

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Eric D. Shaw, Director, Mayor's Office of Housing and Community Development  
Robert Collins, Executive Director, Rent Board  
Jeanine Nicholson, Chief, Fire Department

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: June 22, 2021

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Breed on June 15, 2021:

**File No. 210698**

**Ordinance amending the Administrative Code to eliminate the expiration of a preference in City affordable housing for Displaced Tenants due to a fire (Category 3), and extend the period for which a Displaced Tenant due to fire may utilize the preference, from three to six years.**

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [erica.major@sfgov.org](mailto:erica.major@sfgov.org).

cc: Eugene Flannery, Mayor's Office of Housing and Community Development  
Theresa Ludwig, Fire Department

1 [Administrative Code - Displaced Tenant Preference in City Affordable Housing]

2

3 **Ordinance amending the Administrative Code to eliminate the expiration of a**  
4 **preference in City affordable housing for Displaced Tenants due to a fire (Category 3),**  
5 **and extend the period for which a Displaced Tenant due to fire may utilize the**  
6 **preference, from three to six years.**

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

11

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

13

14 Section 1. Chapter 47 of the Administrative Code is hereby amended by revising  
15 Section 47.2 and Section 47.3, to read as follows:

16 **SEC. 47.2. DEFINITIONS.**

17 \* \* \* \*

18 "Displaced Tenant" shall mean any person who applies to MOHCD and who MOHCD  
19 determines qualifies under any of the categories below. If a person disputes MOHCD's  
20 determination that he or she does not qualify as a "Displaced Tenant" under this Section 47.2,  
21 such person shall have the right to a hearing conducted by a Rent Board Administrative Law  
22 Judge (as defined in Administrative Code Section 37.2(f)), with MOHCD as the responding  
23 party:

24 \* \* \* \*

25

1           Category 3: A tenant residing in San Francisco who is required to vacate his or her  
2 unit by a public safety official due to fire, and who can provide sufficient evidence to MOHCD  
3 that demonstrates that he or she cannot return to the unit within a period of six months from  
4 the date of the order to vacate the unit. MOHCD shall establish a process for a tenant to verify  
5 his or her status as a "Displaced Tenant" under Category 3 that, at a minimum, shall require a  
6 tenant to show: (a) a public safety official provided an order to vacate the unit to such tenant  
7 or to the owner of the unit; and (b) the tenant either: (1) is listed on the order to vacate; (2) is  
8 listed on the lease for the unit in question; or (3) has other evidence sufficient to establish, in  
9 MOHCD's reasonable discretion, that he or she resided in the unit at the time the order was  
10 provided. ~~This Category 3 "Displaced Tenant" preference shall expire by operation of law on  
11 December 31, 2020, provided, however, that MOHCD may determine after December 31, 2020 that a  
12 person who applied to MOHCD under Category 3 on or prior to December 31, 2020 qualifies as a  
13 Displaced Tenant.~~

14           \* \* \* \*

15           **SEC. 47.3. APPLICATION OF PREFERENCE.**

16           Except to the extent prohibited by an applicable State or Federal funding source,  
17 MOHCD shall give, or require project sponsors or their successors in interest funded through  
18 MOHCD to give, preference in occupying units or receiving assistance under all City  
19 Affordable Housing Programs after any priority given under Administrative Code Section 39.4.  
20 Each preference enumerated below shall be applied as of the effective date of the legislation  
21 establishing each preference. The City established preference for holders of Certificates of  
22 Preference in Ordinance No. 232-08, for Displaced Tenants, Category 1 in Ordinance No. 277-  
23 13, and for Displaced Tenants, Category 2 and Neighborhood Residents in Ordinance No. 204-  
24 15, legislation adding this Chapter 47 for Displaced Tenants, Category 3 and persons who live or work  
25 in San Francisco in Ordinance No. 164-16, and for Displaced Tenants, Category 4 in Ordinance 120-

1 19. The preference requirements are intended to have prospective effect only, and shall not  
2 be interpreted to impair the obligations of any pre-existing contract entered into by the City.  
3 Notwithstanding the prior sentence, the preference requirements shall apply to contracts  
4 entered into by the City on or after the effective date of the legislation establishing each  
5 preference, including contracts materially amended on or after the effective date. Preference  
6 shall be given:

7 \* \* \* \*

8 (b) Second, to any Displaced Tenant who meets all of the qualifications for the unit or  
9 assistance. For any Displaced Tenant displaced prior to the effective date of this Chapter 47,  
10 preference under this subsection (b) shall expire six years from the effective date of this  
11 Chapter 47. For any Displaced Tenant displaced after the effective date of this Chapter 47,  
12 preference under this subsection (b) shall expire, for Category 1, six years from the date the  
13 landlord filed with the Rent Board a Notice of Intent to Withdraw, for Category 2, six years  
14 from the date the landlord filed with the Rent Board the notice to vacate pursuant to the Rent  
15 Ordinance Section 37.9(c), or, for Category 3, ~~three~~ six years from the date of the order to  
16 vacate. Preference under this subsection (b) shall be applicable to:

17 (1) 20% of the units in any new residential development that is part of a City  
18 Affordable Housing Program going through the initial occupancy or sale process; and

19 (2) units in all re-sales and subsequent leases until 20% of all units that are part of  
20 a City Affordable Housing Program in a building are occupied by tenants who have exercised  
21 this preference.

22 The Displaced Tenant's preference shall still apply even if such Displaced Tenant  
23 declines a unit offered through application of the preference, but upon accepting and  
24 occupying a unit obtained using the preference, such Displaced Tenant's preference  
25 terminates.

1 \* \* \* \*

2 Section 2. Effective Date; Retroactivity.

3 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs  
4 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not  
5 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the  
6 Mayor's veto of the ordinance.

7 (b) Upon its effective date, this ordinance shall be retroactive to January 1, 2021.

8 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
9 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
10 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
11 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
12 additions, and Board amendment deletions in accordance with the "Note" that appears under  
13 the official title of the ordinance.

14  
15 APPROVED AS TO FORM:  
16 DENNIS J. HERRERA, City Attorney

17 By: /S/Keith Nagayama  
18 KEITH NAGAYAMA  
19 Deputy City Attorney  
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**LEGISLATIVE DIGEST**

[Administrative Code - Displaced Tenant Preference in City Affordable Housing]

**Ordinance amending the Administrative Code to eliminate the expiration of a preference in City affordable housing for Displaced Tenants due to a fire (Category 3), and extend the period for which a Displaced Tenant due to fire may utilize the preference, from three to six years.**

Existing Law

Current law provides preference in all City Affordable Housing Programs to certain “Displaced Tenants,” which includes tenants under “Category 3” who have been required to vacate his or her rental unit by a public safety official due to fire (“Category 3 Displaced Tenant”). A Category 3 Displaced Tenant’s preference for an affordable housing unit expired after 3 years from the date of the order to vacate. The Category 3 Displaced Tenant preference expired by operation of law on December 31, 2020.

Amendments to Current Law

The purpose of this ordinance is to eliminate the expiration of the preference for a Displaced Tenant under Category 3. In addition, this ordinance extends the time period from 3 years to 6 years for which a Category 3 Displaced Tenant may utilize the preference for an affordable housing unit. The ordinance is retroactive to January 1, 2021.

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