Ordinance amending the Administrative Code to require the Rent Board to collect the Rent Board fee through invoices rather than through the property tax bill; to impose penalties in the event of non-payment of the fee; and to clarify existing law regarding the procedures for landlords to recover a portion of the fee from their tenants.

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. Chapter 37A of the Administrative Code is hereby amended by revising Sections 37A.1, 37A.4, 37A.5, 37A.6, 37A.7, and 37A.8 to read as follows:

SEC. 37A.1. SCOPE.

This Chapter 37A is applicable to all residential units in the City and County of San Francisco, including residential units which are exempt from the rent increase limitation provisions (but not other provisions) of Chapter 37 pursuant to the Costa-Hawkins Rental Housing Act (California Civil Code §§ 1954.50. et seq.) and/or San Francisco Administrative Code Section 37.3(d). For purposes of this Chapter 37A, "residential units" are dwelling units and guest rooms as those terms are defined in Sections 400 and 401 of the San Francisco Housing Code. The term shall not include:

* * * *
(f) Any dwelling unit which is occupied by an owner of record on either a full-time or part-time basis and which is not rented at any time, provided that the owner file with the Rent Board Tax Collector an affidavit so stating.

SEC. 37A.4. IMPOSITION OF THE FEE.

The owner of each residential unit in San Francisco shall pay annually to the City and County of San Francisco a Residential Rent Stabilization and Arbitration fee to be calculated by the Controller as provided in Section 37A.2(d) above. The Executive Director of the Rent Board or the Executive Director’s designee Tax Collector shall bill the fee to the owners of all residential units on the property tax bill. Fees shall be paid by March 1 of each year. The Rent Board shall add a 5% penalty to the amount of the fee if the fee has not been paid by March 1, an additional 5% if the fee has not been paid by April 1, and an additional 5% if the fee has not been paid by May 1. If the fee remains outstanding as of June 1, the Rent Board shall refer the matter to the Bureau of Delinquent Revenues. The Rent Board shall provide owners written notice of any late payments and penalties consistent with Section 37A.8. All laws applicable to the collection and enforcement of ad valorem property taxes shall be applicable to the collection and enforcement of the Residential Rent Stabilization and Arbitration fee, except that any lien arising from nonpayment of the fee shall have the force, effect and priority of a judgment lien.

SEC. 37A.5. RESIDENTIAL RENT STABILIZATION AND ARBITRATION FUND.

All fees collected under this Chapter 37A shall be deposited in the Residential Rent Stabilization and Arbitration Fund as provided in Chapter 10, Article XIII, Section 10.117-88 of the San Francisco Administrative Code. All funds so collected shall be used solely for the purpose of funding the Rent Board plus related administrative costs pursuant to Section
10.194 of this Code including, but not limited to, costs pertaining to the imposition and collection of the fee the Tax Collector and Controller.

SEC. 37A.6. RECOVERY OF THE FEE, LIMITATIONS.

An owner who has paid the fee in full may seek recovery of the fee (exclusive of any penalties that had been added to the fee under Section 37A.4) from the tenant(s) in occupancy of each residential unit on November 1st, up to a maximum of 50% of the annual fee for each unit, as follows:

(a) An owner seeking recovery of the fee shall deduct it from the next interest payment owed on the tenant's security deposit pursuant to Chapter 49 of this Code, except that where the interest has been paid annually the owner may bill the tenant directly as provided in subsection 37A.6(c); or

(b) When the fee is not recovered from the tenant collected during the year in which the owner is first entitled to it, the owner may bank the fee and collect it from that tenant in a future year. Only those fees that become due after July 25, 1999 (the effective date of Ordinance No. 178-99) may be banked. A banked fee may only be collected as a deduction against security deposit interest due the tenant, except that where no interest or insufficient interest exists (due to no deposit or low amount of deposit) the owner may bill for any balance owing as provided in subsection 37A.6(c). The billing statement must specifically show the fee amount owed by the tenant for each year, and the amount of interest due the tenant (if any) for each year owing.

(c) To the extent provided in subsections 37A.6(a) and (b), the owner may bill the tenant directly for the fee. The bill shall state the amount for that unit, that the purpose of the fee is to fund the Rent Board and related administrative costs under Chapter 37A of the San
Francisco Administrative Code, and that the fee is due and payable within 30 days of the date of the bill.

(d) The owner remains liable for full payment of the fee to the Rent Board Tax Collector whether or not the owner seeks any recovery under one of the above methods or in fact does recover any portion from the tenant.

SEC. 37A.7. RULES AND REGULATIONS.

The Executive Director of the Rent Board or their designee Tax Collector may adopt such rules, regulations, and administrative procedures as the Executive Director or designee he or she deems necessary to implement this Chapter 37A.

SEC. 37A.8. MANNER OF GIVING NOTICE.

Any notice required to be given herein by the Rent Board Tax Collector to an owner shall be sufficiently given or served upon the owner for all purposes if personally served upon the owner, or if deposited, postage prepaid, in a post office letter box addressed in the name of the owner either at the official address of the owner maintained by the Tax Collector for the mailing of property tax bills, or at such other address that is on file with the Rent Board. This Section 37A.8 shall not preclude the Rent Board from supplementing the above procedures by developing procedures to issue invoices and collect payments electronically through the online housing inventory to be established under Section 37.15.

Section 2. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.
Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: /s/ MANU PRADHAN
Deputy City Attorney
Ordinance amending the Administrative Code to require the Rent Board to collect the Rent Board fee through invoices rather than through the property tax bill; to impose penalties in the event of non-payment of the fee; and to clarify existing law regarding the procedures for landlords to recover a portion of the fee from their tenants.

June 16, 2021 Budget and Appropriations Committee - RECOMMENDED

July 13, 2021 Board of Supervisors - CONTINUED ON FIRST READING
   Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

July 20, 2021 Board of Supervisors - PASSED ON FIRST READING
   Ayes: 10 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Ronen, Safai, Stefani and Walton
   Noes: 1 - Preston

July 27, 2021 Board of Supervisors - FINALLY PASSED
   Ayes: 10 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Ronen, Safai, Stefani and Walton
   Noes: 1 - Preston
I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
7/27/2021 by the Board of Supervisors of
the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

8/4/21
Date Approved