

1 [Emergency Ordinance - Eviction Protection For Tenants Unable To Pay Rent]

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3 **Emergency ordinance to temporarily restrict landlords from evicting residential tenants**
4 **for non-payment of rent that came due on or after July 1, 2021, in response to the**
5 **COVID-19 pandemic; to prohibit landlords from imposing late fees, penalties, or similar**
6 **charges on such tenants; and making findings as required by the California Tenant**
7 **Protection Act of 2019.**

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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. Declaration of Emergency under Charter Section 2.107.

18 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
19 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
20 of any City or County department or office required to comply with time limitations established
21 by law. The Board of Supervisors hereby finds and declares that an actual emergency exists
22 that requires the passage of this emergency ordinance.

23 (b) The City and County of San Francisco is facing an unprecedented public health
24 and economic crisis due to the COVID-19 pandemic. On February 25, 2020, the Mayor
25 declared a state of emergency due to COVID-19 and the Board of Supervisors concurred in
the emergency. On March 13, 2020, the Mayor adopted the first of a series of emergency

1 orders, and the Board of Supervisors later adopted an ordinance signed by the Mayor
2 (Ordinance No. 093-20), to limit the eviction of tenants who had been unable to pay certain
3 months' rent due to financial impacts resulting from COVID-19. Thereafter, the Legislature
4 adopted the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020
5 (hereafter, "~~AB 3088~~" "SB 91"), which enacted additional protections for tenants who have
6 paid at least 25 percent of the rent but were unable to pay the remainder ~~their rent~~ due to
7 COVID-19. But ~~AB 3088~~ SB 91 only applies to rent payments that came due between March
8 1, 2020 and ~~January 31, 2021~~ June 30, 2021, and does not protect tenants from being evicted
9 due to rent payments missed on or after ~~February 1, 2021~~ July 1, 2021.

10 (c) Regardless whether the California Legislature extends ~~AB 3088~~ SB 91, there is
11 an ongoing, ~~dire~~ emergency in San Francisco. The pandemic appears to be slowly coming
12 under control, but the end is not in sight ~~is surging, hospital resources are stretched thin, the~~
13 ~~City has had to abruptly shutter businesses across the City, and many residents are out of~~
14 ~~work entirely or have otherwise suffered a loss of income due to the pandemic. And, and~~ the
15 threat of mass evictions starting ~~February 1, 2021~~ July 1, 2021 is a looming housing crisis for
16 tenants who could be directly affected, as well as for the City as a whole. The City has a
17 shortage of affordable rental housing, ~~and~~ a significant percentage of its households are
18 renters and at risk of permanent displacement should they be forced to leave their current
19 homes, ~~and many~~. Many potentially impacted renters are also essential workers who will be
20 needed immediately if the pandemic takes a turn for the worse, and the City could be at even
21 ~~greater risk in the event of a future pandemic if they are displaced.~~ Meanwhile, state and
22 federal relief programs have been delayed and only began processing San Francisco
23 applications in May 2021, and these funding delays have in turn impacted the City's efforts to
24 administer relief to landlords and tenants. See, e.g., Los Angeles Times, "Cash to help
25 California renters goes unspent with eviction protections expiring soon" (May 20, 2021).

1 available at [https://www.latimes.com/california/story/2021-05-20/california-renters-unspent-](https://www.latimes.com/california/story/2021-05-20/california-renters-unspent-financial-assistance-eviction-protections-expiring)
2 [financial-assistance-eviction-protections-expiring](#); and 48 Hills, “Not one dollar of state rent-
3 [relief money has arrived in SF](#)” (May 13, 2021, available at [https://48hills.org/2021/05/not-one-](https://48hills.org/2021/05/not-one-dollar-of-state-rent-relief-money-has-arrived-in-sf/)
4 [dollar-of-state-rent-relief-money-has-arrived-in-sf/](#)). A short-term extension of SB 91’s
5 evictions protections is necessary to help tenants during this transitional phase.

6 (d) The Board of Supervisors finds it is in the public interest to prevent tenant
7 displacement in San Francisco due to COVID-19 to the maximum extent permitted by law.
8 Pursuant to the City’s authority to regulate evictions, and consistent with ~~AB 3088~~ SB 91, this
9 emergency ordinance applies to rent payments that originally came due on or after ~~February~~
10 ~~4, 2021~~ July 1, 2021. It is meant to provide interim relief pending the Board of Supervisors’
11 consideration of the non-emergency ordinance in File No. 210601, which, similar to SB 91,
12 would protect tenants from evictions due to the non-payment of rent that came due between
13 July 1, 2021 and December 31, 2021, provided the tenants have paid at least 25 percent of
14 such rent payments. Nothing in this ordinance shall affect or impair the application of any
15 other City law or ~~AB 3088~~ SB 91 with respect to rent payments that came due before
16 ~~February 1, 2021~~ July 1, 2021.

17 (e) This emergency ordinance is intended to prevent residential tenants from being
18 evicted due to having suffered an adverse financial impact arising out of the COVID-19
19 pandemic. As compared to the just cause protections of the California Tenant Protection Act
20 of 2019 (“AB 1482”), this ordinance further limits the permissible reasons for termination of a
21 residential tenancy and provides additional tenant protections. The Board of Supervisors
22 therefore finds that this ordinance is more protective of tenants than AB 1482, and intends
23 that this emergency ordinance shall apply rather than AB 1482.

1 Section 2. Suspending Evictions and Penalties Due to Non-Payment of Rent.

2 (a) Notwithstanding Administrative Code Section 37.9(a)(1) or any other City law to
3 the contrary, a landlord may not endeavor to recover possession of a residential unit due to
4 the tenant's non-payment of rent, if the rent payment originally became due on or after
5 ~~February 1, 2021~~July 1, 2021, provided that the tenant's failure to pay (1) arose out of a
6 substantial decrease in household income (including, but not limited to, a substantial decrease
7 in household income caused by layoffs or a reduction in the number of compensable hours of
8 work, or substantial out-of-pocket expenses); (2) that was caused by the COVID-19
9 pandemic, or by any local, state, or federal government response to COVID-19; and (3) is
10 documented. The types of documentation that a tenant may use to show an inability to pay
11 due to COVID-19 may include, without limitation, bank statements, pay stubs, employment
12 termination notices, proof of unemployment insurance claim filings, sworn affidavits, and
13 completed forms prepared by the Rent Board. A tenant shall have the option, but shall not be
14 required, to use third-party documentation such as a letter from an employer to show an
15 inability to pay.

16 (b) Notwithstanding any lease provision to the contrary, a landlord may not impose
17 late fees, penalties, interest, liquidated damages, or similar charges due to a residential
18 tenant's non-payment of rent that originally became due on or after ~~February 1, 2021~~July 1,
19 2021, if the tenant can demonstrate that it missed the rent payment due to the COVID-19
20 pandemic, as set forth in subsection (a). A landlord also may not recover possession of a unit
21 due to a tenant's failure to pay such late charges when subsection (a) applies,
22 notwithstanding Administrative Code Section 37.9(a)(2) or any other City law to the contrary.
23 The foregoing sentence shall not enlarge or diminish a landlord's rights with respect to such
24 charges when subsection (a) does not apply.

1 (c) This emergency ordinance shall apply to all residential units in the City, including
2 without limitation (1) all rental units as defined in Administrative Code Section 37.2(r),
3 including those that are otherwise exempt from just cause protections pursuant to Section
4 37.9(b); (2) all residential units in residential hotels regardless of how long the unit has been
5 occupied; and (3) all units where the rent is controlled or regulated by the City (e.g., privately-
6 operated units controlled or regulated by the Mayor's Office of Housing and Community
7 Development and/or the Department of Homelessness and Supportive Housing).

8 (d) This emergency ordinance is intended to suspend evictions and late penalties
9 as stated in subsections (a) and (b) as soon as it takes effect, and shall therefore apply to all
10 residential units as stated in subsection (c), including those where a notice to vacate or quit
11 was pending as of the date that this ordinance took effect and regardless whether the notice
12 was served before, on, or after ~~February 1, 2021~~ July 1, 2021.

13 (e) The provisions of this emergency ordinance, being necessary for the welfare of
14 the City and its residents, shall be liberally construed to effectuate its purpose, which is to
15 protect tenants from being evicted or incurring penalties due to missing rent payments
16 because of the COVID-19 pandemic. However, nothing in this ordinance shall relieve a
17 tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due.

18
19 Section 3. Effective Date; Sunset Date. Consistent with Charter Section 2.107, this
20 emergency ordinance shall become effective immediately upon enactment. Enactment
21 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or
22 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors
23 overrides the Mayor's veto of the ordinance. Once enacted, it shall remain in effect for 60
24 days, ~~unless reenacted as provided by Section 2.107. If not reenacted, it shall expire on the~~
25 ~~61st day after enactment.~~ or until such time as the ordinance regarding evictions for non-

1 payment in Board of Supervisors File No. 210601 may take effect, whichever is sooner. The
2 foregoing sentence shall not prevent future reenactments of this emergency ordinance as
3 provided by Section 2.107.

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5 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
6 of this emergency ordinance, or any application thereof to any person or circumstance, is held
7 to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such
8 decision shall not affect the validity of the remaining portions or applications of the ordinance.
9 The Board of Supervisors hereby declares that it would have passed this ordinance and each
10 and every section, subsection, sentence, clause, phrase, and word not declared invalid or
11 unconstitutional without regard to whether any other portion of this ordinance or application
12 thereof would be subsequently declared invalid or unconstitutional.

13
14 Section 5. Supermajority Vote Required. In accordance with Charter Section 2.107,
15 passage of this emergency ordinance by the Board of Supervisors requires an affirmative vote
16 of two-thirds of the Board of Supervisors.

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

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