

1 [Administrative, Municipal Elections Codes - General Obligation Bond Passthroughs]

2

3 **Ordinance amending the Administrative Code to provide that the general obligation**
 4 **bond passthrough from landlords to tenants shall be calculated based on the amount**
 5 **the property tax rate has increased due to general obligation bonds since the tenant's**
 6 **move-in date or 2005, whichever is later; and to allow tenants to seek relief from**
 7 **general obligation bond passthroughs based on financial hardship.**

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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.

13

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

15

16 Section 1. Purpose and Findings.

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18 (a) City law allows landlords to pass through to residential tenants a portion of any
 19 property tax increases that result from the issuance of certain types of general obligation
 20 bonds. The purpose of this law has been to reflect a compromise that landlords and tenants
 21 should equally share the burden of any property tax increases that result from the issuance of
 22 these bonds. And so, except in cases involving certain older general obligation bonds, the
 23 general rule is that landlords may pass through to tenants up to 50% of the change in property
 24 taxes that landlords may pay as a result of the bonds.

24

25 (b) Since approximately 2006, the City has followed a general obligation bond debt
 management policy that seeks to prevent City general obligation bonds from resulting in an

1 increase to the property tax rate from the prior year. By and large this policy has achieved
2 that aim, and yet, the City has been authorizing passthroughs based on the costs of individual
3 bonds in isolation and without regard to the policy and whether those bond issuances actually
4 resulted in any property tax increase. If landlords and tenants are to share the burden of
5 property tax increases that result from general obligation bond debt, so too should they
6 equally benefit from the City's debt management policies.

7 (c) A further issue is that because landlords have the right to set the initial rent at the
8 start of a new tenancy, landlords already have the opportunity when they set the rent to cover
9 their existing property tax costs. If these costs are priced into the starting rent, then allowing a
10 passthrough of these costs creates a potential for double recovery, and moreover the City's
11 debt management policy has helped keep the property tax rate relatively stable despite
12 subsequent bonds. As a result, it is fair and consistent with the purpose of the passthrough
13 for the passthrough to only cover property tax increases that arose after the tenant's move-in
14 due to general obligation bonds, which are not already included in the rent. In the case of
15 tenants who moved in before the City adopted its debt management policy, it is appropriate to
16 measure the change in property tax rate relative to the property tax rate in 2005.

17 (d) The City's failure to account for these factors has led to a growing and unintended
18 disparity. As noted above, the intent of the general obligation bond passthrough was to allow
19 landlords to pass through up to 50% of any increases in the property tax rate that resulted
20 from the bonds. But since 2005-2006, the portion of the property tax rate that corresponds to
21 these bonds has risen about 18%, compared to a 216% increase in the tenant passthrough
22 rate. And the passthrough rates consider bonds whose costs may already have been priced
23 into a tenant's starting rent, in any event.

24 (e) For the foregoing reasons, the Board of Supervisors finds it is necessary and in
25 the public interest to update the Rent Ordinance to ensure it reflects the reality of the City's

1 debt management policy and the true intent of the general obligation bond passthrough. To
2 ensure fairness, the Board finds that this update should occur prospectively as of July 1,
3 2024, without affecting or impairing the validity of any passthroughs imposed prior to that
4 date.

5

6 Section 2. Article VII of Chapter 2 of the Administrative Code is hereby amended by
7 revising Section 2.40, to read as follows:

8 **SEC. 2.40. INCLUSION OF LANDLORD PASSTHROUGH LANGUAGE.**

9 Any proposal for bonded indebtedness submitted pursuant to this Article VII shall
10 include, as a provision of the ordinance submitting such proposal to the voters, language
11 incorporating and authorizing the ~~50 percent~~ passthrough of the change in a landlord's property
12 tax resulting from the repayment of such indebtedness as provided in Administrative Code
13 Section 37.3(a)(6).

14 * * * *

15

16 Section 3. Article V of the Municipal Elections Code is hereby amended by revising
17 Section 520, to read as follows:

18 **SEC. 520. CONTROLLER'S FINANCIAL ANALYSIS.**

19 (a) The Controller shall prepare an impartial financial analysis of each measure
20 submitted to the voters. The Controller's financial analysis shall include the amount of any
21 increase or decrease in the cost of City and County government. The Controller's financial
22 analysis shall also include the effect of the measure upon the tax rate.

23 For any general obligation bond measure placed on the ballot, the Controller's
24 financial analysis shall include an explanation of the City's legal debt limit, as well as the
25 impact of the proposed bond measure on that limit. The Controller's financial analysis for a

1 general obligation bond measure placed on the ballot, including general obligation bond
2 measures submitted by the San Francisco Unified School District or San Francisco
3 Community College District, also shall include an explanation of the ~~50 percent~~ passthrough of
4 the change in a landlord's property tax resulting from the repayment of such indebtedness
5 provided in Administrative Code Section 37.3(a)(6), and an explanation estimate of the impact of
6 that passthrough as it relates to~~under~~ the proposed bond measure.

7 * * * *

8
9 Section 4. Chapter 37 of the Administrative Code is hereby amended by revising
10 Sections 37.2. and 37.3, to read as follows:

11 **SEC. 37.2. DEFINITIONS.**

12 * * * *

13 (q) **Rent Increases.** Any additional monies demanded or paid for rent as defined in
14 item (p) above, or any reduction in housing services without a corresponding reduction in the
15 monies demanded or paid for rent; provided, however, that passthroughs of the following cost
16 increases do not constitute rent increases: (1) where the landlord has been paying the tenant's
17 utilities and the cost of those utilities increases, ~~the landlord's passing through to the tenant of such~~
18 ~~increased costs pursuant to this Chapter does not constitute a rent increase;~~ (2) where the landlord is
19 passing through to the tenant the ~~there has been a~~ change in the landlord's property tax attributable
20 to a general obligation bond ~~approved by the voters between November 1, 1996 and November 30,~~
21 ~~1998, or after November 14, 2002, the landlord's passing through to the tenant of such increased costs~~
22 in accordance with ~~this Chapter (see as~~ Section 37.3(a)(6) ~~does not constitute a rent increase;~~ (3)
23 ~~where there has been a change in the landlord's property tax attributable to a San Francisco Unified~~
24 ~~School District or San Francisco Community College District general obligation bond approved by the~~
25 ~~voters after November 1, 2006, the landlord's passing through to the tenant of such increased costs in~~

1 ~~accordance with this Chapter (see Section 37.3(a)(6)) does not constitute a rent increase; and, (4); and~~
2 ~~(3) where the landlord is passing through to the tenant where water bill charges are attributable to~~
3 water rate increases resulting from issuance of water revenue bonds authorized at the
4 November 5, 2002 election, ~~the landlord's passing through to the tenant of such increased costs in~~
5 accordance with ~~this Chapter (see Section 37.3(a)(5)(B)) does not constitute a rent increase.~~

6 * * * *

8 **SEC. 37.3. RENT LIMITATIONS.**

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

12 * * * *

13 (6) **Property Tax.**

14 (A) Effective July 1, 2024, a landlord may impose increases based upon a
15 100% passthrough of the change in the landlord's property tax resulting from the repayment of
16 general obligation bonds of the City and County of San Francisco approved by the voters
17 between November 1, 1996, and November 30, 1998; a 50% passthrough of the change in the
18 landlord's property tax resulting from the repayment of general obligation bonds of the City and
19 County of San Francisco approved by the voters after November 14, 2002; and ~~as provided in Section~~
20 37.2(q).

21 ~~—A landlord may impose increases based upon~~ a 50% passthrough of the change in the
22 landlord's property tax resulting from the repayment of San Francisco Unified School District
23 or San Francisco Community College District general obligation bonds approved by the voters
24 after November 1, 2006. General obligation bonds that meet the criteria set forth in the previous
25 sentence are referred to herein as "Eligible Bonds;" provided, however, that a general obligation bond

1 approved after December 20, 2000 may qualify as an Eligible Bond only if the passthrough was
2 disclosed and approved by the voters. The City and County of San Francisco, San Francisco Unified
3 School District, and San Francisco Community College District are referred to collectively as “the
4 Issuing Entities.”

5 To pass through the change in property tax resulting from the repayment of Eligible Bonds, the
6 landlord shall calculate said change relative to the amount that the property tax rate increased due to
7 the repayment of Eligible Bonds since each tenancy commenced, or 2005, whichever is later (“the Base
8 Year”), as set forth in subsection (a)(6)(B). ~~The amount of such increases shall be determined for each~~
9 tax year as follows:

10 (B)(A) The Controller ~~and the Board of Supervisors~~ will first determine the
11 percentage of the property tax rate, if any, ~~in each tax year~~ attributable to ~~the~~ general obligation
12 bonds ~~of any of the Issuing Entities (“the General Obligation Bond Factor”) for each~~ and ~~repayable~~
13 ~~within such~~ tax year. The passthrough rate for an individual tenant (the “Tenant Passthrough Rate”)
14 shall be based on the amount that the General Obligation Bond Factor for the current year has
15 increased since the tenant’s Base Year; and the degree to which said increase, if any, is attributable to
16 Eligible Bonds, as measured by the ratio of debt service for the Eligible Bonds compared to the total
17 debt service attributable to general obligation bonds of the Issuing Entities. The resulting figure shall
18 then be discounted to reflect the specific percentage passthroughs for each of the Eligible Bonds as
19 specified in subsection (A). The Controller shall prepare and annually update a form to help landlords
20 and tenants calculate the Tenant Passthrough Rates. The Controller’s authority to interpret and
21 administer this calculation shall be liberally construed to further the purposes of this subsection (a)(6).

22 (C)(B) ~~To calculate the amount of increased property tax that the landlord~~
23 ~~can pass through to a tenant in any given year, the landlord shall divide ~~This percentage shall be~~~~
24 ~~multiplied by~~ the total amount of the net taxable value as of November 1 of the applicable tax
25 ~~year~~ by the total number of all units in the property, including commercial units; and shall multiply the

1 resulting figure by the applicable Tenant Passthrough Rate. The result is the dollar amount of
2 increased property taxes for that tax year for a particular property attributable to the repayment
3 of ~~the general obligation bonds~~ Eligible Bonds that the landlord may pass through to the tenant.

4 ~~(D)(C)~~ The dollar amount calculated under subsection (a)(6)~~(C)(B)~~ shall
5 ~~be divided by the total number of all units in each property, including commercial units. That figure~~
6 ~~shall also be discounted to reflect the percentage passthrough that the voters authorized, as applicable:~~
7 ~~specifically, in the case of the 50% passthroughs authorized for general obligation bonds of the City~~
8 ~~and County of San Francisco approved by the voters after November 14, 2002 and general obligation~~
9 ~~bonds of the San Francisco Unified School District or San Francisco Community College District~~
10 ~~approved by the voters after November 1, 2006, the figure shall be divided by two. The figure~~ shall
11 then be divided by the total number of months that the passthrough may apply pursuant to
12 subsection (a)(6)~~(E)(D)~~(i), to determine the monthly per unit costs for that tax year of the
13 repayment of general obligation bonds.

14 ~~(E)(D)~~ Landlords may pass through to each unit in a particular property
15 the dollar amount calculated under subsections (a)(6)(A)~~(D)~~, ~~(B)~~, and ~~(C)~~, as provided in this
16 subsection (a)(6)~~(E)(D)~~.

17 (i) ~~If a passthrough is imposed on or before December 31, 2020, it shall~~
18 ~~apply only for the 12-month period after it is imposed. Starting January 1, 2021, a~~All passthroughs
19 shall apply for the same number of months covered by the property tax bills used in the
20 passthrough calculation, and the calculation may not be based on tax bills issued more than
21 three years prior to the year in which the passthrough was imposed.

22 (ii) The landlord shall give affected tenants notice of the
23 passthrough as provided by applicable notice of rent increase provisions of this Chapter 37,
24 including but not limited to Section 37.3(b)(3). The passthroughs may be imposed at any time
25 in the calendar year, provided that the landlord serves notice of such passthrough to be

1 effective on the anniversary date of each tenant's occupancy of the property. The
2 passthroughs shall not become a part of a tenant's base rent. The amount of each
3 passthrough imposed pursuant to this subsection (a)(6) may vary from year-to-year,
4 depending on the amount calculated by the Controller~~under subsections (a)(6)(A), (B), and (C)~~. A
5 landlord may impose the passthroughs described in this subsection (a)(6) for a particular tax
6 year only with respect to those tenants who were residents of a particular property on
7 November 1 of the applicable tax year. A landlord shall not impose a passthrough pursuant to
8 this subsection (a)(6) if the landlord has filed for or received Board approval for a rent
9 increase under Section 37.8(e)(4) for increased operating and maintenance expenses in
10 which the same increase in property taxes due to the repayment of general obligation bonds
11 was included in the comparison year cost totals.

12 ~~(F)(E)~~ A tenant who has received a passthrough under this subsection
13 (a)(6) may file a financial hardship application with the Board, and the Board may grant the
14 tenant complete or partial relief from ~~that part of the passthrough that is attributable to general~~
15 ~~obligation bonds approved by the voters on or after November 5, 2019~~. The standards and
16 procedures for the financial hardship application shall be as set forth in Sections 37.7(h)-(i).

17 ~~(G)(F)~~ The Board will have available a form which explains how to
18 calculate the passthrough. Landlords must provide to tenants, on or before the date that
19 notice is served on the tenant of a passthrough permitted under this subsection (a)(6), a copy
20 of the completed form. Landlords shall provide their tenants the ~~This~~ completed forms shall be
21 ~~provided~~ in addition to the Notice of Rent Increase required under Section 37.3(b), and shall file
22 copies of the completed forms with the Board. Where a tenant alleges that a landlord has imposed
23 a charge which exceeds the limitations set forth in this subsection (a)(6), the tenant may
24 petition for a hearing under the procedures provided by Section 37.8. In such a hearing, the
25 landlord shall have the burden of proving the accuracy of the calculation that is the basis for

1 the increase. Any tenant petitions challenging such a passthrough must be filed within one
2 year of the effective date of the passthrough.

3 ~~(H)(G)~~ The Board and the Controller may amend ~~their~~ rules and
4 regulations as necessary to implement this subsection (a)(6).

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7 Section 5. Effective and Operative Dates.

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

12 (b) This ordinance shall become operative on its effective date or on July 1, 2024,
13 whichever is later.

14

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

21

22 Section 7. Severability. If any section, subsection, sentence, clause, phrase, or word of
23 this ordinance, or any application thereof to any person or circumstance, is held to be invalid
24 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
25 affect the validity of the remaining portions or applications of the ordinance. The Board of

1 Supervisors hereby declares that it would have passed this ordinance and each and every
2 section, subsection, sentence, clause, phrase, and word not declared invalid or
3 unconstitutional without regard to whether any other portion of this ordinance or application
4 thereof would be subsequently declared invalid or unconstitutional

5

6 APPROVED AS TO FORM:
7 DAVID CHIU, City Attorney

8 By: /s/
9 MANU PRADHAN
Deputy City Attorney

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