

1 [Administrative Code - Harassment of Tenants in Single-Family Units Through Rent
2 Increases]

3 **Ordinance amending the Administrative Code to prohibit landlords of single-family**
4 **homes and condominiums covered by existing eviction controls from circumventing**
5 **eviction controls through rent increases; and to clarify that a rent increase intended to**
6 **defraud, intimidate, or coerce the tenant into vacating such a rental unit may qualify as**
7 **tenant harassment.**

8
9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. Purpose and Findings.

18 (a) San Francisco is experiencing a crisis shortage of affordable housing, which is
19 contributing to a high rate of evictions and the displacement of low- and moderate-income
20 tenant households. The Residential Rent Stabilization and Arbitration Ordinance (Admin.
21 Code Ch. 37) addresses these concerns by imposing rent control to regulate the amount by
22 which a landlord may increase the rent on an existing tenant; and by imposing eviction
23 controls to regulate the bases for evictions and to mitigate the impact of evictions on tenants.
24 The eviction controls also include provisions to regulate against tenant harassment, which has
25 been on the rise during the housing crisis.

1 (b) The Costa-Hawkins Rental Housing Act, California Civil Code Sections 1954.50
2 et seq., guarantees the owner of a separately alienable property (hereafter, “single-family
3 home”) to raise the rent on an existing tenant, but also states, at Section 1954.52(c), that
4 “[n]othing in this section shall be construed to affect the authority of a public entity that may
5 otherwise exist to regulate or monitor the basis for eviction.” The City has long exercised this
6 authority, by regulating evictions and tenant harassment, and these regulations apply to all
7 rental units covered by the Rent Ordinance including single-family homes.

8 (c) In recent years, San Francisco has witnessed multiple cases where the owner of
9 a single-family home attempted to circumvent eviction controls and coerce a tenant to vacate
10 a rental unit by means of an exorbitant rent increase. On March 16, 2015, the *San Francisco*
11 *Chronicle* reported that the landlord of a two-unit building subject to rent control had modified
12 one of the units so that it was no longer habitable, claimed the building was a single-family
13 home, and then increased the rent by 315% to far above market rates for comparable units in
14 the area for the purpose of forcing the tenant to vacate the unit. The landlord intended to
15 move into the unit herself, and therefore, under the Rent Ordinance, was required to perform
16 an owner move-in (“OMI”) eviction and comply with certain obligations including the duty to
17 provide the tenant a relocation payment. The landlord did not expect to collect the new rent
18 from the tenant, but rather just wanted to coerce the tenant into leaving. In a similar case
19 from 2017, the owner of a two-unit building allegedly removed one of the units, claimed the
20 building was a single-family home, and then raised the rent to far above market rate by means
21 of a 250% rent increase in an attempt to circumvent the OMI requirements and coerce the
22 tenant into vacating the unit. Tenant advocates estimate that many similar cases arise in San
23 Francisco every year.

24 (d) Owners of single-family homes have the right to raise rents on existing tenants.
25 This ordinance merely clarifies that these owners, like any owner of any other rental housing

1 in the City, do not have the right to impose a rent increase ~~harass tenants~~ in bad faith in order
2 to circumvent local eviction controls, and that such action constitutes ~~harassment can occur~~
3 ~~through rent increases that are imposed in bad faith.~~

4
5 Section 2. The Administrative Code is hereby amended by revising Sections 37.10A
6 and 37.10B, to read as follows:

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

8 * * * *

9 *(i) It shall be unlawful for a landlord to endeavor to recover possession of a rental unit as*
10 *defined in Section 37.2(r)(7) by means of a rent increase that is imposed in bad faith with an intent to*
11 *defraud, intimidate, or coerce the tenant into vacating the rental unit in circumvention of Section*
12 *37.9(a), 37.9A, 37.9B, or 37.9C. Evidence of bad faith may include but is not limited to the*
13 *following: (1) the rent increase was substantially in excess of market rates for comparable*
14 *units; (2) the rent increase was within six months after an attempt to recover possession of the*
15 *unit; and (3) such other factors as a court or the Rent Board may deem relevant.*

16 ~~(j)(#)~~ Any person who violates Section 37.10A(a), (b), (c), (f), or (h) is guilty of a
17 misdemeanor and shall be punished by a mandatory fine of \$1,000, and in addition to such
18 fine may be punished by imprisonment in the County Jail for a period of not more than six
19 months. Each violation shall constitute a separate offense.

20
21 **SEC. 37.10B. TENANT HARASSMENT.**

22 (a) No landlord, and no agent, contractor, subcontractor or employee of the landlord,
23 shall do any of the following, in bad faith or with ulterior motive or without honest intent:

24 * * * *

1 (5) Influence or attempt to influence a tenant to vacate a rental housing unit
2 through fraud, intimidation or coercion; for example and without limitation, by endeavoring to
3 recover possession of a rental unit as defined in Section 37.2(r)(7) by means of a rent increase that is
4 imposed with an intent to defraud, intimidate, or coerce the tenant into vacating the rental unit in
5 circumvention of Section 37.9(a), 37.9A, 37.9B, or 37.9C. in which case evidence of bad faith may
6 include but is not limited to the following: (1) the rent increase was substantially in excess of
7 market rates for comparable units; (2) the rent increase was within six months after an attempt
8 to recover possession of the unit; and (3) such other factors as a court or the Rent Board may
9 deem relevant.

10 * * * *

11
12 Section 3. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor's veto of the ordinance.

16
17 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
18 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
19 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
20 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
21 additions, and Board amendment deletions in accordance with the "Note" that appears under
22 the official title of the ordinance.

23
24 Section 5. Application and Enforcement. This ordinance is intended to be interpreted
25 and applied consistent with prior judicial orders and decisions concerning Administrative Code

1 Section 37.10B, including but not limited to page 1, lines 12-14, of the May 19, 2009, Order in
2 *Larson v. City and County of San Francisco*, S.F. Super. Case No. 509-085 (holding that the
3 phrase “without ulterior motive and with honest intent” is severed from Section 37.10B); and
4 *Larson v. City and County of San Francisco* (2011) 192 Cal. App. 4th 1263 (holding that the
5 Rent Board is precluded from making rent reductions under Section 37.10B(a)(5)).
6

7 Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word
8 of this ordinance, or any application thereof to any person or circumstance, is held to be
9 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
10 shall not affect the validity of the remaining portions or applications of the ordinance. The
11 Board of Supervisors hereby declares that it would have passed this ordinance and each and
12 every section, subsection, sentence, clause, phrase, and word not declared invalid or
13 unconstitutional without regard to whether any other portion of this ordinance or application
14 thereof would be subsequently declared invalid or unconstitutional.
15

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

18 By:


19 MANU PRADHAN
20 Deputy City Attorney

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City and County of San Francisco

Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 180735

Date Passed: January 15, 2019

Ordinance amending the Administrative Code to prohibit landlords of single-family homes and condominiums covered by existing eviction controls from circumventing eviction controls through rent increases; and to clarify that a rent increase intended to defraud, intimidate, or coerce the tenant into vacating such a rental unit may qualify as tenant harassment.

December 05, 2018 Rules Committee - RECOMMENDED

December 11, 2018 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 11 - Brown, Cohen, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani, Tang and Yee

December 11, 2018 Board of Supervisors - PASSED ON FIRST READING AS AMENDED


Ayes: 11 - Brown, Cohen, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani, Tang and Yee

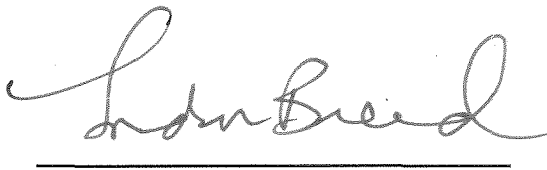
January 15, 2019 Board of Supervisors - FINALLY PASSED


Ayes: 10 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani and Yee
Excused: 1 - Walton

File No. 180735

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 1/15/2019 by the Board of Supervisors of the City and County of San Francisco.


Angela Calvillo
Clerk of the Board


London N. Breed
Mayor


Date Approved