

1 [Administrative Code - Eviction of Commercial Tenants for Unpaid Rent Due to COVID-19
2 Financial Impacts]

3 **Ordinance amending the Administrative Code to revise the eviction protections for**
4 **commercial tenants related to unpaid rent due to financial impacts from the COVID-19**
5 **pandemic to create a six-month forbearance period for tenants with between 50 and 99**
6 **full-time employees, and to authorize the Office of Economic and Workforce**
7 **Development to create incentive programs to encourage landlords and tenants to agree**
8 **to repayment plans.**

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

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

17 Section 1. The Administrative Code is hereby amended by revising Sections 37C.1,
18 37C.2, and 37C.3 to read as follows:

19 **SEC. 37C.1. PURPOSE AND FINDINGS.**

20 (a) The City and County of San Francisco is facing an unprecedented public health
21 and economic crisis due to the COVID-19 pandemic. The Mayor declared a state of
22 emergency on February 25, 2020, and on March 16, 2020, the Governor issued Executive
23 Order N-28-20 (E.O. N-28-20), which found that the COVID-19 pandemic is having severe
24 impacts throughout the State, and which recognized that local jurisdictions must take
25 measures based on their particular needs to prevent displacements and to protect public
health and mitigate the economic effects of the pandemic. Paragraph 2 of E.O. N-28-20

1 initially allowed local governments to enact measures to protect commercial tenants impacted
2 by COVID-19 from being evicted due to non-payment through May 31, 2020. Through a series
3 of follow-up orders (Executive Orders N-66-20, N-710-20, N-80-20, N-03-21, and most recently
4 Executive Order N-~~08-21~~N-03-21), the Governor has ordered that the protections of paragraph
5 2 of E.O. N-28-20 will remain in effect through September 30, June 30, 2021, unless the
6 Governor orders otherwise.

7 * * * *

8 (e) The protections of this Chapter 37C shall only apply to rent payments that came
9 due between March 16, 2020 and September 30, June 30, 2021, inclusive (or if the Governor
10 extends the effective period of paragraph 2 of E.O. N-28-20 past September 30, June 30, 2021,
11 through the date of extension).

12
13 **SEC. 37C.2. DEFINITIONS.**

14 * * * *

15 “Forbearance Period” means the time period by which a Covered Commercial Tenant
16 that was unable to pay rent due to a Financial Impact Related to COVID-19 must pay the rent,
17 as set forth in Section 37C.3(a)(1)-(54).

18 “Moratorium Period” means the period from March 16, 2020 until the expiration of
19 paragraph 2 of E.O. N-28-20, as extended by Executive Orders N-66-20, N-710-20, ~~and~~ N-80-
20 20, N-03-21, and N-08-21, and as may be further extended by the Governor.

21 “Tier 1 Commercial Tenant” means a Covered Commercial Tenant that employs fewer
22 than 10 full-time equivalent (“FTE”) employees as of November 1, 2020.

23 “Tier 2 Commercial Tenant” means a Covered Commercial Tenant that employs
24 between 10 and 24 FTE employees, inclusive, as of November 1, 2020.

1 "Tier 3 Commercial Tenant" means a Covered Commercial Tenant that employs
2 between 25 and 49 FTE employees, inclusive, as of November 1, 2020.

3 "Tier 4 Commercial Tenant" means a Covered Commercial Tenant that employs
4 between 50 and 99 or more FTE employees, inclusive, as of November 1, 2020.

5 "Tier 5 Commercial Tenant" means a Covered Commercial Tenant that employs 100 or more
6 FTE employees as of November 1, 2020.

7
8 **SEC. 37C.3. TEMPORARY EVICTION PROTECTIONS.**

9 (a) If a Covered Commercial Tenant (1) fails to make a rent payment that originally fell
10 due during the Moratorium Period, and (2) was unable to pay the rent due to a Financial
11 Impact Related to COVID-19, then the landlord may not recover possession of the unit due to
12 the missed or delayed payment unless the rent remains unpaid after the end of the applicable
13 Forbearance Period, which shall be:

14 (1) For Tier 1 Covered Commercial Tenants, 24 months after expiration of the
15 Moratorium Period;

16 (2) For Tier 2 Covered Commercial Tenants, 18 months after the expiration of
17 the Moratorium Period;

18 (3) For Tier 3 Covered Commercial Tenants, 12 months after the expiration of
19 the Moratorium Period;

20 (4) For Tier 4 Covered Commercial Tenants, ~~upon~~ 6 months after expiration of
21 the Moratorium Period.

22 (5) For Tier 5 Covered Commercial Tenants, upon expiration of the Moratorium
23 Period.

24 (b) A Covered Commercial Tenant may pay rent deferred under the conditions stated
25 in subsection (a) in installments or in a lump sum prior to the expiration of the applicable

1 Forbearance Period; provided, however, that any payments made prior to the Forbearance
2 Period by Covered Commercial Tenants in Tiers 1-~~43~~ shall first be applied to rents that come
3 due during the Forbearance Period, and then to unpaid rents that originally came due during
4 the Moratorium Period. Landlords and tenants are encouraged to negotiate agreements for
5 repayment plans in good faith. An agreement for repayment must be in writing and may
6 provide for a longer or shorter Forbearance Period than as set forth in subsection (a), subject
7 to the mutual agreement of the parties, in which case the agreement rather than this Chapter
8 37C shall govern the timing of the tenant's obligation to pay the deferred rent. The Office of
9 Economic and Workforce Development ("OEWD") is authorized to create incentive programs to
10 encourage landlords and tenants to agree to repayment plans, and may require proof of an agreement
11 for repayment or successful mediation in order to be eligible for participation in such programs.

12 * * * *

13 (d) Notwithstanding subsections (a) and (b), if the landlord owns less than 25,000
14 square feet of Gross Floor Area (as defined in Section 102 of the Planning Code) in the City,
15 then the eviction for non-payment may proceed before the applicable Forbearance Period
16 ends, if the landlord can demonstrate that being unable to evict would create a significant
17 financial hardship (for example, default on debt or similar enforceable obligation) for the
18 landlord. ~~The Office of Economic and Workforce Development ("OEWD")~~ shall have authority to
19 adopt regulations and develop and publish guidelines consistent with this Chapter 37C,
20 including forms and recommendations of the types of documentation that tenants may use to
21 show Financial Impact Related to COVID-19 or that landlords may use to show significant
22 financial hardship.

23
24 Section 2. Effective Date. This ordinance shall become effective 30 days after
25 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

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

10
11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: /s/ Bradley A. Russi
14 BRADLEY A. RUSSI
15 Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

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

File Number: 210762

Date Passed: September 14, 2021

Ordinance amending the Administrative Code to revise the eviction protections for commercial tenants related to unpaid rent due to financial impacts from the COVID-19 pandemic to create a six-month forbearance period for tenants with between 50 and 99 full-time employees, and to authorize the Office of Economic and Workforce Development to create incentive programs to encourage landlords and tenants to agree to repayment plans.

July 28, 2021 Budget and Finance Committee - RECOMMENDED

September 07, 2021 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

September 14, 2021 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 210762

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 9/14/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

09/24/2021

Date Approved