Emergency ordinance to temporarily prohibit construction projects in buildings with
any residential rental units that require the suspension of water or utility service to
residential tenants without providing alternative sources of water and power, or
reaching agreement with tenants, due to the COVID-19 pandemic.

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. Declaration of Emergency under Charter Section 2.107.

(a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
cases of public emergency affecting life, health, or property, or for the uninterrupted operation
of any City or County department or office required to comply with time limitations established
by law. The Board of Supervisors hereby finds and declares that an actual emergency exists
that requires the passage of this emergency ordinance.

(b) On February 25, 2020, Mayor London Breed proclaimed a state of emergency
based on the COVID-19 pandemic (hereinafter referred to as “the emergency”). On March 3,
2020, the Board of Supervisors, in Motion No. 200228, concurred in the Proclamation and in
the actions taken by the Mayor to meet the emergency. On March 13, 2020, the Mayor issued
a Second Supplement to the Proclamation, finding that the emergency is causing severe
financial impacts to renters in the City, and providing certain protections to those renters who
will be unable to pay their rent on time due to the emergency, to avoid the further risks and
contamination that will result if they are displaced from their homes.

(c) Since March 16, 2020, City residents have been subject to the County Health Officer’s “shelter in place” orders, which require (with certain exceptions) that all San Francisco residents must stay in their homes until at least May 3, due to the extreme circumstances of the emergency (Order No. C19-07b). Also, on March 16, 2020, the Governor issued Executive Order N-28-20, finding that local jurisdictions must take measures to preserve and increase housing security and that additional measures may be necessary to protect public health and to mitigate the economic effects of COVID-19.

(d) For the same reasons that warranted the foregoing orders and directives, the Board of Supervisors finds that it is essential for the health, safety, and welfare of the tenants of residential units to have access to water and utility service while they are sheltering in place.

(e) Affordable housing units are less likely to be subject to ongoing or elective renovation construction work, and repairs are more likely to be for the purpose of maintaining safe and habitable housing. Tenants in affordable housing units, including long-term tenants in that housing, are less likely to be subject to harassment and constructive eviction motivated by a desire to re-rent those units at high market rates. Therefore, affordable housing units have been exempted from the requirements of this legislation.

Section 2. CEQA Finding. The Planning Department has determined that the actions contemplated in this emergency ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 200763 and is incorporated herein by reference. The Board affirms this determination.
Section 3. Temporary Prohibition of Construction Activities that Suspend Water or Other Utility Service Unless an Alternative Source is Provided; Notice to Tenants.

(a) Except as provided in subsection (e) below, no construction may be performed in a building containing any residential rental units, whether or not a building permit has been issued prior to the effective date of this emergency ordinance, if that construction would result in the suspension of water service or other utility service to any other resident in the building unless: (i) in the event of a water shutoff exceeding two hours in a single day, the property owner provides an alternative water source is provided to each impacted resident, including but not limited to water bottles or gallons of water; (ii) in the event of an electricity shutoff exceeding two hours in a single day, the property owner provides a generator or alternative power source that allows internet use is provided to each impacted resident.

(b) The property owner shall give each tenant that will be impacted by water and/or utility service interruption caused by construction with one week’s advance notice and the name and contact information of a liaison who can provide information regarding the disruption and respond to tenant concerns, as well as advance notice to each impacted resident as follows: Advance notice shall also be given to tenants where it is anticipated that construction activities will cause loud and constant noise at a level that is likely to disrupt daily activities.

   (i) in the event of an anticipated water or electricity shutoff lasting more than two consecutive hours or four non-consecutive hours in a single day, all impacted residents must be provided with 72 hours advance written notice;

   (ii) in the event of an anticipated water or electricity shutoff of more than two consecutive hours or four non-consecutive hours on two or more consecutive days, or on more than three days in a single week, all impacted residents must be provided with written
notice at least one week in advance of the first shutoff, and with weekly updates for prolonged
construction projects.

(c) If over the course of construction the need emerges to shut off water or power
for more than two hours, construction must pause and may only resume pursuant to the
notice and alternative accommodations provisions of subsections (a) and (b) of this
emergency ordinance; provided, however, that the Department of Building Inspection may
authorize the construction to continue if a pause would create an imminent safety hazard .

(d) In the event of any anticipated use of loud instruments for a continuous or long
period of time, the property owner shall install temporary insulation to mitigate the resulting
noise and disruption to impacted residential tenants.

(e) Property owners shall be exempt from the obligations set forth in this emergency
if:

(i) a property owner and all impacted residential tenants agree to terms
other than those set forth in subsections (a)-(c) above, and the property owner submits an
email to an address established by the Department of Building Inspection reflecting the terms
and duration of that agreement; or

(ii) all impacted residents reside in a building where 100% of the residential
units (A) have a maximum affordable purchase price or affordable rent set at 120% of the
unadjusted area median family income (AMI) determined by MOHCD on any annual basis and
derived from the HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco; (B)
at a rent that shall not exceed 30% of the applicable household income limit for a rental unit,
or at a purchase price with an annual housing cost that shall not exceed 33% of the applicable
income limit for an owner-occupied unit, as each may be adjusted for household size and
bedroom count; and (C) for the life of the project or a minimum of 55 years, whichever is
longer, by a recorded regulatory agreement and consistent with any applicable federal, state
or local government regulatory requirements.

Section 4. Implementation by the Department of Building Inspection.

The Department of Building Inspection shall implement the requirements of this emergency ordinance. Upon finding a first violation, the Department of Building Inspection shall issue a warning to the property owner along with a copy of the requirements of this emergency ordinance. After receiving a warning, the property owner shall be required to send an e-mail to an address established by the Department of Building Inspection concurrent with any notice provided to impacted residents pursuant to this emergency ordinance. Failure to do so shall constitute a separate violation of this emergency ordinance. For any subsequent violations, the Department of Building Inspection shall issue a Notice of Violation and/or any other applicable citation pursuant to its authority under the Chapter 1A of the Building Code.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 6. Effective Date; Retroactivity; Expiration.

(a) Consistent with Charter Section 2.107, this emergency ordinance shall become effective immediately upon 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.

(b) The Board of Supervisors intends that this emergency ordinance become effective
on July 14, 2020, the date of introduction, and urges that the Department of Building
Inspection to exercise administrative discretion to implement its provisions prior to effective
date described in subsection (a).

(c) This emergency ordinance shall expire on the 61st day following enactment unless
reenacted as provided by Section 2.107.

Section 7. Supermajority Vote Required.

In accordance with Charter Section 2.107, passage of this emergency ordinance by the
Board of Supervisors requires an affirmative vote of two-thirds of the Board of Supervisors.

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

By: /s/ Judith A. Boyajian

JUDITH A. BOYAJIAN
Deputy City Attorney

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Emergency ordinance to temporarily prohibit construction projects in buildings with any residential rental units that require the suspension of water or utility service to residential tenants without providing alternative sources of water and power, or reaching agreement with tenants, due to the COVID-19 pandemic.

August 10, 2020 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

August 10, 2020 Land Use and Transportation Committee - CONTINUED AS AMENDED

August 17, 2020 Land Use and Transportation Committee - RECOMMENDED AS COMMITTEE REPORT

August 18, 2020 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 8/18/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved: 8/28/20