

[Administrative, Planning Codes - Preferences in Affordable Housing Programs]

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**Ordinance amending the Administrative Code to clarify create a fourth preference for people who live or work in San Francisco in addition to existing preferences in allocating City affordable housing units, and to create an additional category of eligible displaced tenants that includes tenants displaced by fire, first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants and provide for preference to displaced tenants from the Neighborhood, create a fourth preference for people who live or work in San Francisco, and make conforming amendments to provisions of the Administrative and Planning Codes; to affirming the Planning Department’s determination under the California Environmental Quality Act; and to making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.**

NOTE: **Unchanged Code text and uncodified 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. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources

1 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
2 Supervisors in File No. 151122 and is incorporated herein by reference. The Board affirms  
3 this determination.

4 (b) On October 22, 2015, the Planning Commission, in Resolution No. 19498, adopted  
5 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
6 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
7 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
8 Board of Supervisors in File No. 151122, and is incorporated herein by reference.

9 Section ~~32~~. The Administrative Code is hereby amended by revising ~~adding~~ Chapter  
10 ~~47, consisting of Sections~~ 47.2 and 47.3, ~~47.1, 47.2, 47.3, 47.4, and 47.5~~ to read as follows:

11 **SEC. 47.2. DEFINITIONS.**

12 \* \* \* \*

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

19 Category 1: A tenant residing in San Francisco who on or after January 1, 2010  
20 receives a Notice of Intent to Withdraw Rental Units ("Notice of Intent to Withdraw") pursuant  
21 to the Ellis Act, Government Code Section 7060 et seq., and corresponding provisions of the  
22 Rent Ordinance. MOHCD shall establish a process for a tenant to verify his or her status as a  
23 "Displaced Tenant" under Category 1 that, at a minimum, shall require a tenant to show: (a)  
24 the landlord filed with the Rent Board a Notice of Intent to Withdraw; and (b) the tenant either:  
25 (1) is listed on the Notice of Intent to Withdraw; (2) is listed on the lease for the unit in

1 question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable discretion,  
2 that he or she resided in the unit at the time the Notice of Intent to Withdraw was filed. If the  
3 Rent Board grants a landlord's request to rescind the Notice of Intent to Withdraw before a  
4 tenant moves out of his or her unit, such tenant shall no longer qualify as a "Displaced  
5 Tenant."

6 Category 2: A tenant residing in San Francisco who on or after January 1, 2010  
7 receives a notice that his or her landlord plans to recover possession of the unit under Section  
8 37.9(a)(8) of the Rent Ordinance ~~and who, as of the date of receipt of the notice of withdrawal~~  
9 ~~from the rental market, has resided in his or her unit continuously for at least ten years.~~  
10 MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced  
11 Tenant" under Category 2 that, at a minimum, shall require a tenant to show: (a) the landlord  
12 filed with the Rent Board the notice to vacate, as required under Rent Ordinance Section  
13 37.9(c); and (b) the tenant either: (1) is listed on the notice to vacate; (2) is listed on the lease  
14 for the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's  
15 reasonable discretion, that he or she resided in the unit at the time the notice to vacate was  
16 filed; and (c) that the tenant has resided in the unit for 10 years as of the date of receipt of the  
17 notice of withdrawal from the rental market.

18 Category 3: A tenant residing in San Francisco who is required to vacate his or her  
19 unit by a public safety official due to fire, and who can provide sufficient evidence to MOHCD  
20 that demonstrates that he or she cannot return to the unit within a period of six months from  
21 the date of the order to vacate the unit. MOHCD shall establish a process for a tenant to  
22 verify his or her status as a "Displaced Tenant" under Category 3 that, at a minimum, shall  
23 require a tenant to show: (a) a public safety official provided an order to vacate the unit to  
24 such tenant or to the owner of the unit; and (b) the tenant either: (1) is listed on the order to  
25 vacate; (2) is listed on the lease for the unit in question; or (3) has other evidence sufficient to

1 establish, in MOHCD's reasonable discretion, that he or she resided in the unit at the time the  
2 order was provided. This Category 3 "Displaced Tenant" preference shall expire by operation  
3 of law on December 31, 2020, provided, however, that MOHCD may determine after  
4 December 31, 2020 that a person who applied to MOHCD under Category 3 on or prior to  
5 December 31, 2020 qualifies as a Displaced Tenant.

6 \* \* \* \*

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8 **SEC. 47.3 APPLICATION OF PREFERENCE.**

9 Except to the extent prohibited by an applicable State or Federal funding source,  
10 MOHCD shall give, or require project sponsors or their successors in interest funded through  
11 MOHCD to give, preference in occupying units or receiving assistance under all City  
12 Affordable Housing Programs. Each preference enumerated below shall be applied as of the  
13 effective date of the legislation establishing each preference. The City established preference  
14 for holders of Certificates of Preference in Ordinance 232-08, Displaced Tenants, Category 1  
15 in Ordinance 277-13, and Displaced Tenants, Category 2 and Neighborhood Residents in  
16 legislation adding this Chapter 47. The preference requirements are intended to have  
17 prospective effect only, and shall not be interpreted to impair the obligations of any pre-  
18 existing contract entered into by the City. Notwithstanding the prior sentence, the preference  
19 requirements shall apply to contracts entered into by the City on or after the effective date of  
20 the legislation establishing each preference, including contracts materially amended on or  
21 after the effective date. Preference shall be given:

22 (a) First, to Residential Certificate of Preference Holders, who meet all of the  
23 qualifications for the unit or assistance. Preference under this subsection (a) shall be given in  
24 100% of the units in all initial sales, re-sales, initial leases, and subsequent leases.

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

10 (1) 20% of the units in any new residential development that is part of a City  
11 Affordable Housing Program going through the initial occupancy or sale process; and

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

15 The Displaced Tenant's preference shall still apply even if such Displaced Tenant  
16 declines a unit offered through application of the preference, but upon accepting and  
17 occupying a unit obtained using the preference, such Displaced Tenant's preference  
18 terminates.

19 (c) Third, to a Neighborhood Resident, who meets all of the qualifications for the unit  
20 or assistance. Preference under this subsection (c) shall be given:

21 (1) for units located in the same Neighborhood as the person resides;

22 (2) only for any new residential development in that Neighborhood going  
23 through the initial occupancy or sale process, and only to 40% of the units in such  
24 development..

1           (d) Fourth, to any person who lives or works in San Francisco who meets all of the  
2 qualifications for the unit or assistance. Preference under this subsection (d) shall be  
3 applicable to:

4           \_\_\_\_\_ (1) any unit in any new residential development that is part of a City Affordable  
5 Housing Program going through the initial occupancy or sale process; and

6           \_\_\_\_\_ (2) units in all re-sales and subsequent leases.

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8           Section 63. Effective Date. This ordinance shall become effective 30 days after  
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
11 of Supervisors overrides the Mayor's veto of the ordinance.

12           Section 74. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
13 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
14 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
15 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
16 additions, and Board amendment deletions in accordance with the "Note" that appears under  
17 the official title of the ordinance.

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

20 By: \_\_\_\_\_  
21       JON GIVNER  
22       Deputy City Attorney

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