

1 [Administrative Code - Amendments to Residential Rent Stabilization and Arbitration
2 Ordinance]

3
4 **Ordinance amending the Administrative Code to require landlords, after certain**
5 **vacancies, to set the new base rent as the lawful rent in effect at the time of the**
6 **vacancy; to require that there be a substantial violation of a lawful obligation or**
7 **covenant of tenancy as a basis for the recovery of possession; to require a landlord,**
8 **prior to seeking recovery of possession, to provide tenants an opportunity to cure the**
9 **unauthorized addition of the tenant's family members to the tenant's unit; to prevent a**
10 **landlord from seeking recovery of possession solely because the tenant is occupying a**
11 **unit not authorized for residency; and to require landlords to plead and prove in any**
12 **action to recover possession that at least one of the grounds of Section 37.9(a)-(b),**
13 **stated in the notice to vacate is the dominant motive for recovering possession.**

14 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
15 **Additions to Codes** are in *single-underline italics Times New Roman font*.
16 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
17 **Board amendment additions** are in double-underlined Arial font.
18 **Board amendment deletions** are in ~~strikethrough Arial font~~.
19 **Asterisks (* * * *)** indicate the omission of unchanged Code
20 subsections or parts of tables.

21
22 Be it ordained by the People of the City and County of San Francisco:

23 Section 1. The Administrative Code is hereby amended by revising Sections 37.3,
24 37.9, and 37.9A, to read as follows:

25 **SEC. 37.3. RENT LIMITATIONS.**

1 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose rent
2 increases upon tenants in occupancy only as provided below and as provided by Subsection
3 37.3(d):

4 * * * *

5 (f) Costa-Hawkins Vacancy Control. Where a landlord has terminated the previous tenancy
6 as stated in either subsection (1), (2) or (3) below, the initial base rent for the subsequent tenancy shall
7 be a rent not greater than the lawful rent in effect at the time the previous tenancy was terminated, plus
8 any annual rent increases available under this Chapter 37. This Section 37.3(f) is intended to be
9 consistent with California Civil Code Section 1954.53(a)(1)(A)-(B).

10 (1) Where the previous tenancy was terminated by a notice of termination of tenancy
11 issued under California Civil Code Section 1946.1 stating the ground for recovery of possession under
12 Sections 37.9(a)(8), (9), (10), (11), or (14) of this Code. For purposes of a termination of tenancy under
13 Section 37.9(a)(9), the rent for the subsequent tenancy shall be subject to California Civil Code Section
14 1954.52(a)(3)(B).

15 (2) Where the previous tenancy was terminated upon a change in terms of tenancy noticed
16 under California Civil Code Section 827, except a change in rent permitted by law.

17 (3) Where the landlord terminated or did not renew a contract or recorded agreement
18 with a governmental agency that provided for a rent limitation to a qualified tenant.

19 * * * *

20
21 **SEC. 37.9. EVICTIONS.**

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

24 (a) A landlord shall not endeavor to recover possession of a rental unit unless:
25

1 (1) The tenant:

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

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

6 (ii) Except that, commencing August 10, 2001, to and including February 10,
7 2003, a landlord shall not endeavor to recover or recover possession of a rental unit for failure
8 of a tenant to pay that portion of rent attributable to a capital improvement passthrough
9 certified pursuant to a decision issued after April 10, 2000, where the capital improvement
10 passthrough petition was filed prior to August 10, 2001, and a landlord shall not impose any
11 late fee(s) upon the tenant for such non-payment of capital improvements costs; or

12 (B) Habitually pays the rent late; or

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

15 (2) The tenant has violated a lawful obligation or covenant of tenancy other than the
16 obligation to surrender possession upon proper notice or other than an obligation to pay a
17 charge prohibited by Police Code Section 919.1, the violation was substantial, and the tenant
18 fails~~failure~~ to cure such violation after having received written notice thereof from the landlord.

19 (A) Provided that notwithstanding any lease provision to the contrary, a landlord
20 shall not endeavor to recover possession of a rental unit as a result of subletting of the rental
21 unit by the tenant if the landlord has unreasonably withheld the right to sublet following a
22 written request by the tenant, so long as the tenant continues to reside in the rental unit and
23 the sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails
24 to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written
25 request, the tenant's request shall be deemed approved by the landlord.

1 (B) Provided further that where a rental agreement or lease provision limits the
2 number of occupants or limits or prohibits subletting or assignment, a landlord shall not
3 endeavor to recover possession of a rental unit as a result of the addition to the unit of a
4 tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic
5 partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as
6 a result of the addition of the spouse or domestic partner of a tenant, so long as the maximum
7 number of occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not exceeded, if the landlord
8 has unreasonably refused a written request by the tenant to add such occupant(s) to the unit.
9 If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the
10 tenant's written request, the tenant's request shall be deemed approved by the landlord. A
11 landlord's reasonable refusal of the tenant's written request may not be based on the
12 proposed additional occupant's lack of creditworthiness, if that person will not be legally
13 obligated to pay some or all of the rent to the landlord. A landlord's reasonable refusal of the
14 tenant's written request may be based on, but is not limited to, the ground that the total
15 number of occupants in a unit exceeds (or with the proposed additional occupant(s) would
16 exceed) the lesser of (i) or (ii):

17 (i) Two persons in a studio unit, three persons in a one-bedroom unit, four
18 persons in a two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-
19 bedroom unit; or

20 (ii) The maximum number permitted in the unit under state law and/or other
21 local codes such as the Building, Fire, Housing and Planning Codes, ~~or~~

22 (C) Before endeavoring to recover possession based on the violation of a lawful
23 obligation or covenant of tenancy regarding subletting or limits on the number of occupants in the
24 rental unit described in Section 37.9(a)(2)(B), the landlord shall serve the tenant a written notice of the
25 violation that provides the tenant with an opportunity to cure the violation in 10 or more days. The

1 tenant may cure the violation by making a written request to add occupants referenced in Section
2 37.9(a)(2)(B) or by using other reasonable means to cure the violation, including, without limitation,
3 the removal of any additional or unapproved occupant. Nothing in this Section 37.9(a)(2)(C) is
4 intended to limit any other rights or remedies that the law otherwise provides to landlords; or

5 (3) When the landlord commences the endeavor to recover possession, ~~F~~the tenant is
6 committing or permitting to exist a nuisance in, or is causing substantial damage to, the rental
7 unit, or is creating a substantial interference with the comfort, safety or enjoyment of the
8 landlord or tenants in the building, and the nature of such nuisance, damage or interference is
9 specifically stated by the landlord in writing as required by Section 37.9(c); or

10 (4) The tenant is using or permitting a rental unit to be used for any illegal
11 purpose, provided however that a landlord shall not endeavor to recover possession of a
12 rental unit solely (a) as a result of a first violation of Chapter 41A that has been cured within 30
13 days written notice to the tenant; or, (b) because the illegal use is the residential occupancy of a unit
14 that the City has not authorized for residential occupancy.

15 * * * *

16 (c) A landlord shall not endeavor to recover possession of a rental unit unless at
17 least one of the grounds enumerated in Section 37.9(a) or (b) above is (1) the landlord's
18 dominant motive for recovering possession and (2) unless the landlord informs the tenant in
19 writing on or before the date upon which notice to vacate is given of the grounds under which
20 possession is sought and that advice regarding the notice to vacate is available from the
21 Residential Rent Stabilization and Arbitration Board, before endeavoring to recover
22 possession. A copy of all notices to vacate except three-day notices to vacate or pay rent and
23 a copy of any additional written documents informing the tenant of the grounds under which
24 possession is sought shall be filed with the Board within 10 days following service of the
25 notice to vacate. The District Attorney shall determine whether the units set forth on the list

1 compiled in accordance with Section 37.6(k) are still being occupied by the tenant who
2 succeeded the tenant upon whom the notice was served. In cases where the District Attorney
3 determines that Section 37.9(a)(8) has been violated, the District Attorney shall take whatever
4 action he deems appropriate under this Chapter or under State law. In any action to recover
5 possession of the rental unit under Section 37.9, the landlord must plead and prove that at least one of
6 the grounds enumerated in Section 37.9(a) or (b) and also stated in the notice to vacate is the dominant
7 motive for recovering possession. Tenants may rebut the allegation that any of the grounds stated in
8 the notice to vacate is the dominant motive.

9 * * * *

10
11 **SEC. 37.9A. TENANT RIGHTS IN CERTAIN DISPLACEMENTS UNDER SECTION**
12 **37.9(a)(13).**

13 This Section 37.9A applies to certain tenant displacements under Section 37.9(a)(13), as
14 specified.

15 * * * *

16 (f) Notice to Rent Board; Recordation of Notice; Effective Date of Withdrawal.

17 (1) Any owner who intends to withdraw from rent or lease any rental unit shall
18 notify the Rent Board in writing of said intention. Said notice shall contain statements, under
19 penalty of perjury, providing information on the number of residential units, the address or
20 location of those units, the name or names of the tenants or lessees of the units, and the rent
21 applicable to each residential rental unit. Said notice shall be signed by all owners of record of
22 the property under penalty of perjury and shall include a certification that actions have been
23 initiated as required by law to terminate existing tenancies through service of a notice of
24 termination of tenancy. The notice must be served by certified mail or any other manner
25 authorized by law prior to delivery to the Rent Board of the notice of intent to withdraw the

1 rental units. Information respecting the name or names of the tenants, the rent applicable to
2 any unit, or the total number of units, is confidential and shall be treated as confidential
3 information by the City for purposes of the Information Practices Act of 1977, as contained in
4 Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
5 Code. The City shall, to the extent required by the preceding sentence, be considered an
6 "agency," as defined by Subdivision (b) of Section 1798.3 of the Civil Code.

7 * * * *

8 (5) Within 15 days of delivery of a Subsection (f)(1) notice of intent to the Rent
9 Board, the owner shall provide notice to any tenant or lessee to be displaced of the following:

- 10 (A) That the Rent Board has been notified pursuant to Subsection (f)(1);
- 11 (B) That the notice to the Rent Board specified the name and the amount of rent
12 paid by the tenant or lessee as an occupant of the rental unit;
- 13 (C) The amount of rent the owner specified in the notice to the Rent Board;
- 14 (D) The tenant's or lessee's rights to reoccupancy under Section 37.9A(c) if the
15 rental unit is again offered for rent or lease by a current or future owner and to relocation
16 assistance under ~~Subsections~~ 37.9A(~~c~~) and (e); and
- 17 (E) The rights of qualified elderly or disabled tenants as described under
18 Subsection (f)(4), to extend their tenancy to one year after the date of delivery to the Rent
19 Board of the Subsection (f)(1) notice of intent to withdraw.

20 * * * *

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

25 ////

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

7
8
9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 Robert A. Bryan
14 Deputy City Attorney

15 n:\legana\as2015\1500782\01023222.doc