

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

1
2 **Ordinance amending the Administrative Code to ~~clarify~~ create a fourth preference for**
3 **people who live or work in San Francisco in addition to existing preferences in**
4 **allocating City affordable housing units, and to create an additional category of eligible**
5 **displaced tenants that includes tenants displaced by fire, first to Certificate of**
6 **~~Preference holders and second to tenants evicted under the Ellis Act, create a third~~**
7 **~~preference for residents in the neighborhood where the affordable housing is located,~~**
8 **~~create additional categories of eligible displaced tenants and provide for preference to~~**
9 **~~displaced tenants from the Neighborhood, create a fourth preference for people who~~**
10 **~~live or work in San Francisco, and make conforming amendments to provisions of the~~**
11 **~~Administrative and Planning Codes; to affirming~~ the Planning Department's**
12 **~~determination under the California Environmental Quality Act; and to making~~ findings**
13 **of consistency with the General Plan and the eight priority policies of Planning Code**
14 **Section 101.1.**

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

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

23 Section 1. Findings.

24 (a) The Planning Department has determined that the actions contemplated in this
25 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 * * * *

7
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.
25

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

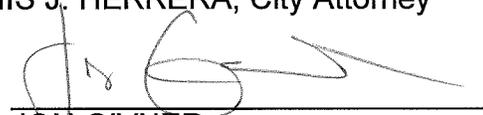
6 (2) units in all re-sales and subsequent leases.

7
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
Deputy City Attorney

22 n:\leganas2016\1700001\01118819.doc



City and County of San Francisco

Tails Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 151122

Date Passed: August 02, 2016

Ordinance amending the Administrative Code to 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; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

November 02, 2015 Land Use and Transportation Committee - AMENDED

November 02, 2015 Land Use and Transportation Committee - CONTINUED TO CALL OF THE CHAIR AS AMENDED

June 20, 2016 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

June 20, 2016 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

June 28, 2016 Board of Supervisors - RE-REFERRED

Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

July 11, 2016 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

July 11, 2016 Land Use and Transportation Committee - CONTINUED AS AMENDED

July 18, 2016 Land Use and Transportation Committee - RECOMMENDED

July 26, 2016 Board of Supervisors - PASSED ON FIRST READING

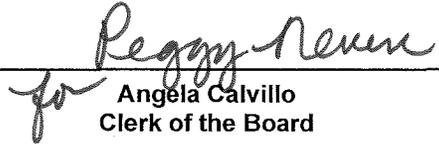
Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Peskin, Tang, Wiener and Yee
Absent: 1 - Mar

August 02, 2016 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

File No. 151122

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
8/2/2016 by the Board of Supervisors of the
City and County of San Francisco.


for Angela Calvillo
Clerk of the Board


Mayor

8/11/16
Date Approved