Ordinance amending the Administrative Code to apply eviction controls to units that are exempt from rent increase limitations because they first received a certificate of occupancy after June 13, 1979, or have undergone a substantial rehabilitation; clarifying the law's application to units with pending notices to vacate; extending the City's current residential rental unit fee to these units; making non-substantive, technical changes; and making findings as required by the Tenant Protection Act of 2019.

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

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

Section 1. Findings.

(a) This ordinance is intended to bring units with a certificate of occupancy after June 13, 1979, under the eviction protections of the City’s Residential Rent Stabilization and Arbitration Ordinance (the “Rent Ordinance”). As compared to the Tenant Protection Act of 2019 (Assembly Bill No. 26 (Chiu), hereafter “AB 1482”), the Rent Ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation assistance amounts, and provides additional tenant protections. The Board of Supervisors therefore
finds that this ordinance is more protective than AB 1482, and intends that the Rent Ordinance (as hereby amended) shall apply to these units rather than AB 1482.

(b) The eviction protections of the Rent Ordinance are intended to keep families with a roof over their heads and are an important tool to combat the City's affordable housing crisis. However, community members and tenant advocates have seen a sudden increase in no-cause eviction notices to tenants living in units with a certificate of occupancy after June 13, 1979. In many cases, it appears these eviction notices were triggered by the adoption of AB 1482, and that these landlords are trying to evict simply in order to evade tenant protections before they go into effect. Arbitrary evictions severely and irreparably harm tenants, and also worsen the City's housing crisis, so there is an compelling need to ensure that the tenant protections of the Rent Ordinance apply to these units.

Section 2. The Administrative Code is hereby amended by revising Sections 37.2, 37.3, 37.9A, 37.9D, 37.10A, and 37.10B, to read as follows:

**SEC. 37.2. DEFINITIONS.**

* * * *

(r) Rental Units. All residential dwelling units in the City and County of San Francisco together with the land and appurtenant buildings thereto, and all housing services, privileges, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities.

* * * *

The term "rental units" shall not include:

* * * *

(4) Except as provided in subsections (A), (B) and (C), dwelling units whose rents are controlled or regulated by any government unit, agency or authority, excepting those
unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development; provided, however, that units in unreinforced masonry buildings which have undergone seismic strengthening in accordance with Building Code Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the ordinance is not in conflict with the seismic strengthening bond program or with the program's loan agreements or with any regulations promulgated thereunder;

* * * *

(C) The term "rental units" shall include units in a building for which tax credits are reserved or obtained pursuant to the federal low income housing tax credit program (LIHTC, Section 42 of the Internal Revenue Code, 26 U.S.C. Section 42), that satisfy the following criteria:

(i) Where a tenant's occupancy of the unit began before the applicable LIHTC regulatory agreement was recorded; and,

(ii) Where the rent is not controlled or regulated by any use restrictions imposed by the City and County of San Francisco, the San Francisco Redevelopment Agency, the State of California Office of Housing and Community Development, or the United States Department of Housing and Urban Development.

Nothing in this Section 37.2(r)(4)(C) precludes a landlord from seeking an exemption from rent regulation on the basis of substantial rehabilitation under Section 37.2(r)(4)–37.3(g).

* * * *

(5) Rental units located in a structure for which a certificate of occupancy was first issued after the effective date of this ordinance: (A) except as provided for certain categories of units and dwellings by Section 37.3(d) and Section 37.9A(b) of this Chapter, (B) except as provided in a
development agreement entered into by the City under San Francisco Administrative Code Chapter 56; and (C) except as provided for foreclosed units and dwellings by Section 37.9D.

—(6) Dwelling units in a building which has undergone substantial rehabilitation after the effective date of this ordinance; provided, however, that RAP rental units are not subject to this exemption; and except as provided for foreclosed units and dwellings by Section 37.9D.

—(7) Dwellings or units otherwise subject to this Chapter 37, to the extent such dwellings or units are partially or wholly exempted from rent increase limitations by the Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50, et seq.) and/or San Francisco Administrative Code Section 37.3(d).

**SEC. 37.3. RENT LIMITATIONS.**

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

* * * *

(g) **New Construction and Substantial Rehabilitation.**

(1) An owner of a residential dwelling or unit which is newly constructed and first received a certificate of occupancy after the effective date of Ordinance No. 276-79 (June 13, 1979), or which the Rent Board has certified has undergone a substantial rehabilitation, may establish the initial and all subsequent rental rates for that dwelling or unit, except:

(A) where rent restrictions apply to the dwelling or unit under Sections 37.3(d) or 37.3(f):

(B) where the dwelling or unit is a replacement unit under Section 37.9A(h);
(C) as provided for certain categories of Accessory Dwelling Units under Section 37.2(r)(4)(D); and

(D) as provided in a development agreement entered into by the City under Administrative Code Chapter 56.

SEC. 37.9A. TENANT RIGHTS IN CERTAIN DISPLACEMENTS UNDER SECTION 37.9(a)(13).

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

* * * *

(b) Treatment of Replacement Units. If one or more units covered by Subsection (a) is demolished, and one or more new units qualifying as rental units under this Chapter but for the date on which they first receive a certificate of final completion and occupancy are constructed on the same property, and offered for rent or lease within five years of the date the last of the original units became vacant, the newly constructed units shall be offered at rents not greater than those reasonably calculated to produce a fair and reasonable return on the newly constructed units, notwithstanding Section 37.2(r)(5) or any other provision of this Chapter. The provisions of this Chapter shall thereafter apply. The Board shall adopt rules for determining the rents necessary to provide a fair and reasonable return.

* * * *

SEC. 37.9D. FORECLOSURE EVICTIONS.

* * * *

(b) Any residential tenant who was in possession of a rental unit at the time of foreclosure, where that dwelling or unit is otherwise exempted from the eviction control provisions of
Chapter 37 by Sections 37.2(r)(5), (6) or (7), may not be evicted by the person or entity who took title through foreclosure (see Section 37.9D(a)), except for just cause as provided in Section 37.9 and related provisions of Chapter 37, or at the end of the tenant's existing lease, whichever occurs later.

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

(i) It shall be unlawful for a landlord to endeavor to recover possession of a rental unit that is exempt from rent increase limitations under Section 37.3(d) or Section 37.3(g) as defined in Section 37.2(r)(7) by means of a rent increase that is imposed in bad faith with an intent to defraud, intimidate, or coerce the tenant into vacating the rental unit in circumvention of Section 37.9(a), 37.9A, 37.9B, or 37.9C. Evidence of bad faith may include but is not limited to the following: (1) the rent increase was substantially in excess of market rates for comparable units; (2) the rent increase was within six months after an attempt to recover possession of the unit; and (3) such other factors as a court or the Rent Board may deem relevant.

SEC. 37.10B. TENANT HARASSMENT.

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

(5) Influence or attempt to influence a tenant to vacate a rental housing unit through fraud, intimidation or coercion; for example and without limitation, by endeavoring to recover possession of a rental unit that is exempt from rent increase limitations under Section...
37.3(d) or Section 37.3(g) as defined in Section 37.2(r)(7) by means of a rent increase that is imposed with an intent to defraud, intimidate, or coerce the tenant into vacating the rental unit in circumvention of Section 37.9(a), 37.9A, 37.9B, or 37.9C, in which case evidence of bad faith may include but is not limited to the following: (1) the rent increase was substantially in excess of market rates for comparable units; (2) the rent increase was within six months after an attempt to recover possession of the unit; and (3) such other factors as a court or the Rent Board may deem relevant.

* * * *

Section 3. The Administrative Code is hereby amended by revising Section 37A.1, to read as follows:

**SEC. 37A.1. SCOPE.**

This Chapter is applicable to all residential units in the City and County of San Francisco, including residential units which are exempt from the rent increase limitation provisions (but not other provisions) of Chapter 37 pursuant to the Costa-Hawkins Rental Housing Act (Civil Code §§ 1954.50. et seq.) and/or San Francisco Administrative Code Section 37.3(d). For purposes of this Chapter, "residential units" are dwelling units and guest rooms as those terms are defined in Sections 400 and 401 of the San Francisco Housing Code. The term shall not include:

* * * *

(f) Any dwelling unit which is occupied by an owner of record on either a full-time or part-time basis and which is not rented at any time, provided that the owner file with the Tax Collector an affidavit so stating;

(g) Dwelling units located in a structure for which a certificate of final completion and occupancy was first issued by the Bureau of Building Inspection after June 13, 1979, except that any
such units shall be subject to this Chapter 37A if so designated in a development agreement entered into by the City under Chapter 56 of the San Francisco Administrative Code:

(h) Dwelling units in a building which, after June 13, 1979, has undergone substantial rehabilitation as that term is defined in Chapter 37 of this Code.

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

Section 5. Applicability. The provisions of Section 2 of this ordinance that extend just cause requirements to dwelling units that were previously exempt from such requirements under Administrative Code Sections 37.2(r)(5) and 37.2(r)(6) are intended to apply as of the ordinance’s effective date to all such units, including those units where a notice to vacate or quit has been served as of the effective date but where the unit has not yet been vacated or an unlawful detainer has not yet been issued. The sole intent is to regulate the substantive bases for eviction from these units. This ordinance shall not be construed as having any effect on the unlawful detainer process, or as affecting the validity of a notice to vacate or quit that a landlord may have served prior to the effective date, or as giving a tenant a procedural defense in an unlawful detainer proceeding.

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

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

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

By:
MANU PRADHAN
Deputy City Attorney

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File Number: 191105  Date Passed: December 17, 2019

Ordinance amending the Administrative Code to apply eviction controls to units that are exempt from rent increase limitations because they first received a certificate of occupancy after June 13, 1979, or have undergone a substantial rehabilitation; clarifying the law’s application to units with pending notices to vacate; extending the City’s current residential rental unit fee to these units; making non-substantive, technical changes; and making findings as required by the Tenant Protection Act of 2019.

December 02, 2019 Rules Committee - RECOMMENDED

December 10, 2019 Board of Supervisors - PASSED ON FIRST READING
Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee

December 17, 2019 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 12/17/2019 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