

1 [Tenant-Initiated Home Ownership Program for Everyone]

2

3 **Ordinance amending the San Francisco Subdivision Code by adding Article 11,**
4 **consisting of Sections 1399.1 through 1399.16 to permit the conversion of existing**
5 **residential buildings to residential condominium or other ownership subject to certain**
6 **requirements.**

7

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

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

12 Section 1. FINDINGS. The Board of Supervisors of the City and County of San
13 Francisco hereby finds and declares as follows:

14 A. The proposed amendments encourage and ensure the development of
15 residential subdivisions consistent with the objectives of the California Subdivision Map Act
16 and the San Francisco General Plan.

17 B. The City reasserts its policy, stated in section 1302(c)(2), of the San Francisco
18 Subdivision Code, of promoting the meaningful expansion of homeownership opportunities for
19 existing tenants and preventing the displacement of existing tenants by requiring a high
20 degree of tenant intent to purchase their rental units as a condition of approval of applications
21 for residential conversion.

22 C. The number of permitted condominium conversions is low compared to the
23 current demand for home ownership in the City. It promotes the health, safety and welfare of
24 residents to expand home ownership opportunities above and beyond the current limits while
25 balancing this need for ownership housing against the displacement of tenants. The

1 immediate effects on tenants of converting rental housing to condominiums can be minimized
2 through a variety of mechanisms including the discouragement of evictions and the provision
3 of life-time leases to existing tenants.

4 Section 2. The San Francisco Subdivision Code is hereby amended by adding Article 11,
5 consisting of Sections 1399.1 through 1399.16 to read as follows:

6 Article 11

7 TENANT- INITIATED HOME OWNERSHIP PROGRAM FOR EQUITY

8 Sec. 1399.1. PURPOSES. This Article 11 is enacted to establish an alternative method for subdividing
9 parcels containing existing residential units. The conversions allowable under this Article 11 are
10 intended (i) to promote the expansion of home ownership opportunities for existing tenants by creating
11 opportunities for a substantial number of them to purchase their units, and (ii) to balance the interests
12 of new home ownership opportunities with the need to protect tenants in place.

13 Sec. 1399.2. MODIFICATIONS TO CODE. This Article 11 is entirely new. It modifies the applicable
14 provisions of this Code in the case of conversions that submit applications under Section 1399.8. The
15 requirements and restrictions of Article 9 of this Code, including but not limited to the annual
16 conversion limitation set forth in Section 1396, do not apply to conversions under this Article. The
17 provisions of Sections 1332 (a), 1341 and 1385 of this Code do not apply to conversions under this
18 Article.

19 Sec. 1399.3. DEFINITIONS APPLICABLE TO THIS ARTICLE. As used in this Article 11:

20 (a) "Application Packet" means the tentative map and other documents required under this Article to
21 initiate the subdivision into condominiums or other form of common interest subdivision under this
22 Article. The "date the Application Packet is submitted" is the date on which an Application Packet in
23 first delivered to the San Francisco Department of Public Works in connection with a subdivision under
24 this Article.

25 (b) "Code" means the San Francisco Subdivision Code.

- 1 (c) "Director" means the Director of the Department of Public Works.
- 2 (d) "Eligible purchaser" means a tenant or an owner who has continuously occupied a unit at the
3 property for at least two years prior to the date the Application Packet is submitted and who occupies a
4 unit in the property on the date the Application Packet is submitted. A person may qualify as an
5 eligible purchaser only one time in a seven year period.
- 6 (e) "Housing Stock" means the total number of housing units reported as "San Francisco Housing
7 Stock" in the "Housing Inventory" published by the Planning Department as it may be updated or
8 republished from time to time.
- 9 (f) "Intent to Purchase" means a form indicating an eligible purchaser's intent to purchase a unit in
10 the form set forth in Section 1399.6(j).
- 11 (g) "Permitted Eviction" means an eviction on one of the following grounds:
- 12 (1) the tenant has failed to pay the rent to which the landlord is lawfully entitled under the oral or
13 written agreement between the tenant and the landlord or habitually pays the rent late or gives checks
14 which are frequently returned because there are insufficient funds in the checking account;
- 15 (2) the tenant has violated a lawful obligation or covenant of tenancy other than the obligation to
16 surrender possession upon proper notice and failure to cure such violation after having received
17 written notice thereof from the landlord, provided further that notwithstanding any lease provision to
18 the contrary, a landlord shall not endeavor to recover possession of a rental unit as a result of
19 subletting of the rental unit by the tenant if the landlord has unreasonably withheld the right to sublet
20 following a written request by the tenant, so long as the tenant continues to reside in the rental unit and
21 the sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails to
22 respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the
23 tenant's request shall be deemed approved by the landlord; or
- 24 (3) the tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to,
25 the rental unit, or is creating a substantial interference with the comfort, safety or enjoyment of the

1 landlord or other tenants in the building, and the nature of such nuisance, damage or interference is
2 specifically stated by the landlord in the written notice to quit to the tenant; or

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

4 (5) the tenant has, after written notice to cease, refused the landlord access to the rental unit as
5 required by state or local law.

6 (h) "Owner" means a person, firm, corporation, limited liability company, partnership or association
7 that owns at least a 10% record title interest in the property for which an Application Packet has been
8 submitted.

9 (i) "Rent Board" and "Rent Ordinance" mean, respectively, the San Francisco Residential Rent
10 Stabilization and Arbitration Board and the San Francisco Residential Rent Stabilization and
11 Arbitration Ordinance, San Francisco Administrative Code Section 37.1 et seq.

12 (j) "Subdivider" means a person, firm, corporation, limited liability company, partnership or
13 association that proposes to divide, divides or causes to be divided real property for himself or for
14 others, and any successor in interest. Where a subdivider acts only as an agent for the owner, the term
15 "subdivider" includes the owner where the context requires.

16 (k) "Tenant" means an individual residing in the property on the date the Application Packet is
17 submitted who has an express oral or written agreement directly with the owner.

18 (l) "Unit" means a legal residential dwelling unit.

19 (m) Other Definitions. Except as provided above, the definitions and terminology found in Article 2 of
20 this Code apply to this Article 11.

21 SEC. 1399.5 LIFETIME LEASES.

22 (a) A lifetime lease arises as to each tenant on the date that the subdivision map for the property is
23 recorded.

24 (b) The initial rent payable under the lifetime lease shall not exceed the rent charged on the date the
25 Application Packet is submitted, plus any increases permitted under the Rent Ordinance since that

1 date. In consideration of the benefits provided by this Article, the subdivider shall agree to waive any
2 right to any rent increase other than as provided in this subsection that may be permitted under the
3 Costa Hawkins Rental Housing Act, Civil Code Sections 1954.50 et seq. or by any other provision of
4 law. The lease shall provide that rent increases shall be subject solely to the provisions of the Rent
5 Ordinance, including the approval of the Rent Board for any increase requiring such approval, and
6 that any dispute between the landlord and the lifetime lease tenant concerning the rent shall be
7 determined by the Rent Board. In the event the Rent Ordinance is no longer in effect, then rent may be
8 increased not more than once a year in an amount equal to the percent increase in the U.S. Bureau of
9 Labor Statistics Consumer Price Index-All Urban Consumers-San Francisco-Oakland-San Jose, CA, or
10 any succeeding index, from the date of the last rent increase.

11 (c) The lease shall contain a provision allowing the lifetime lease tenant to terminate the lease and
12 vacate the unit on thirty days written notice.

13 (d) The lease shall terminate on the death of the tenant or the date on which the tenant ceases to
14 actually and continuously reside in the unit as his or her principal residence, whichever occurs first.
15 The landlord may terminate the lease during its term only for a Permitted Eviction.

16 (e) There shall be no decrease in maintenance of the unit occupied by a tenant under a lifetime lease.

17 (f) If, on the date the Application Packet is submitted, the tenant occupies the unit with a person who is
18 not a tenant but who is a related party, at the request of the tenant the related party shall become a
19 tenant under lifetime lease. A "related party" is an adult who is a grandparent, grandchild, parent,
20 child, brother, sister, spouse, or person registered as a Domestic Partner of the tenant pursuant to San
21 Francisco Administrative Code 62.1-62.8.

22 (g) A tenant's rights under a lifetime lease are not transferable, and any attempted transfer shall be of
23 no force or effect. The foregoing does not prevent a tenant with a lifetime lease from allowing other
24 persons to occupy the unit with him or her to the same extent as allowed under the existing agreement
25 between the landlord and the tenant, provided that (i) the lifetime lease tenant continues to actually

1 reside in the unit as his or her principal residence, and (ii) no other person residing in the unit shall
2 have the rights of a lifetime lease tenant on account of any acts of, or oral representations made by the
3 landlord or the lifetime lease tenant to any other person occupying the unit. A tenant must provide the
4 landlord with the name of each person who occupies the unit with the tenant as well as emergency
5 contact information for that person in writing. The tenant must also give any other occupant of the unit
6 a written notice that the occupant is not a tenant and has no rights under the lifetime lease.

7 (h) The owner of a unit subject to a lifetime lease or his or her successor in interest may require a
8 lifetime lease tenant to enter into a written agreement documenting the tenant's lifetime lease rights.
9 The lifetime lease shall include the terms set forth in this Section and shall also include the terms of the
10 existing written rental agreement between the landlord and the tenant to the extent those terms do not
11 conflict with this Section. If there is no existing written rental agreement, the written agreement shall
12 include the usual and customary terms of residential rental agreements in the City that do not conflict
13 with the terms of this Section. Where the tenant has the right to use certain common areas of the
14 property, as, for example, parking or storage, or the right to have pets, those rights shall be included in
15 the written agreement. Any controversy between the landlord and the tenant over the terms of the
16 written agreement shall be decided by the Rent Board. If either a landlord or a tenant refuses to
17 execute a written agreement after a decision by the Rent Board, the decision of the Rent Board shall
18 serve as the agreement.

19 (i) A Notice of Right to Lifetime Lease shall be in the following form, printed in 12 point type or
20 larger:

21 NOTICE OF RIGHT TO LIFETIME LEASE

22 TO: (name of tenant)

23 RE: (address of unit)

24

25

1 This Notice of Right to Lifetime Lease is given to you as required by Section 1399.5 of the San
2 Francisco Subdivision Code. If the property in which you live becomes condominiums and you do not
3 purchase your unit, you will have a lifetime lease.

4 A. The lifetime lease will start on the date that the subdivision map for the condominium is recorded
5 with the San Francisco Recorder.

6 B. The following terms will be incorporated into your lifetime lease.

7 1. The initial rent payable under the lifetime lease shall not exceed the rent charged on the date the
8 Application Packet is submitted, plus any increases permitted under the Rent Ordinance since that
9 date. In consideration of the benefits provided by Article 11 of the San Francisco Subdivision Code,
10 the subdivider shall agree to waive any right to any rent increase other than as provided in this
11 subsection that may be permitted under the Costa Hawkins Rental Housing Act, Civil Code Sections
12 1954.50 et seq. or by any other provision of law. The lease shall provide that rent increases shall be
13 subject solely to the provisions of the Rent Ordinance, including the approval of the Rent Board for any
14 increase requiring such approval, and that any dispute between the landlord and the lifetime lease
15 tenant concerning the rent shall be determined by the Rent Board. In the event the Rent Ordinance is
16 no longer in effect, then rent may be increased not more than once a year in an amount equal to the
17 percent increase in the U.S. Bureau of Labor Statistics Consumer Price Index-All Urban Consumers-
18 San Francisco-Oakland-San Jose, CA, or any succeeding index, from the date of the last rent increase.

19 2. You have a right to terminate your lifetime lease at any time on thirty days prior written notice to
20 your landlord.

21 3. The lifetime lease terminates only on the death of the last person named as a tenant in the lease or
22 when you no longer actually and continuously reside in the unit as your principal place of residence.

23 4. Your landlord may terminate the lifetime lease during its term only if:
24
25

1 a. you fail to pay the rent to which the landlord is lawfully entitled under the oral or written agreement
2 between you and the landlord or you habitually pay the rent late or give checks which are frequently
3 returned because there are insufficient funds in the checking account;
4 b. you have violated a lawful obligation or covenant of tenancy other than the obligation to surrender
5 possession upon proper notice and you have failed to cure the violation after having received written
6 notice of it from the landlord; provided that notwithstanding any lease provision to the contrary, your
7 landlord shall not endeavor to recover possession of your unit as a result of your subletting the unit if
8 your landlord has unreasonably withheld the right to sublet following a written request from you, so
9 long as you continue to reside in the rental unit and the sublet constitutes a one-for-one replacement of
10 the departing tenant(s) as set forth in Rent Board Regulations 6.15A(d) and 6.15B(b).
11 c. you are committing or permitting to exist a nuisance in or are causing substantial damage to the
12 rental unit, or you are creating a substantial interference with the comfort, safety or enjoyment of the
13 landlord or tenants in the building;
14 d. you are using or permitting the unit to be used for any illegal purpose;
15 e. you have, after written notice to cease, refused the landlord access to the unit as required by state or
16 local law;
17 5. If, on the date the application for condominiums is submitted to the San Francisco Department of
18 Public Works, one of the following persons lives with you at the unit and is an adult, at your request the
19 landlord must name that person as a tenant on the lifetime lease, even if the landlord has not previously
20 accepted that person as a tenant: your grandparent, grandchild, parent, child, brother, sister, spouse,
21 or domestic partner.
22 6. You may not assign or transfer the lifetime lease. However, you may allow other persons to occupy
23 the unit with you to the same extent as allowed under the existing agreement between you and your
24 landlord so long as you actually and continually reside in the unit as your principal place of residence
25 and you give the landlord the name of each person who resides in the unit with you and emergency

1 contact information for that person. You must give any person who resides in the unit with you notice
2 that he or she is not a tenant and has no rights under the lifetime lease.

3 C. At your landlord's request, you must enter into a written lease with your landlord that includes
4 those terms of your existing rental agreement that do not conflict with your rights under the lifetime
5 lease. If you do not have a written rental agreement, the written lifetime lease will contain provisions
6 usually and customarily found in a residential rental agreement in San Francisco that do not conflict
7 with your rights under the lifetime lease. If you and the landlord are unable to agree on the terms of
8 the written agreement, the terms will be decided by the San Francisco Residential Rent Stabilization
9 and Arbitration Board. If either you or the landlord refuse to sign a written agreement on the terms
10 decided by the Rent Board, the decision of the Rent Board will serve as the agreement.

11
12 Date: _____
13
14 _____

15 Signature of Subdivider

16 SEC. 1399.6 TENANT PURCHASE RIGHTS.

17 (a) Each tenant at the property has the right to purchase the unit he or she occupies provided the
18 tenant continues to reside in the unit up to and including the date of close of escrow on the purchase.

19 (b) If one tenant purchases a unit and another tenant who resides in the same unit with the purchasing
20 tenant does not jointly purchase the unit, the purchasing tenant takes the unit subject to the lifetime
21 lease rights of the non-purchasing tenant.

22 (c) Within thirty calendar days following the issuance by the California Department of Real Estate of
23 the Final Subdivision Public Report for a property containing five or more units, or the recording of
24 the Parcel Map for a property containing four or fewer units, the subdivider shall notify each tenant in
25 writing of the right to purchase the unit in which that tenant resides. The written notice shall be served

1 in person or by certified or registered mail, and shall include the price at which the unit may be
2 purchased and the date on which the offering period expires.

3 (d) The tenant's right to purchase expires 180 calendar days following the date the offer to purchase is
4 made to the tenant. The offering period may be extended by an agreement in writing between the
5 subdivider and the tenant.

6 (e) With respect to a tenant who signed an Intent to Purchase, the right to purchase shall be at the
7 price stated in the Intent to Purchase and on the other terms negotiated between the subdivider and the
8 tenant in connection with the purchasing tenant's Intent to Purchase. Where more than one tenant
9 executes an Intent to Purchase for a unit, the tenants who executed the Intent to Purchase shall
10 purchase the unit jointly.

11 (f) With respect to a tenant who did not sign an Intent to Purchase, the selling price for the unit shall
12 be determined by the subdivider at the time the offer is made to the tenant, which price shall be no
13 greater than the price at which the unit would be offered to the general public.

14 (g) A tenant may not assign his or her right to purchase a unit, except as follows: (i) a tenant may
15 jointly purchase a unit with another person who resides in the unit with that tenant; and (ii) a tenant
16 may add a person to title who is a co-signer on a first or second loan secured by the unit.

17 (h) To effectuate a purchase, a tenant must, before the offering period expires, execute a binding, non-
18 contingent purchase and sale agreement that includes all material terms negotiated between the
19 subdivider and the tenant, such other usual and customary terms found in an agreement for the
20 purchase and sale of residential real property in the City and, where a Final Subdivision Public Report
21 from the California Department of Real Estate is required, all terms required by that agency. Unless
22 the subdivider and the tenant have agreed otherwise: (i) close of escrow shall be 60 days from the date
23 the purchase and sale agreement is executed by the tenant; (ii) brokerage, attorney and inspection fees
24 incurred in connection with execution of the purchase and sale agreement and closing escrow shall be
25

1 paid by the party who incurred the fee; and (iii) documentary transfer tax, title insurance, and escrow
2 fees and costs shall be paid according to custom in the County of San Francisco.

3 (i) A signed Intent to Purchase is irrevocable by the signing tenant for purposes of establishing the
4 subdivider's compliance with the qualifications for conversion under this Article 11 unless the Director
5 finds, after hearing as described in Section 1399.10, that the subdivider obtained the signature by fraud
6 or duress.

7 (j) An Intent to Purchase required for a conversion under this Article shall be in the following form, in
8 12 point type or larger.

9 INTENT TO PURCHASE

10 Definitions:

11 "Eligible purchaser" means a tenant or an owner who has continuously occupied a unit at the property
12 for at least two years prior to the date the Application Packet is submitted and who occupies a unit at
13 the property on the date the Application Packet is submitted. A person may qualify as an eligible
14 purchaser only one time in a seven year period.

15 "Tenant" means an individual residing in the property on the date the Application Packet is submitted
16 who has an express oral or written agreement directly with the owner.

17 The undersigned states that:

18 1. I reside at _____, Unit _____. By
19 signing below, I indicate my intent to purchase this unit at the price of _____.

20 2. I am an eligible purchaser, as defined above. I have not executed an Intent to Purchase with
21 respect to any other property within the last seven years.

22 3. I have read and understand my right to purchase my unit at the price stated above and on the
23 terms set forth in Section 1399.6 of the San Francisco Subdivision Code.

24 4. I have received a Notice of Right to Lifetime Lease and have read and understand my right to a
25 lifetime lease as stated in that Notice.

1 5. I understand that any person who lives in my unit with me, who does not purchase the unit with me
2 and who is a "tenant" of the current owner has a right to remain in the unit under a lifetime lease.

3 Once I become the owner of the unit, I will become the landlord under the lifetime lease.

4 6. I am buying my unit with the intent of residing in it for at least two years. I understand that if I
5 resell my unit within 12 months after the date that escrow closes on the purchase of my unit, I will be
6 required to pay 20% of my net profit to a housing fund administered by the Rent Board, and that if I
7 resell my unit between 13 and 24 months after the date that escrow closes on the purchase of my unit, I
8 will required to pay 10% of my net profit to that fund. This payment is due unless I can demonstrate
9 that I did not know or could not reasonably foresee at the time that escrow closes on my purchase of
10 the unit that I might be required to resell the unit within 24 months of purchase.

11 7. I understand that signing this Intent to Purchase does not create a contractual obligation. However,
12 as of this date, it is my intention to purchase my unit at the time that the unit is available and offered for
13 sale.

14 8. I understand that this Intent to Purchase will be filed with the City and County of San Francisco in
15 order to establish that the building qualifies for conversion, and that my signed Intent to Purchase is
16 irrevocable for establishing that purpose unless my signature was obtained by fraud or duress.

17 9. I have been advised that I have a right to seek legal or other professional assistance in connection
18 with my rights to purchase my unit or to have a lifetime lease, and either have obtained counsel or have
19 waived my right to do so.

20 I/We declare, under penalty of perjury, that the foregoing statements are true and correct.

21 _____

22 Eligible Purchaser Eligible Purchaser

23 [Completed Notary Acknowledgment must be attached.]

24 SEC.1399.7 RESTRICTION ON EVICTIONS DURING CONVERSION. An owner or subdivider may
25 not endeavor to recover possession of a unit from any tenant in a building for which an Application

1 Packet has been submitted unless possession of the unit is sought based upon a ground for a Permitted
2 Eviction.

3 SEC. 1399.8 ADDITIONS AND DELETIONS TO APPLICATION PACKET FOR
4 SUBDIVISIONS UNDER ARTICLE 11.

5 (a) Application Packets for conversions under this Article 11 shall contain the following items in
6 addition to those required by Sections 1322, 1323 and 1324 of this Code:

7 (1) Intent to Purchase forms from the following percentage of the total number of units;

8 Buildings of 2 to 6 units at least one eligible purchaser from 40% of the units

9 Buildings of 7 - 12 units at least one eligible purchaser from 33% of the units

10 Buildings of 13 or more units at least one eligible purchaser from 25% of the units

11 (2) A declaration of the subdivider, executed under penalty of perjury, stating that

12 (A) each tenant has been offered the right to execute an Intent to Purchase with respect to his or her
13 unit and has been served with a Notice of Right to Lifetime Lease;

14 (B) escrow on the sale of a unit to the general public may not close until escrows have closed on the
15 sales of until at least 25 percent of the units to eligible purchasers or to persons who will have been
16 tenants at the property for at least two years preceding the date of close of escrow;

17 (C) a notice of intent to withdraw rental units from rent or lease under the Ellis Act, California
18 Government Code Sections 7060 et seq. has not been filed with the Rent Board for a period of ten years
19 preceding the date the Application Packet is submitted, nor has a notice of termination of tenancy
20 seeking to obtain possession of a unit in the property because the landlord wishes to withdraw from
21 rent or lease all rental units at the property as provided in Section 37.9(a)(13) of the Rent Ordinance
22 been served on a tenant at the property or filed with the Rent Board for a period of ten years preceding
23 the date the Application Packet is submitted;

24 (D) within five years preceding the date the Application Packet is submitted, no notice of termination
25 of tenancy seeking to obtain possession of a unit in the property for occupancy by an owner or a related

1 party of an owner, as provided in Section 37.9(a)(8) of the Rent Ordinance, has been served on a tenant
2 at the property or filed with the Rent Board;

3 (E) after reasonable inquiry and to the best of subdivider's knowledge, within the five years preceding
4 the date the Application Packet is submitted, no tenant has accepted compensation to vacate the
5 property, and has vacated the property based upon a representation by the owner or the owner's agent
6 that the owner intended to withdraw from rent or lease all residential rental units at the property under
7 Section 37.9(a)(13) of the Rent Ordinance and under the Ellis Act, California Government Code
8 Sections 7060 et seq.

9 (F) all of the information in the application is, to the best of the subdivider's knowledge, true and
10 correct.

11 (3) The materials required by Section 1381(a)(1) and (2).

12 (b) The statements required by Section 1323(a), paragraph 1 shall not be included in an
13 Application Packet for conversion under this Article.

14 SEC. 1399.10 NOTICE OF APPLICATION; HEARING. Not more than 15 days after the date an
15 Application Packet is submitted, the Director shall mail to each tenant residing at the property (i)
16 notice that the application has been submitted and that the tenant has the right to request a hearing on
17 the application, and (ii) a copy of the subdivider's declaration submitted as part of the Application
18 Packet. A tenant who wishes to request a hearing shall, within ten days of the date that the Director's
19 notice is mailed, make a written request for a public hearing to the Director. The Director shall hold a
20 public hearing with respect to the application within 21 days of the date the tenant's request for a
21 hearing is made. Notice of the hearing shall be mailed to each tenant by the Director at least ten days
22 prior to the hearing.

23 SEC 1399.11 ACTION ON APPLICATION PACKET; CONDITIONS OF APPROVAL. The Director
24 shall review an Application Packet for completeness within 15 days after the date the Application
25 Packet was submitted. An application shall be considered filed when the Director determines that it is

1 complete. If the Director fails within the 15 day period to notify the applicant of the items required to
2 make an Application Packet complete, the Application Packet will be deemed filed on the 15th day after
3 it has been submitted.

4 (a) The Director shall approve or conditionally approve an application within 50 days after filing
5 unless the Director finds that:

6 (1) the application fails to meet the requirements of Section 1399.8; or

7 (2) the signature on any Intent to Purchase was obtained as the result of fraud or duress; or

8 (3) within the five years preceding the date the Application Packet was submitted, one or more tenants

9 has accepted compensation to vacate the property, and has vacated the property based upon a

10 representation by the owner or the owner's agent that the owner intended to withdraw from rent or

11 lease all residential rental units at the property under Section 37.9(a)(13) of the Rent Ordinance and

12 under the Ellis Act, California Government Code Section 7060 et seq.

13 (4) any of the other statements in the subdivider's declaration are false; or

14 (5) the application fails to meet any mandatory requirement of the Subdivision Map Act, Government

15 Code Section 66410, et seq.

16 (b) If the Director disapproves a Tentative Map, no Application Packet for the same property may be
17 submitted for eighteen months following the date of disapproval.

18 (c) If the Director fails to approve, conditionally approve, or disapprove a Tentative Map within 50
19 days after it has been filed, the Tentative Map is deemed approved.

20 (d) A Tentative Map filed under this Article 11 shall be approved subject to the condition that,

21 concurrently with recording of the final map, the subdivider shall record against the property a Notice
22 of Conditions of Approval, signed and notarized by the City and the subdivider, that:

23 (1) effective as of the date of recording the final map, each unit is subject to the lien of a lifetime lease,

24 on the terms set forth in Section 1399.5, in favor of each tenant who does not purchase his or her unit

25 and who was a tenant on the date the Application Packet was submitted and who has actually and

1 continuously resided in the unit as his or her principal residence from the date on which the
2 Application Packet was submitted to and including the date of recording the final map;
3 (2) escrow on the sale of a unit to the general public may not close until escrows have closed on the
4 sales of until at least 25 percent of the units to eligible purchasers or to persons who will have been
5 tenants at the property for at least two years preceding the date of close of escrow; and
6 (3) each unit is subject to a lien in favor of the City for payments of the fees required by Section
7 1399.15.

8 The recorded conditions of approval also constitute an agreement between the subdivider and any
9 successors in interest and the City. The City and each tenant have the right to specific enforcement of
10 the agreement in addition to any other remedies provided by law.

11 SEC. 1399.12 NOTICE TO NEW TENANTS. Notice of the proposed conversion must be given to all
12 tenants who take occupancy of a unit in a property after the date an Application Packet is submitted for
13 the property. Such new tenants are not entitled to a lifetime lease.

14 SEC. 1399.14 ADMINISTRATIVE FEE

15 (a) The Department of Public Works is authorized to collect a fee of \$3,800 for applications of 4
16 units or less, and \$6,600 for 5 units or more for the administration of this Article 11. These are the
17 current fees as of March, 2002 for administration of Article 9.

18 (b) Within one year after the date this Section becomes effective, and every three years
19 thereafter, the Director shall review the proceeds of the administrative fee, and the costs of
20 administering and monitoring Article 11 and any new information that shall become available and
21 prepare a report to the Board of Supervisors. Based upon the result of the review, the Director shall
22 recommend to the Board of Supervisors any necessary adjustments to the fee, along with written
23 justification for the recommended adjustment and any necessary legislation. In the event that the fee
24 proceeds have exceeded, or are anticipated to exceed, the costs of administering and monitoring Article
25 11, the Director shall recommend legislation to the Board of Supervisors that modifies the applicable

1 fee to ensure that fee proceeds do not exceed the costs of administration. In the event that fee proceeds
2 have undercollected, or are anticipated to undercollect, the Director may recommend legislation to the
3 Board of Supervisors that modifies the applicable fee to more accurately recover the costs for
4 administration and monitoring.

5 SEC. 1399.15 ANTI-SPECULATION FEE.

6 (a) In order to discourage tenants and other purchasers from purchasing units primarily for the
7 purpose of resale, as to each unit converted under this Article that is resold within 24 months from the
8 date of close of escrow on the initial sale of that unit by the subdivider, the seller shall pay at close of
9 escrow to the special fund maintained by the Controller called the Citywide Affordable Housing Fund.
10 The receipts in the Fund are hereby appropriated in accordance with law to be used solely to increase
11 the supply of housing affordable to qualifying households subject to the conditions of this Section.
12 The Fund shall be administered and expended by the Director of the Mayor's Office of Housing, who
13 shall have the authority to prescribe rules and regulations governing the Fund which are consistent
14 with this Section. The fee shall be an amount equal to 20% of the net profit realized on the sale if the
15 unit is resold up to and including 12 months after the date of close of escrow on the initial sale of the
16 unit by the subdivider, and (ii) an amount equal to 10% of the net profit realized on the sale if the unit
17 is resold 13 months and up to and including 24 months after the date of close of escrow on the initial
18 sale by the subdivider.

19 For purposes of this subsections: (i) the date a unit is resold is the date of close of escrow on the sale
20 of the unit; and (ii) net profit realized on the sale of a unit is the difference between (A) the gross
21 purchase price paid by the seller on the initial purchase of the unit, and (B) the sale price of the unit
22 reduced by the costs of improvements made to the unit, real estate commission or attorney's fees
23 incurred in connection with the sale not to exceed 6% of the purchase price, and transfer tax and other
24 sales expenses customarily paid by a seller in the County. The costs of improvements made to a unit
25 include, without limitation, the costs of structural improvements to the unit, new fixtures, cabinets and

1 appliances, and cosmetic improvements such as carpet, paint, and floor refinishing. The Mayor's
2 Office of Housing shall determine the amount of gross profit and may request reasonable
3 documentation of gross purchase price, sale price and all costs and expenses by which a seller seeks to
4 reduce the sale price.

5 (b) A seller may be exempted from payment of the fee required under this Section upon a showing that
6 the he or she resold the unit within 24 months of purchase due to circumstances which were beyond the
7 control of the seller and could not have reasonably been foreseen by the seller at the time of purchase.
8 Examples of such circumstances include job transfer, loss of employment, health- related issues and
9 other circumstances which the seller did not know or could not reasonably have foreseen at the time of
10 purchase. A seller who seeks an exemption from the fee required under this Section shall file a written
11 request for exemption with the Mayor's Office of Housing and shall have the burden of proving the
12 basis for the exemption.

13 Sec. 1399.16. Conversion Limitation; Lottery.

14 For a period of 25 years from the effective date of this legislation, not more than 1% of the
15 housing stock in San Francisco may be approved for conversion under this Article in any calendar
16 year, subject to the carry-over of unused conversions. Thereafter, not more than 200 units may be
17 approved for conversion under this Article in any calendar year, subject to the carry-over of unused
18 conversions. As used below, "Permitted Conversions" means a number equal to 1% of the housing
19 stock in San Francisco as reported by the Planning Department in the "Housing Inventory" in the most
20 recent available calendar year for a period of 25 years from the effective date of this legislation, and
21 200 unit per year in any calendar year thereafter.

22 Within 90 days from the effective date of this legislation and on March 1 of each calendar year
23 after the year in which this legislation becomes effective (or on the next business day if March 1 falls on
24 a Saturday or Sunday) the Director shall hold a lottery and shall select at random tickets representing
25 buildings containing the number of Permitted Conversions. Buildings containing units equal to the

1 number Permitted Conversions shall be placed on the Regular List. After selection of the Regular List,
2 the Director shall continue to select tickets and shall establish a Standby List containing any remaining
3 units in the lottery. Placement of an application on the Standby List does not vest in the Subdivider any
4 right to file an application for conversion if the number of units for which conversion has been granted
5 equals or exceeds the number permitted under this Article.

6 When applications can be accepted for filing from the Standby List because of the withdrawal
7 or denial of other applications, the passage of time, or other circumstances, the Director shall accept
8 Applications Packets in order, beginning with the first on the Standby List. The Director shall continue
9 to call applications from the Standby List until the number of Permitted Conversions have been
10 approved under this Article. No Application Packet shall be accepted that, if approved, would result in
11 the conversion of units in excess of the number permitted under this Article.

12 If fewer than the number of Permitted Conversions apply for the lottery in any year, the
13 Director shall accept Applications Packets after the lottery until the number of Permitted Conversions
14 have been approved in that calendar year. If fewer than the number of Permitted Conversions are
15 approved in any calendar year, the unused Permitted Conversions shall be carried over into the next
16 and, if applicable, into subsequent calendar years.

17 Section 3. SEVERABILITY

18 The severability provision of Subdivision Code Section 1305, and the Subdivision Map
19 Act Provisions of Section 1398 shall apply to this Ordinance.

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

22 By: _____
23 SUSAN S. CLEVELAND
24 Deputy City Attorney