

1 [Emergency Ordinance - Limits on Certain Construction Noise During COVID-19 Pandemic]

2
3 **Emergency ordinance to impose temporary limits on construction noise inside**
4 **apartment buildings during the COVID-19 pandemic; and affirming the Planning**
5 **Department’s determination under the California Environmental Quality Act.**

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

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

14 Section 1. **Declaration of Emergency under Charter Section 2.107.**

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

20 (b) On February 25, 2020, Mayor London Breed proclaimed a state of emergency
21 based on the COVID-19 pandemic (hereinafter referred to as “the emergency”). On March 3,
22 2020, the Board of Supervisors, in Motion No. 200228, concurred in the Proclamation and in
23 the actions taken by the Mayor to meet the emergency.

24 (c) Since March 16, 2020, City residents have been subject to the County Health
25 Officer’s “shelter in place” orders, which require (with certain exceptions) that all San
Francisco residents must stay in their homes to the extent possible, due to the extreme

1 circumstances of the emergency. The most recent such order (Order No. C19-07f) was
2 issued on July 13, 2020. Also, on March 16, 2020, the Governor issued Executive Order N-
3 28-20, finding that local jurisdictions must take measures to preserve and increase housing
4 security and that additional measures may be necessary to protect public health and to
5 mitigate the economic effects of COVID-19.

6 (d) For the same reasons that warranted the foregoing orders and directives, the
7 Board of Supervisors finds that it is essential for the health, safety, and welfare of the tenants
8 in multi-family residential buildings that limitations on construction noise taking place inside
9 these buildings during the COVID-19 pandemic be imposed while tenants and their families
10 are sheltering in place.

11
12 Section 2. **CEQA Finding.** The Planning Department has determined that the actions
13 contemplated in this emergency ordinance comply with the California Environmental Quality
14 Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file
15 with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein
16 by reference. The Board affirms this determination.

17
18 Section 3. **Limitations on Construction Noise Inside Apartment Buildings.**

19 (a) Notwithstanding any conflicting provision of Police Code Article 29 or other City
20 law, construction work using powered construction equipment inside a residential building of
21 three units or more, if there are tenants residing in at least one of the units, is prohibited
22 unless the noise level of the construction work measured from inside the occupied unit or
23 units is not more than 5 dBA above the ambient level. The noise level shall be measured in
24 accordance with Police Code Section 2902. This prohibition shall not apply if the property
25 owner has reached an agreement to relocate or make other accommodations acceptable to

1 the tenant or tenants.

2 (b) For purposes of this emergency ordinance, the terms “ambient,” “noise level,” and
3 “powered construction equipment,” shall be as defined in Police Code Section 2901.

4

5 Section 4. **Enforcement.**

6 (a) The requirements of this emergency ordinance shall be enforced by the
7 Departments of Building Inspection and Public Health pursuant to their authority under
8 Section 2916 of the Police Code. Violations shall be prosecuted as provided in Police Code
9 Section 2917. In addition, to enforce this emergency ordinance, the Director of Building
10 Inspection is authorized to suspend all work under an issued building permit pursuant to the
11 Director’s authority under the Building Code.

12 (b) No variances from the requirements of this emergency ordinance may be granted
13 under Police Code Section 2910.

14

15 Section 5. **Effective Date; Expiration.**

16 (a) Consistent with Charter Section 2.107, this emergency ordinance shall become
17 effective immediately upon enactment. Enactment occurs when the Mayor signs the
18 ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within
19 ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the
20 ordinance.

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

23 ///

24 ///

25 ///

1 Section 6. **Supermajority Vote Required.**

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

4
5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By: /s/ Judith A. Boyajian
8 JUDITH BOYAJIAN
9 Deputy City Attorney

10 n:\legana\as2020\2100036\01469614.docx