

1 [Administrative Code - Rent Control at Midtown Park Apartments]

2

3 **Ordinance amending the Administrative Code to adopt rent increase limitations for**
4 **subject dwelling units at Midtown Park Apartments, a residential development owned**
5 **by the City and County of San Francisco, to the Residential Rent Stabilization and**
6 **Arbitration Ordinance; and making findings as required by the California Tenant**
7 **Protection Act of 2019; and expanding the Rent Board fee to cover those dwelling**
8 **units.**

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. The Administrative Code is hereby amended by revising Sections 37.2 and
18 ~~37.3~~37.6, to read as follows:

19 **SEC. 37.2. DEFINITIONS.**

20 * * * *

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

25 * * * *

The term "rental units" shall not include:

1 * * * *

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

10 * * * *

11 ~~_____ (E) The term "rental units" shall include dwelling units at Midtown Park~~
12 ~~Apartments, as set forth in Section 37.12A.~~

13 * * * *

14
15 **SEC. 37.3. RENT LIMITATIONS.**

16 (a) **Rent Increase Limitations for Tenants in Occupancy.** Landlords may impose
17 rent increases upon tenants in occupancy only as provided below and as provided by
18 subsections 37.3(d), ~~and~~ and 37.3(g), ~~and 37.12A(c):~~

19 * * * *

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21 **SEC. 37.6. POWERS AND DUTIES.**

22 In addition to other powers and duties set forth in this Chapter 37, and in addition to
23 powers under the Charter and under other City Codes, including powers and duties under
24 Administrative Code Chapter 49 ("Interest Rates on Security Deposits"), the Board shall have
25 the power to:

1 (a) Promulgate policies, rules, and regulations to effectuate the purposes of this
2 Chapter 37, and to effectuate the purposes of Administrative Code Chapters 37B and 41D;

3 * * * *

4 (c) Conduct rental arbitration hearings and residential hotel visitor policy hearings,
5 and administer oaths and affirmations in connection with such hearings, with respect to rental
6 units covered by this Chapter 37 as well as Midtown Park Apartments units as set forth in
7 Administrative Code Chapter 37B;

8 * * * *

9
10 Section 2. ~~The Administrative Code is hereby amended by adding Section 37.12A, to~~
11 ~~read as follows:~~

12 **~~SEC. 37.12A. MIDTOWN PARK APARTMENTS~~**

13 (a) ~~Midtown Park Apartments ("Midtown"), which is located at 1415 Scott Street,~~
14 ~~San Francisco (Lot 31, Assessor's Block 1099), is a City-owned apartment complex in the~~
15 ~~Western Addition neighborhood that opened in 1968 to provide housing to families displaced~~
16 ~~by urban renewal policies. From 1968-2014, a tenant board was empowered to make~~
17 ~~decisions regarding Midtown's management and development, and Midtown tenants generally~~
18 ~~received rent increases commensurate with the city's rent control laws. On or about January~~
19 ~~31, 2014, the City began to operate Midtown under a program that set rents based on~~
20 ~~household gross income, which caused some tenants to experience significant rent increases.~~
21 ~~The Board of Supervisors finds it is appropriate and in the public interest to extend rent control~~
22 ~~protections to tenants at Midtown, and enacts this Section 37.12A in order to assure a smooth~~
23 ~~transition to coverage under this Chapter 37.~~

24 (b) ~~The City shall not endeavor to recover possession of a residential dwelling unit~~
25 ~~located at Midtown Park Apartments (each, a "Midtown Unit") except as authorized by Section~~

1 37.9, as it may be amended from time to time; and provided, further, that Section 37.9(a)(8)
2 and Section 37.9(a)(13) shall not apply to Midtown Units.

3 (c) — For Midtown Units where one or more of the tenants has been occupying the
4 unit since January 1, 2014 (each, a “Legacy Tenant”), the initial base rent shall be the rent
5 that was in effect for the unit on May 1, 2014, plus any allowable increases under Section
6 37.3. For Midtown Units without a Legacy Tenant, the initial base rent shall be the rent in
7 effect at the time the tenancy commenced, plus any allowable increases under Section 37.3.
8 All subsequent rent increases shall be subject to the rent increase limitations of Section 37.3
9 as it may be amended from time to time.

10 (d) — The City shall discharge its duties as Landlord through the Mayor’s Office of
11 Housing and Community Development (“MOHCD”). MOHCD may adopt rules and regulations
12 consistent with this Chapter 37 to manage the property, and shall develop procedures to verify
13 Legacy Tenant status and to set the rent consistent with subdivision (c). If a tenant has paid
14 rent after May 1, 2014 in excess of the rent allowed under subdivision (c), MOHCD shall credit
15 the excess payment against the tenant’s future rent payments as soon as practicable after the
16 effective date of this Section 37.12A. Nothing in this Section 37.12A shall affect or impair the
17 ability of either MOHCD or a person residing in a Midtown Unit to file a petition to the Rent
18 Board as set forth in this Chapter 37.

19
20 Section 3. Additional Findings. This ordinance is intended to bring tenants at Midtown
21 Park Apartments under the City’s Rent Ordinance. As compared to the just cause protections
22 of the California Tenant Protection Act of 2019 (“AB 1482”), this ordinance further limits the
23 permissible reasons for termination of a residential tenancy and provides additional tenant
24 protections. The Board of Supervisors therefore finds that this ordinance is more protective of
25

1 tenants than AB 1482, and intends that the Rent Ordinance (as hereby amended) shall apply
2 rather than AB 1482.

3
4 Section 2. The Administrative Code is hereby amended by revising Sections 37A.1,
5 37A.2, and 37A.3, to read as follows:

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

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

15 * * * *

16
17 **SEC. 37A.2. FINDINGS.**

18 * * * *

19 (c) It is fair and reasonable that the costs of administering and enforcing the Rent
20 Ordinance and Administrative Code Chapter 37B through the Rent Board should be equitably
21 distributed among the City's residential units.

22 —Therefore, the Board finds that the owner of each residential unit as defined in
23 Section 37A.1 above shall be required to pay an annual Rent Stabilization and Arbitration fee
24 for each unit.

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SEC. 37A.3. PURPOSE.

The purpose of this ordinance is to require those who rely upon and/or benefit from the Rent Board's administration and enforcement of the Rent Ordinance and Administrative Code Chapter 37B to pay a fee which is directly related to the financial burden placed upon the City in carrying out the Rent Board's functions and duties.

Section 3. The Administrative Code is hereby amended by adding Chapter 37B, consisting of Sections 37B.1, 37B.2, 37B.3, 37B.4, and 37B.5, to read as follows:

CHAPTER 37B:

MIDTOWN PARK APARTMENTS

SEC. 37B.1. PURPOSE AND FINDINGS.

(a) Midtown Park Apartments ("Midtown"), located at 1415 Scott Street (Lot 31, Assessor's Block 1099), is a City-owned apartment complex in the Western Addition neighborhood that opened in 1968 to provide housing to families displaced by urban renewal policies. From 1968 to 2014, a tenant board was empowered to make decisions regarding Midtown's management and development, and Midtown tenants generally received rent increases commensurate with the city's rent control laws.

(b) On or about January 31, 2014, the Mayor's Office of Housing and Community Development ("MOHCD") began to operate Midtown under a Rent Modification Program and Maximum Rent Schedule and set rents as a percentage of the tenant's gross household income, while also considering factors such as median income for San Francisco, household size, and number of bedrooms. With rents being set under this program, the City's Rent Ordinance (Administrative Code Ch. 37) did not apply, and some tenants began to experience rent increases not allowed under the Rent Ordinance. The Board of Supervisors finds it is

1 appropriate and in the public interest to allow tenants who had been residing at Midtown to
2 receive the benefits of the rent control provisions of the Rent Ordinance even while the
3 MOHCD program remains in effect. This Chapter 37B shall not affect or impair the Rent
4 Ordinance from applying if the City ceases ownership of Midtown and/or this MOHCD
5 program of controlling and regulating the rents at Midtown.

6
7 **SEC. 37B.2. INITIAL BASE RENT.**

8 (a) For residential dwelling units at Midtown where one or more of the tenants has
9 been occupying the unit since January 1, 2014 (each, a “Legacy Tenant”), the initial base rent
10 shall be the lower of the following: (1) the rent that was in effect for the unit on May 1, 2014
11 (the “Chapter 37 Rent”); or (2) the rent as calculated under MOHCD’s then-existing Rent
12 Modification Program for Midtown.

13 (b) For residential dwelling units at Midtown without a Legacy Tenant, the initial
14 base rent shall be the rent in effect at the time the tenancy commenced as determined by
15 MOHCD’s then-current published maximum affordable rent schedule, or as determined by any
16 successor affordable rent schedule or program for Midtown (either, the “Percentage Rent”).

17
18 **SEC. 37B.3. RENT INCREASE LIMITATIONS.**

19 (a) After the establishment of initial base rent, the maximum allowable rent for a
20 tenant in occupancy at Midtown shall be either of the following: (1) for Legacy Tenants paying
21 Chapter 37 Rent, the initial base rent plus any annual rent increases that may be allowed
22 under Administrative Code Section 37.3(a)(1)-(2) as it may be amended from time to time; or
23 (2) for tenants paying Percentage Rent as initial base rent, as well as any Legacy Tenants
24 who have elected to pay Percentage Rent as set forth in Section 37B.4, the Percentage Rent

1 under the then-current Maximum Rent Schedule published each year, which may include a
2 rent increase from the previous year.

3 (b) MOHCD shall determine whether any Midtown tenants paid rent between May 1,
4 2014 and the effective date of the ordinance in Board of Supervisors File No. 200518 enacting
5 this Chapter 37B that exceeded the rent allowed under this Chapter 37B during that time
6 period. If any such excess payments occurred, MOHCD shall promptly credit the excess
7 amounts against the tenant's future rent. MOHCD shall determine the base rents, applicable
8 rent increases, and shall credit any excess amounts, by no later than February 1, 2021.

9
10 **SEC. 37B.4. OPTION FOR LEGACY TENANTS.**

11 (a) A Legacy Tenant who is paying Chapter 37 Rent as the initial base rent shall at
12 any time in the future have a one-time option to elect to switch from the Chapter 37 Rent to
13 Percentage Rent going forward, but such Legacy Tenant shall have no option to revert to the
14 Chapter 37 Rent after making the election. If a Legacy Tenant elects to change from Chapter
15 37 Rent to Percentage Rent, the Legacy Tenant must notify MOHCD (or its successor or
16 designee) in writing, and the Percentage Rent shall be implemented take effect within 60
17 days.

18
19 **SEC. 37B.5. IMPLEMENTATION; INCOME VERIFICATION.**

20 (a) MOHCD may adopt rules and regulations consistent with this Chapter 37B to
21 manage the Midtown property, and shall develop procedures to verify Legacy Tenant status,
22 and to set the rent consistent with this Chapter. Disputes regarding the allowable rent for a
23 Midtown unit may be appealed to the Rent Board via a rental arbitration petitions as set forth
24 in Chapter 37.

1 (b) A Legacy Tenant shall not be required to show proof of income in order to be
2 charged the Chapter 37 Rent. However, if MOHCD (or its successor or designee) informs the
3 Legacy Tenant in writing that it needs to verify the Legacy Tenant’s household income for
4 compliance with a current financing program or financing application, the Legacy Tenant shall
5 provide such information. MOHCD shall use such information for compliance purposes only,
6 and shall keep such information confidential to the extent permitted by law.

7
8 Section 4. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor’s veto of the ordinance.

12
13 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the “Note” that appears under
18 the official title of the ordinance.

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

21
22 By: /s/
23 MANU PRADHAN
24 Deputy City Attorney
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