10 The Board shall prepare the form in English, Chinese, Spanish, Vietnamese, Tagalog, and
11 Russian and make the form available to the public on its website and in its office. A landlord
12 shall attach a copy of the form that is in the primary language of the tenant to a notice to
13 vacate before serving the notice, except that if the tenant's primary language is not English,
14 Chinese, Spanish, Vietnamese, Tagalog, or Russian, the landlord shall attach a copy of the
15 form that is in English to the notice. A copy of all notices to vacate except three-day notices to
16 ~~vacate or pay rent~~ or quit and a copy of any additional written documents informing the tenant
17 of the grounds under which possession is sought shall be filed with the Board within 10 days
18 following service of the notice to vacate. ~~The District Attorney shall determine whether the~~
19 ~~units set forth on the list compiled in accordance with Section 37.6(k) are still being occupied~~
20 ~~by the tenant who succeeded the tenant upon whom the notice was served. In cases where~~
21 ~~the District Attorney determines that Section 37.9(a)(8) has been violated, the District Attorney~~
22 ~~shall take whatever action he deems appropriate under this Chapter or under State law. In~~
23 any action to recover possession of the rental unit under Section 37.9, the landlord must plead
24 and prove that at least one of the grounds enumerated in Section 37.9(a) or (b) and also
25 stated in the notice to vacate is the dominant motive for recovering possession. Tenants may

1 rebut the allegation that any of the grounds stated in the notice to vacate is the dominant
2 motive.

3 * * * *

4
5 (f) Whenever a landlord wrongfully endeavors to recover possession or recovers
6 possession of a rental unit in violation of Sections 37.9 and/or 37.10A as enacted herein, the
7 tenant or Rent Board may institute a civil proceeding for injunctive relief, money damages of
8 not less than three times actual damages, (including damages for mental or emotional
9 distress as specified below), and whatever other relief the court deems appropriate. If the
10 landlord has recovered possession pursuant to Section 37.9(a)(8), such action shall be brought no later
11 than five three years after (1) the date the landlord files the first statement of occupancy with the
12 Rent Board under Section 37.9(a)(8)(vii) or (2) three months after the landlord recovers
13 possession, whichever is earlier of recovery of possession. In the case of an award of
14 damages for mental or emotional distress, said award shall only be trebled if the trier of fact
15 finds that the landlord acted in knowing violation of or in reckless disregard of Section 37.9 or
16 37.10A herein. The prevailing party shall be entitled to reasonable attorney's fees and costs
17 pursuant to order of the court. The remedy available under this Section 37.9(f) shall be in
18 addition to any other existing remedies which may be available to the tenant or the Rent
19 Board.

20 * * * *

21
22 **SEC. 37.9B. TENANT RIGHTS IN EVICTIONS UNDER SECTION 37.9(a)(8).**

23 (a) Any rental unit which a tenant vacates after receiving a notice to quit based on
24 Section 37.9(a)(8), and which is subsequently no longer occupied as a principal residence by
25 the landlord or the landlord's grandparent, parent, child, grandchild, brother, sister, or the

1 landlord's spouse, or the spouses of such relations must, if offered for rent during the five-
2 ~~three~~-year period following service of the notice to quit under Section 37.9(a)(8), be rented in
3 good faith at a rent not greater than that which would have been the rent had the tenant who
4 had been required to vacate remained in continuous occupancy and the rental unit remained
5 subject to this Chapter 37. If it is asserted that a rent increase could have taken place during
6 the occupancy of the rental unit by the landlord if the rental unit had been subjected to this
7 Chapter, the landlord shall bear the burden of proving that the rent could have been legally
8 increased during the period. If it is asserted that the increase is based in whole or in part upon
9 any grounds other than that set forth in Section 37.3(a)(1), the landlord must petition the Rent
10 Board pursuant to the procedures of this Chapter. Displaced tenants shall be entitled to
11 participate in and present evidence at any hearing held on such a petition. Tenants displaced
12 pursuant to Section 37.9(a)(8) shall make all reasonable efforts to keep the Rent Board
13 apprised of their current address. The Rent Board shall provide notice of any proceedings
14 before the Rent Board to the displaced tenant at the last address provided by the tenant. No
15 increase shall be allowed on account of any expense incurred in connection with the
16 displacement of the tenant.

17 (b) (1) For notices to vacate served before January 1, 2018, any Any landlord who,
18 within three years of the date of service of the notice to quit, offers for rent or lease any unit in
19 which the possession was recovered pursuant to Section 37.9(a)(8) shall first offer the unit for
20 rent or lease to the tenants displaced, in the same manner as provided for in Sections
21 37.9A(c) and (d).

22 (2) For notices to vacate served on or after January 1, 2018, any landlord who,
23 within five years of the date of service of the notice to quit, offers for rent or lease any unit in
24 which the possession was recovered pursuant to Section 37.9(a)(8) shall first offer the unit for
25 rent or lease to the tenants displaced, by mailing a written offer to the address that the tenant

1 has provided to the landlord. If the tenant has not provided the landlord a mailing address,
2 the landlord shall mail the offer to the address on file with the Rent Board, and if the Rent
3 Board does not have an address on file, then to the unit from which the tenant was displaced
4 and to any other physical or electronic address of the tenant of which the landlord has actual
5 knowledge. The landlord shall file a copy of the offer with the Rent Board within 15 days of
6 the offer. The tenant shall have 30 days from receipt of the offer to notify the landlord of
7 acceptance or rejection of the offer and, if accepted, shall reoccupy the unit within 45 days of
8 receipt of the offer.

9 * * * *

10 (e) Within 30 days after the effective date of a written notice to vacate that is filed with
11 the Rent Board under Section 37.9B(c) the Rent Board shall record a notice of constraints with
12 the County Recorder identifying each unit on the property that is the subject of the Section
13 37.9B(c) notice to vacate, stating the nature and dates of applicable restrictions under
14 Sections 37.9(a)(8) and 37.9B. For notices to vacate filed under Section 37.9B(c) on or after
15 January 1, 2018, the~~The~~ Rent Board shall also send a notice to the unit that states the maximum rent
16 for that unit under Sections 37.9(a)(8) and 37.9B, and shall send an updated notice to the unit 12
17 months, 24 months, ~~and~~ 36 months, 48 months, and 60 months thereafter, or within 30 days of such
18 date. If a notice of constraints is recorded but the tenant does not vacate the unit, the landlord
19 may apply to the Rent Board for a rescission of the recorded notice of constraints. The Rent
20 Board shall not be required to send any further notices to the unit pursuant to this subsection (e) if the
21 constraints on the unit are rescinded.

1 **SEC. 37.10A. MISDEMEANORS, AND OTHER ENFORCEMENT PROVISIONS.**

2 * * * *

3 ~~(c)~~ It shall be unlawful for a landlord or for any person who willfully assists a landlord
4 to request that a tenant move from a rental unit or to threaten to recover possession of a
5 rental unit, either verbally or in writing, unless:

6 ~~(1)~~ The landlord in good faith intends to recover said unit under one of the grounds
7 enumerated in Section 37.9(a) or (b); and

8 ~~(2)~~ Within five days of any such request or threat the landlord serves the tenant with
9 a written notice stating the particular ground under Section 37.9(a) or (b) that is the basis for
10 the landlord's intended recovery of possession of the unit.

11 ~~(c)~~(d) It shall be unlawful for a landlord or for any person who willfully assists a
12 landlord to recover possession of a rental unit unless, prior to recovery of possession of the
13 unit:

14 ~~(1)~~ The landlord files a copy of the written notice required under Section 37.10A(c)
15 with the Board together with any preceding warning or threat to recover possession, unless
16 the particular ground for recovery is non-payment of rent; and

17 ~~(2)~~ ~~The~~ the landlord satisfies all requirements for recovery of the unit under Section
18 37.9(a) or (b).

19 ~~(d)~~(e) In any criminal or civil proceeding based on a violation of Section ~~37.10A(e)~~ or
20 37.10A~~(c)~~(d), the landlord's failure to use a recovered unit for the Section 37.9(a) or (b)
21 ground stated verbally or in writing to the tenant from whom the unit was recovered shall give
22 rise to a presumption that the landlord did not have a good faith intention to recover the unit
23 for the stated ground.

24 ~~(e)~~(f) If possession of a rental unit is recovered as the result of any written or verbal
25 statement to the tenant that the landlord intends to recover the unit under one of the grounds

1 enumerated in Section 37.9(a) or (b), the unit shall be subject to all restrictions set forth under
2 this Chapter on units recovered for such stated purpose regardless of any agreement made
3 between the landlord or the landlord's agent and the tenant who vacated the recovered unit.
4 Any unit vacated by a tenant within 120 days after receiving any written or verbal statement
5 from the landlord stating that the landlord intends to recover the unit under Section 37.9(a) or
6 (b), shall be rebuttably presumed to have been recovered by the landlord pursuant to the
7 grounds identified in that written or verbal statement.

8 ~~(g) Except as provided in this subsection, it shall be unlawful for a landlord, or for any~~
9 ~~person who willfully assists a landlord, including the landlord's attorney or legal~~
10 ~~representative, to seek or obtain a tenant's agreement not to cooperate with any investigation~~
11 ~~or proceeding by any administrative or law enforcement or other governmental agency under~~
12 ~~this Chapter, or to otherwise seek or obtain a tenant's waiver of rights under this Chapter. Any~~
13 ~~waiver of rights by a tenant under this Chapter shall be void as contrary to public policy unless~~
14 ~~the tenant is represented by independent counsel and the waiver is approved in a Court-~~
15 ~~supervised settlement agreement, or by a retired judge of the California Superior Court sitting~~
16 ~~as a mediator or arbitrator by mutual agreement of the tenant represented by independent~~
17 ~~counsel and the landlord. Any settlement agreement shall identify the judge, mediator, or~~
18 ~~arbitrator reviewing the settlement, all counsel representing the parties, and any other~~
19 ~~information as required by the Board. The landlord shall file a signed copy of the settlement~~
20 ~~agreement with the Board within ten days of execution. Unless otherwise required by the~~
21 ~~Board, the copy of the agreement filed with the Board shall redact the amount of payments to~~
22 ~~be made to tenants.~~

23 (f)(h) It shall be unlawful for a landlord to knowingly fail to disclose in writing to the
24 buyer, prior to entering into a contract for the sale of any property consisting of two or more
25

1 residential units, the specific legal ground(s) for the termination of the tenancy of each
2 residential unit to be delivered vacant at the close of escrow.

3 (g)(i) It shall be unlawful for a landlord/owner, when offering a property for sale in the
4 City and County of San Francisco that includes two or more residential units, to knowingly fail
5 to disclose in writing to any prospective purchaser:

6 (1) The specific legal ground(s) for the termination of the tenancy of each residential
7 unit to be delivered vacant at the close of escrow; and,

8 (2) Whether the unit was occupied by an elderly or disabled tenant at the time the
9 tenancy was terminated. For purposes of this Section 37.10A(g)(i), "elderly" means a tenant
10 defined as elderly by ~~San Francisco~~ Administrative Code Sections 37.9(i)(1)(A),
11 37.9A(e)(1)(C), 37.9A(e)(2)(D), or 37.9A(e)(3)(C), or a tenant defined as "senior" by ~~San~~
12 ~~Francisco~~-Subdivision Code Section 1359(d). For purposes of this ~~s~~Section 37.10A(g)(i),
13 "disabled" means a tenant defined as disabled by ~~San Francisco~~ Administrative Code
14 Sections 37.9(i)(1)(B)(i), 37.9A(e)(1)(C), 37.9A(e)(2)(D), or 37.9A(e)(3)(C), or by ~~San~~
15 ~~Francisco~~-Subdivision Code Section 1359(d).

16 Any disclosure required by this ~~s~~Subsection (g)(i) that is made on a flier or other
17 document describing the property which is made available to prospective purchasers at each
18 open house and at any tour through the property will constitute compliance with the disclosure
19 requirements of this ~~s~~Subsection (g)(i).

20 (h)(i) Any person who violates Section 37.10A(a), (b), ~~(c)~~, ~~(d)(c)~~, ~~(g)~~ or ~~(h)(f)~~ is guilty of
21 a misdemeanor and shall be punished by a mandatory fine of ~~one thousand dollars~~ (\$1,000),
22 and in addition to such fine may be punished by imprisonment in the County Jail for a period
23 of not more than six months. Each violation shall constitute a separate offense.

1 Section 2. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
10 additions, and Board amendment deletions in accordance with the "Note" that appears under
11 the official title of the ordinance.

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

15
16 By: _____
17 MANU PRADHAN
18 Deputy City Attorney

19
20
21
22
23
24
25
n:\legana\as2017\1700292\01198718.docx