

1 [San Francisco Fire Code - Uncertified Lithium-Ion Battery Ban]

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3 **Ordinance amending the San Francisco Fire Code to prohibit the sale, offer, and**
 4 **delivery of lithium-ion batteries and replacement lithium-ion batteries that do not meet**
 5 **specified certification requirements, to any address within San Francisco; establish**
 6 **enforcement processes, and penalties for violations; authorize the City Attorney to**
 7 **seek injunctive and monetary relief and attorneys' fees; and authorize the Fire**
 8 **Department to implement the restriction through rules, forms, and guidance.**

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

13

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

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16 Section 1. Findings.

17 (a) The City and County of San Francisco has a compelling interest in reducing the
 18 risk of fires and explosions associated with lithium-ion batteries, particularly those used in
 19 powered mobility devices. San Francisco is unique among California communities with
 20 respect to the possible causes and effects of fires, including fires in residential multi-unit
 21 buildings. Among other things, San Francisco is located on an active seismic zone; certain
 22 buildings in San Francisco are at an increased risk for earthquake-induced failure and
 23 consequent fire because of local hazardous microzones, slide areas, and local liquefaction
 24 hazards; and enhanced fire protections are required due to high building density, the
 25 prevalence of wood structures, and high occupancy in many buildings.

1 (b) San Francisco is densely populated with many high-rise buildings, including
2 residential buildings, with large numbers of residents. For these reasons, fires in San
3 Francisco can be especially devastating, and the need for extra measures to prevent, prepare
4 for, and cope with fires is especially pressing.

5 (c) Lithium-ion batteries contain flammable materials and present a fire and explosion
6 hazard, particularly when batteries are poorly made, damaged, improperly charged, or stored.
7 Fires caused by lithium-ion batteries can be particularly devastating, due to the chemical
8 hazards posed by such fires, their tendency to flash and grow quickly in size, and the difficulty
9 of extinguishing them.

10 (d) Certification of lithium-ion batteries by certified laboratories mitigates the risks
11 associated with these devices with testing for durability, reliability, and electrical and
12 mechanical safety, which is critical for the prevention of fires. This ordinance complements
13 the California Fire Code and existing provisions of the San Francisco Fire Code by
14 establishing a prohibition on the sale and delivery of certain non-certified devices and
15 batteries.

16 (e) The Board of Supervisors finds and determines that the fire safety regulations in
17 this ordinance are reasonably necessary based on San Francisco's local conditions, in the
18 densest major city in the State of California, and that these conditions justify more restrictive
19 standards applicable to the sale of uncertified lithium-ion batteries used in powered mobility
20 devices, which are becoming ever more ubiquitous on City streets.

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22 Section 2. Chapter 3 of the Fire Code is hereby amended by adding Section 326,
23 consisting of Sections 326.1, 326.2, 326.3, and 326.4, to read as follows:

24 **SECTION 326. – PROHIBITION ON SALE OR DELIVERY OF CERTAIN LITHIUM-ION**
25 **BATTERIES**

1 **SEC. 326.1. Definitions.** *For the purposes of this Section 326, the following definitions apply:*

2 “Certified Lithium-Ion Battery” means a Lithium-Ion Battery (a) used in a Powered Mobility
3 Device or which is a Replacement Battery, and (b) which has been certified for compliance with:

4 (1) Underwriters Laboratories (UL) standards UL 2849, UL 2272, or UL 2271; or

5 (2) The safety standard of an accredited laboratory approved by the Fire Department by
6 rulemaking under Section 326.4.

7 “Lithium-Ion Battery” means a rechargeable battery or battery pack employing lithium-ion
8 chemistry, whether removable from or integral to a device.

9 “Powered Mobility Device” means a Powered Mobility Device as defined in Section 325.1.

10 “Replacement Battery” means any Lithium-Ion Battery intended for use in a Powered Mobility
11 Device.

12 **SEC. 326.2. Prohibition on Sales.** *No person or business shall sell, offer for sale, or deliver*
13 *any Powered Mobility Device or Replacement Battery to any person or any address located within the*
14 *City and County of San Francisco unless such Powered Mobility Device utilizes a Certified Lithium-Ion*
15 *Battery or is a Certified Lithium-Ion Replacement Battery, and such certification or the logo, or*
16 *wordmark, is displayed on (i) packaging or documentation provided at the time of sale, or (ii) directly*
17 *on the Powered Mobility Device or Replacement Battery.*

18 **SEC. 326.3. Enforcement and Penalties.**

19 (a) Each prohibited sale, offer for sale, or delivery constitutes a separate violation of
20 Section 326. The Fire Chief or their designee shall have enforcement authority under this Section, and
21 the City Attorney may at any time institute civil proceedings for injunctive and monetary relief in the
22 amounts identical to administrative penalties specified in this Section 326.3, against any person or
23 business who violates Section 326. Administrative penalties for prohibited sales shall be \$500 for the
24 first violation and \$1,000 for each subsequent violation committed within one year of the last violation.

1 (b) The City Attorney may undertake such action for injunctive or monetary relief without
2 regard to whether the Fire Chief or their designee has issued a notice of violation, instituted abatement
3 proceedings, scheduled or held a hearing on a notice of violation, or issued a final decision.

4 (c) At any time, the Fire Chief or their designee may refer a case to the City Attorney's Office
5 for civil enforcement, but a referral is not required for the City Attorney to bring a civil action under
6 Section 326.

7 (d) The City Attorney shall recover reasonable attorneys' fees if the City is the prevailing party
8 in any court case or in any civil proceeding to enforce this Section 326 and if the City Attorney elects,
9 at the initiation of the action, to seek recovery of attorneys' fees and provides notice of such intention to
10 the adverse party or parties.

11 **SEC. 326.4. Implementation.** The Fire Chief or their designee may promulgate rules, forms,
12 and guidance necessary or appropriate to carry out the purpose and requirements of this Section 326.

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14 Section 3. No Conflict with Federal or State Law. Nothing in this ordinance shall be
15 interpreted or applied so as to create any requirement, power, or duty in conflict with any
16 federal or state law.

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18 Section 4. Undertaking for the General Welfare. In enacting and implementing this
19 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
20 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
21 is liable in money damages to any person who claims that such breach proximately caused
22 injury.

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24 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
25 of this ordinance, or any application thereof to any person or circumstance, is held to be

1 invalid or unconstitutional by a decision of court of competent jurisdiction, such decision shall
2 not affect the validity of the remaining portions or applications of this ordinance. The Board of
3 Supervisors hereby declares that it would have passed this ordinance and each and every
4 subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional
5 without regard to whether any portion of this ordinance or application thereof would be
6 subsequently declared invalid or unconstitutional.

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8 Section 6. Effective Date. This ordinance shall become effective on the 31st day 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.

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13 APPROVED AS TO FORM:
14 DAVID CHIU, City Attorney

15 By: /s/ _____
16 HUGO CABRERA
17 Deputy City Attorney
18 4923-1336-6667

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