1    [Administrative Code - Amendment to Rent Ordinance to Provide Hearings on Tenant

2    Harassment]

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4    **Ordinance amending the San Francisco Administrative Code, Chapter 37, Residential**

5    **Rent Stabilization and Arbitration Ordinance, Section 37.10B, to provide for certain**

6    **hearings on alleged tenant harassment.**

7            NOTE:        Additions are *single-underline italics Times New Roman*;
                          deletions are ~~*strike-through italics Times New Roman*~~.
8                         Board amendment additions are <u>double-underlined</u>;
                          Board amendment deletions are ~~strikethrough normal~~.
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10        Be it ordained by the People of the City and County of San Francisco:

11        Section 1.  The San Francisco Administrative Code is hereby amended by amending

12    Section 37.10B, to read as follows:

13    SEC. 37.10B.    TENANT HARASSMENT.

14        (a)    No landlord, and no agent, contractor, subcontractor or employee of the

15    landlord, shall, do any of the following, bad faith or with ulterior motive or without honest

16    intent.

17            (1)    Interrupt, terminate or fail to provide housing services required by contract

18    or by State, County or local housing health or safety laws;

19            (2)    Fail to perform repairs and maintenance required by contract or by State,

20    County or local housing, health or safety laws.

21            (3)    Fail to exercise due diligence in completing repairs and maintenance once

22    undertaken or fail to follow appropriate industry repair containment or remediation protocols

23    designed to minimize exposure to noise, dust, lead paint, mold, asbestos, or other building

24    materials with potentially harmful health impacts.

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1    (4)    Abuse the landlord's right of access into a rental housing unit as that right

2    is provided by law;

3    (5)    Influence or attempt to influence a tenant to vacate a rental housing unit

4    through fraud, intimidation or coercion;

5    (6)    Attempts to coerce the tenant to vacate with offer(s) of payments to vacate

6    which are accompanied with threats or intimidation;

7    (7)    Continue to offer payments to vacate after tenant has notified the landlord

8    in writing the they no longer wish to receive further offers of payments to vacate;

9    (8)    Threaten the tenant, by word or gesture, with physical harm;

10    (9)    Violate any law which prohibits discrimination based on actual or perceived

11    race, gender, sexual preference, sexual orientation, ethnic background, nationality, place of

12    birth, immigration or citizenship status, religion, age, parenthood, marriage, pregnancy,

13    disability, AIDS or occupancy by a minor child.

14    (10)    Interfere with a tenants right to quiet use and enjoyment of a rental

15    housing unit as that right is defined by California law;

16    (11)    Refuse to accept or acknowledge receipt of a tenant's lawful rent

17    payment;

18    (12)    Refuse to cash a rent check for over 30 days;

19    (13)    Interfere with a tenant's right to privacy.

20    (14)    Request information that violates a tenant's right to privacy, including but

21    not limited to residence or citizenship status or social security number.

22    (15)    Other repeated acts or omissions of such significance as to substantially

23    interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to

24    occupancy of such dwelling unit and that cause, are likely to cause, or are intended to cause

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1  any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to

2  surrender or waive any rights in relation to such occupancy.

3        (b)      Nothing in this Section 37.10B shall be construed as to prevent the lawful

4  eviction of a tenant by appropriate legal means.

5        (c)      Enforcement and penalties.

6              (1)      Rent Board, Violation of this Section 37.10B is a substantial and significant

7  decrease in services as defined in Section 37.2(g) and tenants may file a petition with the

8  Rent Board for a reduction in rent.

9              (2)      Criminal Penalty. Any person who is convicted of violating this Section

10  shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not

11  greater than one thousand dollars or by imprisonment in the County Jail for not more than six

12  months, or by both such fine and imprisonment.

13              (3)      Civil Action. Any person, including the City, may enforce the provisions of

14  this Section by means of a civil action. The burden of proof in such cases shall be

15  preponderance of the evidence. A violation of this Chapter may be asserted as an affirmative

16  defense in an unlawful detainer action.

17              (4)      Injunction. Any person who commits an act, proposes to commit an act, or

18  engages in any pattern and practice which violates this Section 37.10B may be enjoined

19  therefrom by any court of competent jurisdiction. An action for injunction under this subsection

20  may be brought by any aggrieved person, by the City Attorney, or by any person or entity who

21  will fairly and adequately represent the interest of the protected class.

22              (5)      Penalties and Other Monetary Awards. Any person who violates or aids or

23  incites another person to violate the provisions of this Section is liable for each and every

24  such offense for money damages of not less than three times actual damages suffered by an

25  aggrieved party (including damages for mental or emotional distress), or for statutory

1 damages in the sum of one thousand dollars, whichever is greater, and whatever other relief

2 the court deems appropriate. In the case of an award of damages for mental or emotional

3 distress, said award shall only be trebled if the trier of fact finds that the landlord acted in

4 knowing violation of or in reckless disregard of Section 37.9, 37.10A, or 37.10B herein. In

5 addition, a prevailing plaintiff shall be entitled to reasonable attorney's fees and costs

6 pursuant to order of the court. The trier of fact may also award punitive damages to any

7 plaintiff, including the City, in a proper case as defined by Civil Code Section 3294. The

8 remedies available under this Section shall be in addition to any other existing remedies which

9 may be available to the tenant or the City.

10                    (6)      Defending Eviction Lawsuits. In any action to recover possession of a

11 rental unit subject to the Chapter, unless the sole basis of the notice to quit is Section 37.9(b),

12 the court shall award the tenant reasonable attorney fees and costs incurred in defending the

13 action upon a finding that the tenant is the prevailing party under Code of Civil Procedure

14 Section 1032(a)(4).

15           *(d)      Hearings For Wrongful Endeavor To Recover Possession Via Tenant Harassment.*

16 *Upon receipt of a petition from a tenant alleging a wrongful endeavor to recover possession through*

17 *harassment, the Board shall send a notice acknowledging receipt of the report and summarizing the*

18 *rights and responsibilities of landlords and tenants regarding possession of, and eviction from,*

19 *residential rental units and, if there is evidence of a wrongful attempt to recover possession, shall*

20 *conduct a hearing on the allegations. After such hearing, the Administrative Law Judge shall issue a*

21 *written decision stating their findings.*

22           (d̶ *e*)      Severability. If any provision or clause of this Section 37.10B, or Section

23 37.2(g), or the application thereof to any person or circumstance is held to be unconstitutional

24 or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect

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1    other provisions of this Section 37.10B or Section 37.2(g) and all clauses of these Sections

2    are declared to be severable.

3          Section 2.  Effective Date.  This ordinance shall become effective 30 days from the

4    date of passage.

5          Section 3.  This section is uncodified.  In enacting this Ordinance, the Board intends to

6    amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,

7    punctuation, charts, diagrams, or any other constituent part of the Administrative Code that

8    are explicitly shown in this legislation as additions, deletions, Board amendment additions,

9    and Board amendment deletions in accordance with the "Note" that appears under the official

10    title of the legislation.

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Supervisor Olague, Avalos, Kim
**BOARD OF SUPERVISORS**