

1 [Residential Rent Ordinance: no rent increases or evictions for additional occupants, up to two  
 2 occupants per habitable sleeping room maximum, even if pre-existing agreement/lease  
 3 permits rent increase or prohibits additional occupants, except that rent increase may be  
 granted for increased costs and total permissible occupants may not exceed state law or other  
 local code maximums.]

4 **Ordinance amending Administrative Code Chapter 37 “Residential Rent Stabilization  
 5 and Arbitration Ordinance” by amending Sections 37.3 and 37.9: to prohibit rent  
 6 increases solely for the addition of occupants, even where a pre-existing rental  
 7 agreement or lease specifically permits a rent increase for additional occupants, except  
 8 that the landlord may petition the Rent Board for a rent increase under Section  
 9 37.8(e)(4) based on the increased cost for an additional occupant [Section 37.3(a)(11)];  
 10 and to prohibit evictions solely for the addition of occupants, up to a maximum of two  
 11 occupants per habitable sleeping room, even where a pre-existing rental agreement or  
 12 lease prohibits additional occupants, except where this total would exceed the number  
 13 of occupants permitted under other applicable state law and/or other local codes or  
 14 otherwise fail to comply with such other applicable state law and/or local codes (e.g.,  
 15 Planning, Housing and Building Codes) [Section 37.9(a)(2)].**

16 Note: Additions are *single-underline italics Times New Roman font*;  
 17 deletions are ~~*strikethrough italics Times New Roman font*~~.  
 Board amendment additions are double underlined Arial font;  
 18 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 37.3, to read as follows:

23 SEC. 37.3. RENT LIMITATIONS.

24 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose  
 25 rent increases upon tenants in occupancy only as provided below and as provided by

1 Subsection 37.3(d):

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

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

13 (3) Capital Improvements, Rehabilitation, Energy Conservation Improvements, and  
14 Renewable Energy Improvements. A landlord may impose rent increases based upon the cost  
15 of capital improvements, rehabilitation, energy conservation improvements, or renewable  
16 energy improvements, provided that such costs are certified pursuant to Sections 37.7 and  
17 37.8B below; provided further that where a landlord has performed seismic strengthening in  
18 accordance with Building Code Chapters 16B and 16C, no increase for capital improvements  
19 (including but not limited to seismic strengthening) shall exceed, in any 12 month period, 10  
20 percent of the tenant's base rent, subject to rules adopted by the Board to prevent landlord  
21 hardship and to permit landlords to continue to maintain their buildings in a decent, safe and  
22 sanitary condition. A landlord may accumulate any certified increase which exceeds this  
23 amount and impose the increase in subsequent years, subject to the 10 percent limitation.  
24 Nothing in this subsection shall be construed to supersede any Board rules or regulations with  
25 respect to limitations on increases based upon capital improvements whether performed

1 separately or in conjunction with seismic strengthening improvements pursuant to Building  
2 Code Chapters 16B and 16C.

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

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

9 (A) The landlord provides tenants with written certification that the following have  
10 been installed in all units: (1) permanently installed retrofit devices designed to reduce the  
11 amount of water used per flush or low-flow toilets (1.6 gallons per flush); (2) low-flow  
12 showerheads which allow a flow of no more than 2.5 gallons per minute; and (3) faucet  
13 aerators (where installation on current faucets is physically feasible); and

14 (B) The landlord provides the tenants with written certification that no known  
15 plumbing leaks currently exist in the building and that any leaks reported by tenants in the  
16 future will be promptly repaired; and

17 (C) The landlord provides the tenants with a copy of the water bill for the period in  
18 which the penalty was charged. Only penalties billed for a service period which begins after  
19 the effective date of the ordinance [April 20, 1991] may be passed through to tenants. Where  
20 penalties result from an allocation which does not reflect documented changes in occupancy  
21 which occurred after March 1, 1991, a landlord must, if requested in writing by a tenant, make  
22 a good-faith effort to appeal the allotment. Increases based upon penalties shall be prorated  
23 on a per-room basis provided that the tenancy existed during the time the penalty charges  
24 accrued. Such charges shall not become part of a tenant's base rent. Where a penalty in any  
25 given billing period reflects a 25 percent or more increase in consumption over the prior billing

1 period, and where that increase does not appear to result from increased occupancy or any  
2 other known use, a landlord may not impose any increase based upon such penalty unless  
3 inspection by a licensed plumber or Water Department inspector fails to reveal a plumbing or  
4 other leak. If the inspection does reveal a leak, no increase based upon penalties may be  
5 imposed at any time for the period of the unrepaired leak.

6 (6) Property Tax. A landlord may impose increases based upon a 100%  
7 passthrough of the change in the landlord's property tax resulting from the repayment of  
8 general obligation bonds of the City and County of San Francisco approved by the voters  
9 between November 1, 1996, and November 30, 1998, as provided in Section 37.2(q) above.

10 A landlord may impose increases based upon a 50% passthrough of the change in the  
11 landlord's property tax resulting from the repayment of general obligation bonds of the City  
12 and County of San Francisco approved by the voters after November 14, 2002, as provided in  
13 Section 37.2(q) above, and subject to the following requirement: Any rent increase for bonds  
14 approved after the effective date of this initiative ordinance [November 2000 Proposition H,  
15 effective December 20, 2000] must be disclosed and approved by the voters.

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

17 (A) For general obligation bonds approved by the voters between November 1,  
18 1996 and November 30, 1998:

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

23 (ii) This percentage shall be multiplied by the total amount of the net taxable value  
24 for the applicable tax year. The result is the dollar amount of property taxes for that tax year  
25 for a particular property attributable to the repayment of general obligation bonds approved by

1 the voters between November 1, 1996, and November 30, 1998.

2 (iii) The dollar amount calculated under Subsection (ii) shall be divided by the total  
3 number of all units in each property, including commercial units. That figure shall be divided  
4 by 12 months, to determine the monthly per unit costs for that tax year of the repayment of  
5 general obligation bonds approved by the voters between November 1, 1996, and November  
6 30, 1998.

7 (B) For general obligation bonds approved by the voters after November 14, 2002  
8 where any rent increase has been disclosed and approved by the voters:

9 (i) The Controller and the Board of Supervisors will determine the percentage of  
10 the property tax rate, if any, in each tax year attributable to general obligation bonds approved  
11 by the voters after November 14, 2002, and repayable within such tax year.

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

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

20 (C) Landlords may pass through to each unit in a particular property the dollar  
21 amounts calculated under these Subsections 37.3(6)(A) and (B). These passthroughs may  
22 be imposed only on the anniversary date of each tenant's occupancy of the property. These  
23 passthroughs shall not become a part of a tenant's base rent. The amount of each annual  
24 passthrough imposed pursuant to this Subsection (6) may vary from year-to-year, depending  
25 on the amount calculated under Subsections (A) and (B). Each annual passthrough shall

1 apply only for the 12 month period after it is imposed. A landlord may impose the  
2 passthroughs described in this Subsection (6) for a particular tax year only with respect to  
3 those tenants who were residents of a particular property on November 1st of the applicable  
4 tax year. A landlord shall not impose a passthrough pursuant to this Subsection (6) if the  
5 landlord has filed for or received Board approval for a rent increase under Section 37.8(e)(4)  
6 for increased operating and maintenance expenses in which the same increase in property  
7 taxes due to the repayment of general obligation bonds was included in the comparison year  
8 cost totals.

9 (D) The Board will have available a form which explains how to calculate the  
10 passthrough.

11 (E) Landlords must provide to tenants, on or before the date that notice is served on  
12 the tenant of a passthrough permitted under this Subsection (6), a copy of the completed form  
13 described in Subsection (D). This completed form shall be provided in addition to the Notice of  
14 Rent Increase required under Section 37.3(b)(5). A tenant may petition for a hearing under the  
15 procedure described in Section 37.8 where the tenant alleges that a landlord has imposed a  
16 charge which exceeds the limitations set forth in this Subsection (6). In such a hearing, the  
17 burden of proof shall be on the landlord. Tenant petitions regarding this passthrough must be  
18 filed within one year of the effective date of the passthrough.

19 (F) The Board may amend its rules and regulations as necessary to implement this  
20 Subsection (6).

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

24 (8) Additional Increases. A landlord who seeks to impose any rent increase which  
25 exceeds those permitted above shall petition for a rental arbitration hearing pursuant to

1 Section 37.8 of this Chapter.

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

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

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

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

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

1 (ii) If the base rent is less than the payment standard, the rent increase limitations  
2 of this Chapter shall not apply; provided, however, that any rent increase which would result in  
3 the base rent being equal to or greater than the payment standard shall not result in a new  
4 base rent that exceeds the payment standard plus the increase allowable under Section  
5 37.3(a)(1).

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

11 (11) No extra rent may be charged solely for an additional occupant to an existing tenancy  
12 (including, but not limited to, a newborn child or family member as defined by Section 401 of the  
13 Housing Code), notwithstanding a rental agreement or lease that specifically permits a rent increase  
14 for additional tenants, so long as one or more of the occupants of the unit pursuant to the agreement  
15 with the owner remains an occupant in lawful possession of the unit, or so long as a lawful sublessee or  
16 assignee who resided in the unit prior to January 1, 1996 remains in possession of the unit. Such  
17 "extra rent" provisions in written or oral rental agreements or leases are deemed to be contrary to  
18 public policy. Except that, a landlord may petition the Rent Board for a rent increase pursuant to  
19 Section 37.8(e)(4) based on increased costs, and the petition may be granted, where an additional  
20 occupant causes an increase in costs.

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

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



1 (2) Which portion of the rent increase reflects costs for increased operating and  
2 maintenance expenses, rents for comparable units, and/or capital improvements,  
3 rehabilitation, energy conservation improvements, or renewable energy improvements  
4 certified pursuant to Section 37.7. Any rent increase certified due to increases in operating  
5 and maintenance costs shall not exceed seven percent;

6 (3) Which portion of the rent increase reflects the passthrough of charges for gas  
7 and electricity, or bond measure costs described in Section 37.3(a)(6) above, which charges  
8 shall be explained in writing on a form provided by the Board as described in Section  
9 37.3(a)(6)(E);

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

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

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

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

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

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

25 (A) An owner or residential real property may establish the initial and all subsequent

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

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

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

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

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

23 (2) Conditions for Establishing the Initial Rental Rate Upon Sublet or Assignment.  
24 Except as identified in this Subsection 37.3(d)(2), nothing in this Subsection or any other  
25 provision of law of the City and County of San Francisco shall be construed to preclude

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

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

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

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

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

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

25 (C) Acceptance of rent by the owner shall not operate as a waiver or otherwise

1 prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an  
2 owner's rights to establish the initial rental rate unless the owner has received written notice  
3 from the tenant that is party to the agreement and thereafter accepted rent.

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

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

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

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

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

25 (4) Subsection 37.3(d) does not affect the authority of the City and County of San

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

2 (5) This Subsection 37.3(d) is intended to be and shall be construed to be  
3 consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)

4 (e) Effect of Deferred Maintenance on Passthroughs for Lead Remediation  
5 Techniques.

6 (1) When lead hazards, which have been remediated or abated pursuant to San  
7 Francisco Health Code Article 26, are also violations of State or local housing health and  
8 safety laws, the costs of such work shall not be passed through to tenants as either a capital  
9 improvement or an operating and maintenance expense if the Administrative Law Judge finds  
10 that the deferred maintenance, as defined herein, of the current or previous landlord caused  
11 or contributed to the existence of the violation of law.

12 (2) In any unit occupied by a lead-poisoned child and in which there exists a lead  
13 hazard, as defined in San Francisco Health Code Article 26, there shall be a rebuttable  
14 presumption that violations of State or local housing health and safety laws caused or created  
15 by deferred maintenance, caused or contributed to the presence of the lead hazards. If the  
16 landlord fails to rebut the presumption, that portion of the petition seeking a rent increase for  
17 the costs of lead hazard remediation or abatement shall be denied. If the presumption is  
18 rebutted, the landlord shall be entitled to a rent increase if otherwise justified by the standards  
19 set forth in this Chapter.

20 (3) For purposes of the evaluation of petitions for rent increases for lead  
21 remediation work, maintenance is deferred if a reasonable landlord under the circumstances  
22 would have performed, on a regular basis, the maintenance work required to keep the  
23 premises from being in violation of housing safety and habitability standards set forth in  
24 California Civil Code Section 1941 and the San Francisco Municipal Code. In order to prevail  
25 on a deferred maintenance defense, a tenant must show that the level of repair or remediation

1 currently required would have been lessened had maintenance been performed in a more  
2 timely manner.

3  
4

5 Section 2. The San Francisco Administrative Code is hereby amended by amending  
6 Section 37.9, to read as follows:

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

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

10 (1) The tenant:

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

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

15 (ii) Except that, commencing August 10, 2001, to and including February 10, 2003,  
16 a landlord shall not endeavor to recover or recover possession of a rental unit for failure of a  
17 tenant to pay that portion of rent attributable to a capital improvement passthrough certified  
18 pursuant to a decision issued after April 10, 2000, where the capital improvement passthrough  
19 petition was filed prior to August 10, 2001, and a landlord shall not impose any late fee(s)  
20 upon the tenant for such non-payment of capital improvement costs; or

21 (B) Habitually pays the rent late; or

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

24 (2) The tenant has violated a lawful obligation or covenant of tenancy other than the  
25 obligation to surrender possession upon proper notice or other than an obligation to pay a

1 charge prohibited by Police Code Section 919.1, and failure to cure such violation after having  
2 received written notice thereof from the landlord, provided further that notwithstanding any  
3 lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental  
4 unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably  
5 withheld the right to sublet following a written request by the tenant, so long as the tenant  
6 continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of  
7 the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen  
8 (14) days of receipt of the tenant's written request, the tenant's request shall be deemed  
9 approved by the landlord. In addition, a landlord shall not endeavor to recover possession of a  
10 rental unit as a result of the addition by the tenant of additional occupants to the rental unit, unless the  
11 total number of occupants exceeds two persons per habitable sleeping room (as the term "sleeping  
12 room" is used in the San Francisco Housing and Building Codes), or unless the total number of  
13 occupants exceeds the number permitted under applicable state law and/or other applicable local  
14 codes such as the Planning and Building and Housing Codes or otherwise fails to comply with such  
15 other state law and local codes; or

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

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

23 (5) The tenant, who had an oral or written agreement with the landlord which has  
24 terminated, has refused after written request or demand by the landlord to execute a written  
25 extension or renewal thereof for a further term of like duration and under such terms which are

1 materially the same as in the previous agreement; provided, that such terms do not conflict  
2 with any of the provisions of this Chapter; or

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

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

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

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

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

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



1 only, two individuals registered as domestic partners as defined in San Francisco  
2 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at  
3 least 25 percent.

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

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

21 (vi) Once a landlord has successfully recovered possession of a rental unit pursuant  
22 to Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of  
23 any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this  
24 Section that only one specific unit per building may be used for such occupancy under Section  
25 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under

1 Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with  
2 the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that  
3 disability or other similar hardship prevents him or her from occupying a unit which was  
4 previously occupied by the landlord.

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

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

12 (10) The landlord seeks to recover possession in good faith in order to demolish or to  
13 otherwise permanently remove the rental unit from housing use and has obtained all the  
14 necessary permits on or before the date upon which notice to vacate is given, and does so  
15 without ulterior reasons and with honest intent; provided that a landlord who seeks to  
16 demolish an unreinforced masonry building pursuant to Building Code Chapters ~~14~~ 16B and ~~15~~  
17 16C must provide the tenant with the relocation assistance specified in Section 37.9A below  
18 prior to the tenant's vacating the premises; or

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

1 given, the landlord shall advise the tenant in writing that the rehabilitation or capital  
2 improvement plans are on file with the Central Permit Bureau of the Department of Building  
3 Inspection and that arrangements for reviewing such plans can be made with the Central  
4 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of  
5 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as  
6 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be  
7 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;  
8 provided, however, that such time period may be extended by the Board or its Administrative  
9 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to  
10 implement the application procedure. Any landlord who seeks to recover possession under  
11 this Section 37.9(a)(11) shall pay the tenant actual costs up to \$1,000 for moving and  
12 relocation expenses not less than 10 days prior to recovery of possession; or

13 (12) The landlord seeks to recover possession in good faith in order to carry out  
14 substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary  
15 permits on or before the date upon which notice to vacate is given, and does so without  
16 ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall  
17 endeavor to recover possession of any unit subject to a RAP loan as set forth in Section  
18 37.2(m) of this Chapter except as provided in Section 32.69 of the San Francisco  
19 Administrative Code; or

20 (13) The landlord wishes to withdraw from rent or lease all rental units within any  
21 detached physical structure and, in addition, in the case of any detached physical structure  
22 containing three or fewer rental units, any other rental units on the same lot, and complies in  
23 full with Section 37.9A with respect to each such unit; provided, however, that a unit classified  
24 as a residential unit under Chapter 41 of this Code which is vacated under this Section  
25 37.9(a)(13) may not be put to any use other than that of a residential hotel unit without

1 compliance with the provisions of Section 41.9 of this Code; or

2 (14) The landlord seeks in good faith to temporarily recover possession of the unit for  
3 less than 30 days solely for the purpose of effecting lead remediation or abatement work, as  
4 required by San Francisco Health Code Article 26. The relocation rights and remedies,  
5 established by San Francisco Administrative Code Chapter 72, including but not limited to, the  
6 payment of financial relocation assistance, shall apply to evictions under this Section  
7 37.9(a)(14).

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

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

24 (d) No landlord may cause a tenant to quit involuntarily or threaten to bring any  
25 action to recover possession, or decrease any services, or increase the rent, or take any other

1 action where the landlord's dominant motive is retaliation for the tenant's exercise of any  
2 rights under the law. Such retaliation shall be a defense to any action to recover possession.  
3 In an action to recover possession of a rental unit, proof of the exercise by the tenant of rights  
4 under the law within six months prior to the alleged act of retaliation shall create a rebuttable  
5 presumption that the landlord's act was retaliatory.

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

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

24 (g) The provisions of this Section 37.9 shall apply to any rental unit as defined in  
25 Sections 37.2(r)(4)(A) and 37.2(r)(4)(B), including where a notice to vacate/quit any such

1 rental unit has been served as of the effective date of this Ordinance No. 250-98 but where  
2 any such rental unit has not yet been vacated or an unlawful detainer judgment has not been  
3 issued as of the effective date of this Ordinance No. 250-98.

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

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

10 (1) A landlord may not recover possession of a unit from a tenant under Section  
11 37.9(a)(8) if the landlord has or receives notice, any time before recovery of possession, that  
12 any tenant in the rental unit:

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

15 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been residing  
16 in the unit for 10 years or more, or is catastrophically ill within the meaning of Section  
17 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

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

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

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

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

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

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

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

By:           MARIE CORLETT BLITS  
              Deputy City Attorney