

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

**Ordinance amending the Administrative Code to expand the Displaced Tenant Preference in City Affordable Housing Programs to cover tenants where the tenant's unlawful unit has been removed as a residential unit by a written approval by the Planning Commission of the demolition, conversion, or merger of the residential unit, or denial by the Planning Commission of an application to legalize the unlawful unit.**

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

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

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

**SEC. 47.2. DEFINITIONS.**

\* \* \* \*

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

1           Category 1: A tenant residing in San Francisco who on or after January 1, 2010  
2 receives a Notice of Intent to Withdraw Rental Units ("Notice of Intent to Withdraw") pursuant  
3 to the Ellis Act, California Government Code Sections 7060 et seq., and corresponding  
4 provisions of the Rent Ordinance. MOHCD shall establish a process for a tenant to verify  
5 ~~their~~~~his or her~~ status as a "Displaced Tenant" under Category 1 that, at a minimum, shall  
6 require a tenant to show: (a) the landlord filed with the Rent Board a Notice of Intent to  
7 Withdraw; and (b) the tenant either: (1) is listed on the Notice of Intent to Withdraw; (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~~~~the tenant~~ resided in the unit at the time the  
10 Notice of Intent to Withdraw was filed. If the Rent Board grants a landlord's request to rescind  
11 the Notice of Intent to Withdraw before a tenant moves out of ~~his or her~~ their unit, such tenant  
12 shall no longer qualify as a "Displaced Tenant."

13           Category 2: A tenant residing in San Francisco who on or after January 1, 2010  
14 receives a notice that ~~his or her~~ their landlord plans to recover possession of the unit under  
15 Section 37.9(a)(8) of the Rent Ordinance. MOHCD shall establish a process for a tenant to  
16 verify ~~his or her~~~~their~~ status as a "Displaced Tenant" under Category 2 that, at a minimum, shall  
17 require a tenant to show: (a) the landlord filed with the Rent Board the notice to vacate, as  
18 required under Rent Ordinance Section 37.9(c); and (b) the tenant either: (1) is listed on the  
19 notice to vacate; (2) is listed on the lease for the unit in question; or (3) has other evidence  
20 sufficient to establish, in MOHCD's reasonable discretion, that ~~he or she~~ the tenant resided in  
21 the unit at the time the notice to vacate was filed.

22           Category 3: A tenant residing in San Francisco who is required to vacate ~~his or her~~  
23 their unit by a public safety official due to fire, and who can provide sufficient evidence to  
24 MOHCD that demonstrates that they ~~he or she~~ cannot return to the unit within a period of six  
25 months from the date of the order to vacate the unit. MOHCD shall establish a process for a

1 tenant to verify ~~his or her~~their status as a “Displaced Tenant” under Category 3 that, at a  
2 minimum, shall require a tenant to show: (a) a public safety official provided an order to  
3 vacate the unit to such tenant or to the owner of the unit; and (b) the tenant either: (1) is listed  
4 on the order to vacate; (2) is listed on the lease for the unit in question; or (3) has other  
5 evidence sufficient to establish, in MOHCD’s reasonable discretion, that ~~he or she~~ the tenant  
6 resided in the unit at the time the order was provided.

7 Category 4: A tenant residing in San Francisco who is vacating the tenant’s unit  
8 because MOHCD has verified that a multi-family residential property will no longer be  
9 restricted to ensure affordability based on income under any regulatory agreement (including  
10 a regulatory agreement based on the issuance of housing mortgage revenue bonds) or other  
11 affordable housing agreement and/or recorded instrument within ~~5~~ five years, and the landlord  
12 of such property has leased unrestricted residential rental units in the same building at a  
13 market rent that is more than 40% of the tenant’s total annual gross household income.  
14 MOHCD shall establish a process for a tenant to verify the tenant’s status as a “Displaced  
15 Tenant” under Category 4 that, at a minimum, shall require the tenant to show: (a)  
16 documentation of the tenant’s total gross household income on a form provided by MOHCD in  
17 accordance with the Inclusionary Procedures Manual in effect at the time of application for a  
18 “Displaced Tenant” housing preference; (b) evidence that market rate rent in the tenant’s  
19 building will exceed 40% of the tenant’s current total annual gross household income; and (c)  
20 the tenant either: (1) is listed on the lease for the unit in question; or (2) has other evidence  
21 sufficient to establish, in MOHCD’s reasonable discretion, that ~~he or she~~ the tenant resides in  
22 the unit at the time the landlord increased the tenant’s rent.

23 Category 5: A tenant residing in San Francisco who is vacating the tenant’s unit because  
24 MOHCD has verified that the tenant’s unit will be removed as an unlawful residential unit based on  
25 determinations by the Planning Commission and Planning Department. MOHCD shall establish a

1 process for a tenant to verify their status as a “Displaced Tenant” under Category 5 that, at a  
2 minimum, shall require (a) MOHCD to obtain from the Planning Department the written approval by  
3 the Planning Commission to remove the residential unit through demolition, conversion, or merger of  
4 residential units, or denial by the Planning Commission of an application to legalize the unlawful unit,  
5 and (b) a tenant to provide the following: (1) written documentation of a notice to vacate, notice to  
6 quit, or other notice from the landlord that the tenant must relinquish their leasehold interest in the  
7 residential unit due to the approval by the Planning Commission of an application to demolish, convert,  
8 or merge existing residential units, or denial by the Planning Commission of an application to legalize  
9 such tenant’s residential unit, and (2) either: (A) the tenant is listed on the lease for the unit in  
10 question; or (B) the tenant has other evidence sufficient to establish, in MOHCD's reasonable  
11 discretion, that they resided in the unit at the time the landlord obtained approval from the Planning  
12 Commission to demolish, convert, or merge the residential unit, or denial of an application to legalize  
13 the residential unit.

14 \* \* \* \*

### 16 **SEC. 47.3. APPLICATION OF PREFERENCE.**

17 Except to the extent prohibited by an applicable State or Federal funding source,  
18 MOHCD shall give, or require project sponsors or their successors in interest funded through  
19 MOHCD to give, preference in occupying units or receiving assistance under all City  
20 Affordable Housing Programs after any priority given under Administrative Code Section 39.4.  
21 If a Veteran has been verified by MOHCD as eligible for any preference enumerated below,  
22 said Veteran shall receive priority for the applicable preference over any other applicants  
23 eligible for the same preference in occupying units or receiving assistance under all City  
24 Affordable Housing Programs.

1           Each preference enumerated below shall be applied as of the effective date of the  
2 legislation establishing each preference. The City established preference for holders of  
3 Certificates of Preference in Ordinance No. 232-08, for Displaced Tenants, Category 1 in  
4 Ordinance No. 277-13, for Displaced Tenants, Category 2 and Neighborhood Residents in  
5 Ordinance No. 204-15, for Displaced Tenants, Category 3 and persons who live or work in  
6 San Francisco in Ordinance No. 164-16, *and* for Displaced Tenants, Category 4 in Ordinance  
7 No. 120-19, *and for Displaced Tenants, Category 5 in Ordinance No. \_\_\_\_\_*. The preference  
8 requirements are intended to have prospective effect only, and shall not be interpreted to  
9 impair the obligations of any pre-existing contract entered into by the City. Notwithstanding the  
10 prior sentence, the preference requirements shall apply to contracts entered into by the City  
11 on or after the effective date of the legislation establishing each preference, including  
12 contracts materially amended on or after the effective date. Preference shall be given:

13           \* \* \* \*

14  
15           Section 2. Effective Date; Retroactivity. This ordinance shall become effective 30 days  
16 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns  
17 the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the  
18 Board of Supervisors overrides the Mayor's veto of the ordinance. Upon its effective date, the  
19 ordinance shall be retroactive to February 16, 2023.

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

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

By: \S\  
KEITH NAGAYAMA  
Deputy City Attorney  
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