

San Francisco Administrative Code Chapter 37A **Rent Stabilization and Arbitration Fee**

Section 37A.1. Scope.

(Added by Ord. 278-89, App. 8/2/89; amended by Ord. 291-90, App. 8/1/90; Ord. 211-95, App. 6/30/95; Ord. 178-99, File No. 990818, App. 6/25/99; Ord. 116-00, File No. 991315, App. 6/2/2000; Ord. 92-07, File No. 061217, App. 4/27/2007; Ord. 296-19, App. 1/20/2020; Ord. No. 213-20, App. 11/30/2020; Ord. 134-21, App. 9/4/2021)

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 Administrative Code Section 37.3(d), and including units at Midtown Park Apartments as set forth in Administrative Code Chapter 37B. 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:

- (a) Guest rooms exempted or excluded from regulation under Chapter 41 of this Code;
- (b) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a majority of the residents or dwelling units solely owned by a nonprofit public benefit corporation governed by a board of directors the majority of which are residents of the dwelling units and where it is required in the corporate by-laws that rent increases be approved by a majority of the residents;
- (c) Housing accommodations in any hospital, convent, monastery, extended care facility, asylum, residential care or adult day health care facility for the elderly which must be operated pursuant to a license issued by the California Department of Social Services, as required by California Health and Safety Chapters 3.2 and 3.3, or in dormitories owned and operated by an institution of higher education, a high school, or an elementary school;
- (d) Dwelling units whose rents are controlled or regulated by any government unit, agency or authority, excepting those units which are subject to the jurisdiction of the Residential Rent Stabilization and Arbitration Board. However, Section 8 certificate, voucher and related programs administered by the San Francisco Housing Authority, which are subject in whole or part to the jurisdiction of the Residential Rent Stabilization and Arbitration Board shall remain exempt from the fee;
- (e) Any dwelling unit for which the owner has on file with the Assessor a current homeowner's exemption;
- (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 an affidavit so stating;

Section 37A.2. Findings

(Added by Ord. 278-89, App. 8/2/89; amended by Ord. 291-90, App. 8/1/90; Ord. 354-90, App. 10/17/90; Ord. 186-93, App. 6/11/93; Ord. 178-99, File No. 990818, App. 6/25/99; Ord. 215-00, File No. 001264, App. 9/8/2000; Ord. 161-02, File No. 020471, App. 7/17/2002; Ord. 170-04, File No. 040745, App. 7/22/2004; Ord. No. 213-20, App. 11/30/2020; Ord. No. 265-20, App. 1/18/21)

The Board of Supervisors hereby finds:

- (a) In Section 37.1 of this Code, the Board of Supervisors found that there was a shortage of decent, safe and sanitary housing in the City and County of San Francisco resulting in a critically low vacancy factor. The Board further found that rent regulation was necessary in order to alleviate the ill effects of the City's housing shortage to meet the need for affordable housing, and to advance the City's housing policies. The Board now hereby finds that this housing shortage still persists and that rent regulation continues to be a necessary and effective means of mitigating this condition.

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(b) By Ordinance No. 276-79, adopted June 12, 1979, the Board of Supervisors enacted the Residential Rent Stabilization and Arbitration Ordinance ("Rent Ordinance," Chapter 37, San Francisco Administrative Code) to regulate residential rents in San Francisco. The Ordinance created the Residential Rent Stabilization and Arbitration Board ("Rent Board," Sections 37.1(a), (b) and 37.4) to administer and enforce the Rent Ordinance and thereby safeguard tenants from excessive increases while at the same time assure landlords fair and adequate rents. The Rent Board benefits both landlords and tenants by providing for the orderly and efficient administration of the Rent Ordinance and by protecting tenants from unreasonable rent increases and displacement while assuring that landlords receive fair rents consistent with the Ordinance.

(c) It is fair and reasonable that the costs of administering and enforcing the Rent Ordinance and Administrative Code Chapter 37B through the Rent Board should be equitably distributed among the City's residential units.

Therefore, the Board finds that the owner of each residential unit as defined in Section 37A.1 above shall be required to pay an annual Rent Stabilization and Arbitration fee for each unit.

(d) The fee for each residential unit shall equal the projected annual cost of funding the Rent Board plus related administrative costs pursuant to Section 10.194 of this Code (which includes without limitation the costs incurred by the Tax Collector and Controller), divided by the total number of residential units estimated to pay the fee minus any balance remaining in the fund set forth in Section 10.117-88 of this Code; provided, however, that in calculating the fee, the Controller shall round up any fraction of a dollar to the next whole dollar. For the purposes of this calculation, a guest room shall be counted as one-half of a residential unit and shall be charged half the fee. The Assessor and the Director of the Department of Building Inspection shall release to the Rent Board by June 1 information necessary for compilation of the billing list. The Rent Board shall compile the list, determine the total number of residential units and submit this information to the Controller. The Controller shall calculate the fee by July 31 each year.

(e) The fee herein is for regulatory purposes only. It is not designed or intended for revenue purposes. Any surplus collected in a given year will reduce the fee in the next fiscal year.

Section 37A.3. Purpose.

(Added by Ord. 278-89, App. 8/2/89; Ord. No. 213-20, App. 11/30/2020)

The purpose of this ordinance is to require those who rely upon and/or benefit from the Rent Board's administration and enforcement of the Rent Ordinance and Administrative Code Chapter 37B to pay a fee which is directly related to the financial burden placed upon the City in carrying out the Rent Board's functions and duties.

Section 37A.4. Imposition Of The Fee.

(Added by Ord. 278-89, App. 8/2/89; amended by Ord. 287-95, App. 9/1/95; Ord. 322-00, File No. 001917, App. 12/28/2000; Ord. 134-21, App. 9/4/2021)

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 shall bill the fee to the owners of all residential units. 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

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Revenues. The Rent Board shall provide owners written notice of any late payments and penalties consistent with Section 37A.8.

Cross references: The actual annual residential rent control fee per unit shall be calculated pursuant to Administrative Code Section 37A.2., in conformance with Administrative Code Sections 10.117-88 and 10.194.

Section 37A.5. Residential Rent Stabilization and Arbitration Fund.

(Added by Ord. 278-89, App. 8/2/89; Ord. 134-21, App. 9/4/2021)

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 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.

Section 37A.6. Recovery of the Fee, Limitations.

(Added by Ord. 278-89, App. 8/2/89; amended by Ord. 291-90, App. 8/1/90; Ord. 178-99, File No. 990818, App. 6/25/99; Ord. 215-00, File No. 001264, App. 9/8/2000; Ord. 161-02, File No. 020471, App. 7/17/2002; Ord. 170-04, File No. 040745, App. 7/22/2004; Ord. 134-21, App. 9/4/2021)

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 1, 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 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 whether or not the owner seeks any recovery under one of the above methods or in fact does recover any portion from the tenant.

Section 37A.7. Rules And Regulations.

(Added by Ord. 278-89, App. 8/2/89; Ord. 134-21, App. 9/4/2021)

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

Section 37A.8. Manner of Giving Notice.

(Added by Ord. 278-89, App. 8/2/89; Ord. 134-21, App. 9/4/2021)

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Any notice required to be given herein by the Rent Board 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 37A.9. Severability.

(Added by Ord. 278-89, App. 8/2/89)

The provisions of this Chapter shall not apply to any person, association, corporation or to any property as to whom or which it is beyond the power of the City and County of San Francisco to impose the fee herein provided. If any sentence, clause, section or part of this ordinance, or any fee imposed upon any person or entity is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this ordinance, or person or entity, and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance, or its effect on other persons or entities. It is hereby declared to be the intention of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part of this ordinance not been included herein, or had such person or entity been expressly exempted from the application of this ordinance. To this end the provisions of this Chapter are severable.