

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

## MEMORANDUM

TO: Christina Varner, Acting Executive Director, Rent Board  
Eric D. Shaw, Director, Mayor's Office of Housing and Community Development  
Adrienne Pon, Executive Director, Office of Civic Engagement and Immigrant Affairs

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

DATE: December 15, 2021

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Preston on December 7, 2021:

**File No. 211265**

**Ordinance amending the Administrative Code to require landlords pursuing certain types of evictions to first provide their tenants written notice and an opportunity to cure, unless the eviction is based on an imminent health or safety issue or the non-payment of COVID-19 rental debt; and making findings that the eviction protections in the Rent Ordinance are more protective than those found in State law pursuant to California Civil Code, Section 1946.2.**

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: Lydia Ely, Mayor's Office of Housing and Community Development  
Brian Cheu, Mayor's Office of Housing and Community Development  
Maria Benjamin, Mayor's Office of Housing and Community Development

1 [Administrative Code - Tenant Opportunity To Cure; Eviction Protections]

2

3 **Ordinance amending the Administrative Code to require landlords pursuing certain**  
 4 **types of evictions to first provide their tenants written notice and an opportunity to**  
 5 **cure, unless the eviction is based on an imminent health or safety issue or the non-**  
 6 **payment of COVID-19 rental debt; and making findings that the eviction protections in**  
 7 **the Rent Ordinance are more protective than those found in State law pursuant to**  
 8 **California Civil Code, Section 1946.2.**

9

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

14

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

16

17 Section 1. Purpose and Findings.

18 The Rent Ordinance recognizes that tenants owe certain obligations to their landlords,  
 19 and that a tenant's failure to meet those obligations may under certain conditions give the  
 20 landlord just cause to evict. But the Rent Ordinance generally does not specify for how long a  
 21 tenant's misconduct must continue before it rises to the level of being a just cause. This  
 22 ambiguity creates confusion, and is particularly harmful to tenants, as some landlords claim  
 23 that a tenant's violation instantly creates just cause to evict even if the tenant just made an  
 24 innocent mistake or is able to correct the issue. A cure period would reduce the undue  
 25 hardship suffered by tenants who face sudden evictions and promote economy in the use of

1 judicial resources, while still protecting the property owners by curing the harm. It is essential  
2 to provide clarity around what constitutes just cause: if a tenant can correct the violation within  
3 a reasonable timeframe, to nevertheless evict the tenant and put them at risk of permanent  
4 displacement from the City is not appropriate.

5  
6 Section 2. The Administrative Code is hereby amended by revising Section 37.1, to  
7 read as follows:

8 **SEC. 37.1. TITLE AND FINDINGS.**

9 \* \* \* \*

10 (d) In accordance with California Civil Code Section 1946.2(g)(1)(B), the Board of  
11 Supervisors finds that this Chapter 37 further limits the permissible reasons for termination of a  
12 residential tenancy and provides additional tenant protections as compared to California Civil Code  
13 Section 1946.2, which the California Legislature adopted as part of the Tenant Protection Act of 2019.  
14 The Board of Supervisors therefore finds that this Chapter 37 is more protective of tenants than Section  
15 1946.2, and intends that this Chapter 37 shall apply rather than Section 1946.2.

16  
17 Section 3. The Administrative Code is hereby amended by revising Section 37.9, to  
18 read as follows:

19 **SEC. 37.9. EVICTIONS.**

20 Notwithstanding Section 37.3, this Section 37.9 shall apply as of August 24, 1980, to  
21 all landlords and tenants of rental units as defined in Section 37.2(r).

22 (a) A landlord shall not endeavor to recover possession of a rental unit unless:

23 (1) The tenant:

24 (A) Has failed to pay the rent to which the landlord is lawfully entitled under the  
25 oral or written agreement between the tenant and landlord:

1                   \* \* \* \*

2                   (B) Habitually pays the rent late; or

3                   (C) Gives checks which are frequently returned because there are insufficient  
4 funds in the checking account;

5                   \* \* \* \*

6                   (2) The tenant has violated a lawful obligation or covenant of tenancy other than  
7 the obligation to surrender possession upon proper notice or other than an obligation to pay a  
8 charge prohibited by Police Code Section 919.1, the violation was substantial, and the tenant  
9 fails to cure such violation after having received written notice thereof from the landlord.

10                  \* \* \* \*

11                  (3) The tenant is committing or permitting to exist a nuisance in, or is causing  
12 substantial damage to, the rental unit, or is creating a substantial interference with the  
13 comfort, safety or enjoyment of the landlord or tenants in the building, the activities are  
14 severe, continuing or recurring in nature, and the nature of such nuisance, damage or  
15 interference is specifically stated by the landlord in writing as required by Section 37.9(c).

16                  \* \* \* \*

17                  (4) The tenant is using or permitting a rental unit to be used for any illegal  
18 purpose, provided however that a landlord shall not endeavor to recover possession of a  
19 rental unit solely:

20                   (A) as a result of a first violation of Chapter 41A that has been cured within 30  
21 days written notice to the tenant; or

22                   (B) because the illegal use is the residential occupancy of a unit not authorized  
23 for residential occupancy by the City. Nothing in this Section 37.9(a)(4)(B) prohibits a landlord  
24 from endeavoring to recover possession of the unit under Section 37.9(a)(8) or (10) of this  
25 Chapter 37.

1 (5) The tenant, who had an oral or written agreement with the landlord which  
2 has terminated, has refused after written request or demand by the landlord to execute a  
3 written extension or renewal thereof for a further term of like duration and under such terms  
4 which are materially the same as in the previous agreement; provided, that such terms do not  
5 conflict with any of the provisions of this Chapter 37; or

6 (6) The tenant has, after written notice to cease, refused the landlord access to  
7 the rental unit as required by State or local law; or

8 \* \* \* \*

9 (c) A landlord shall not endeavor to recover possession of a rental unit unless at  
10 least one of the grounds enumerated in Section 37.9(a) or (b) above is (1) the landlord's  
11 dominant motive for recovering possession and (2) unless the landlord informs the tenant in  
12 writing on or before the date upon which notice to vacate is given of the grounds under which  
13 possession is sought. For notices to vacate under Sections 37.9(a)(1), (2), (3), (4), (5), or (6), the  
14 landlord shall prior to serving the notice to vacate provide the tenant a written warning and an  
15 opportunity to cure as set forth in Section 37.9(o). For ~~and for~~ notices to vacate under Sections  
16 37.9(a)(8), (9), (10), (11), ~~or~~ (14), the landlord shall state in the notice to vacate the lawful  
17 rent for the unit at the time the notice is issued, before endeavoring to recover possession.  
18 The Board shall prepare a written form that (1) states that a tenant's failure to timely act in  
19 response to a notice to vacate may result in a lawsuit by the landlord to evict the tenant, and  
20 that advice regarding the notice to vacate is available from the Board; and (2) includes  
21 information provided by the Mayor's Office of Housing and Community Development  
22 regarding eligibility for affordable housing programs. The Board shall prepare the form in  
23 English, Chinese, Spanish, Vietnamese, Tagalog, and Russian and make the form available  
24 to the public on its website and in its office. A landlord shall attach a copy of the form that is in  
25 the primary language of the tenant to a notice to vacate before serving the notice, except that

1 if the tenant’s primary language is not English, Chinese, Spanish, Vietnamese, Tagalog, or  
2 Russian, the landlord shall attach a copy of the form that is in English to the notice. A copy of  
3 all notices to vacate except three-day notices to pay rent or quit and a copy of any additional  
4 written documents informing the tenant of the grounds under which possession is sought shall  
5 be filed with the Board within 10 days following service of the notice to vacate. In any action to  
6 recover possession of the rental unit under Section 37.9, the landlord must plead and prove  
7 that at least one of the grounds enumerated in Section 37.9(a) or (b) and also stated in the  
8 notice to vacate is the dominant motive for recovering possession. Tenants may rebut the  
9 allegation that any of the grounds stated in the notice to vacate is the dominant motive.

10 \* \* \* \*

11 (o) Notice and Opportunity to Cure. The grounds for recovering possession set forth in  
12 Sections 37.9(a)(1), (2), (3), (4), (5), and (6) shall not apply unless the violation is not cured within ten  
13 days after the landlord has provided the tenant a written warning that describes the alleged violation  
14 and informs the tenant that a failure to correct such violation within ten days may result in the  
15 initiation of eviction proceedings. The Rent Board shall prepare a form that landlords may use for this  
16 purpose. However, this Section 37.9(o) shall not apply if a longer notice and cure period applies (for  
17 example, under the terms of the lease agreement between the parties); or if the landlord is seeking to  
18 recover possession based on the tenant causing or creating an imminent risk of physical harm to  
19 persons or property; or if the landlord is seeking to recover possession based on the non-payment of  
20 rent or any other unpaid financial obligation of a tenant under the tenancy that came due between  
21 March 1, 2020 and March 31, 2022.

22  
23 Section 4. Effective Date. This ordinance shall become effective 30 days after  
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
25



## LEGISLATIVE DIGEST

[Administrative Code - Tenant Opportunity To Cure; Eviction Protections]

**Ordinance amending the Administrative Code to require landlords pursuing certain types of evictions to first provide their tenants written notice and an opportunity to cure, unless the eviction is based on an imminent health or safety issue or the non-payment of COVID-19 rental debt; and making findings that the eviction protections in the Rent Ordinance are more protective than those found in State law pursuant to California Civil Code, Section 1946.2.**

### Existing Law

The Rent Ordinance (Admin. Code Ch. 37) recognizes various “just causes” for landlords to evict their tenants. Sections 37.9(a)(1)-(6) involve situations that are the fault of the tenant: (1) failure to pay rent; (2) violating a material term of the tenancy; (3) committing or allowing a nuisance that is severe, continuing, or recurring; (4) using or permitting the unit to be used for any illegal purpose; (5) refusal to execute a written extension or renewal of the lease under the same terms as existed previously; and (6) refusal to allow the landlord access to the unit as required by state or local law. If the tenant commits any of these violations, the landlord has just cause to evict. The Rent Ordinance does not generally specify how much time the landlord must give the tenant to cure the violation in these situations.

### Amendments to Current Law

The proposed ordinance would create a 10-day cure period for all evictions under subsections (a)(1)-(6): the landlord would need to send the tenant a written warning notice that describes the alleged violation and informs the tenant that a failure to correct such violation within 10 days may result in the initiation of eviction proceedings. The landlord would have just cause to evict if the tenant had not addressed the violation within the 10-day period. But a 10-day warning period would not be required for evictions based on the tenant creating a serious and imminent risk of injury or property damage, or the nonpayment of COVID-19 rental debt.

The ordinance also adopts a finding pertaining to the Rent Ordinance generally, which states that the Rent Ordinance’s tenant protections are more protective than those found under state law (the Tenant Protection Act of 2019, California Civil Code Section 1946.2).



# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):


Supervisor Preston; Walton, Chan, Peskin, Ronen, Haney

Subject:

Administrative Code - Tenant Opportunity To Cure; Eviction Protections

The text is listed:

Ordinance amending the Administrative Code to require landlords pursuing certain types of evictions to first provide their tenants written notice and an opportunity to cure, unless the eviction is based on an imminent health or safety issue or the non-payment of COVID-19 rental debt; and making findings that the eviction protections in the Rent Ordinance are more protective than those found in State law pursuant to California Civil Code Section 1946.2.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only