

1 [Emergency Ordinance - Enforcement of Workplace Ventilation Standards - COVID-19]

2

3 **Emergency ordinance to require property owners of high-rise buildings with 50,000**
4 **square feet or more of nonresidential floor area that use mechanical ventilation**
5 **systems, to certify that such systems are operating in compliance with applicable laws;**
6 **to require businesses operating within those buildings to post certification within their**
7 **work spaces; and to require the Department of Public Health and the Department of**
8 **Building Inspection to post information on their websites about how to file complaints**
9 **about noncompliance with workplace ventilation standards, and to coordinate to**
10 **ensure that all such complaints are inspected within three~~five~~ business days.**

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

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

19 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

20 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
21 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
22 of any City or County department or office required to comply with time limitations established
23 by law.

24 (b) On February 25, 2020, Mayor London Breed proclaimed a state of emergency in
25 response to the spread of the novel coronavirus COVID-19. On March 3, 2020, the Board of

1 Supervisors concurred in the February 25 Proclamation and in the actions taken by the Mayor
2 to meet the public health emergency related to COVID-19.

3 (c) The Board of Supervisors hereby finds and declares that an actual emergency
4 exists that requires the passage of this emergency ordinance to address the COVID-19
5 pandemic by reducing the likelihood of COVID-19 infection among people who return to work
6 indoors, including workers who provide janitorial services at hours outside of traditional work
7 hours.

8
9 Section 2. Findings and Purpose.

10 (a) Since March 16, 2020, when the City and County of San Francisco implemented
11 its first shelter-in-place order to reduce the impact of the virus that causes COVID-19, most
12 indoor businesses have remained closed. Except for a brief period between October 27 and
13 November 16, 2020, all non-essential offices have been required to remain closed under
14 Health Officer Order No. C19-07 (the “Stay-Safer-at-Home Order”) and its subsequent
15 iterations. The California Department of Public Health along with the San Francisco Health
16 Officer have also strongly encouraged telework whenever possible, even for essential
17 business operations.

18 (b) On August 28, 2020, the State of California adopted a four-tiered, color-coded
19 framework for reopening statewide based on the prevalence of virus transmission in each
20 county – the Blueprint for a Safer Economy. Except for a brief period in September and
21 October 2020, San Francisco has remained in either the most restrictive (purple) or the
22 second-most restrictive (red) tiers. As vaccines for COVID-19 have arrived and become more
23 available, community transmission of COVID-19 has decreased. As of March 16, 2021, San
24 Francisco’s current case rates indicate that the City will likely move from the substantial risk
25 (red) tier into the moderate risk (orange) tier by March 24, 2021, and potentially to the minimal

1 risk (yellow) tier by mid-April 2021. As a result, the San Francisco Health Officer is expected
2 to soon allow the reopening of non-essential offices in the City.

3 (c) Section 4(i) of the Stay-Safer-at-Home Order requires that all businesses that
4 are allowed to be open indoors comply with certain ventilation requirements, including that
5 they: (1) implement as many of the San Francisco Department of Public Health's
6 recommended ventilation improvements as feasible and (2) keep hand-annotated documents
7 showing which ventilation improvements were considered and implemented. The Stay-Safer-
8 at-Home Order also requires all businesses operating indoors that are open to members of
9 the public to conspicuously post signage, including at all primary public entrances, indicating
10 which ventilation strategies are used at the facility.

11 (d) The Department of Building Inspection implements and enforces the ventilation
12 standards for occupiable space in office buildings pursuant to Chapter 4 of the San Francisco
13 Mechanical Code, Chapter 12 of the San Francisco Building Code, and Section 120.1 of the
14 California Energy Code. The ventilation standards include: minimum ventilation rates based
15 on the volume of different interior zones within a building; filter, intake, and exhaust
16 requirements; a mandate that mechanical ventilation systems in office buildings operate in
17 compliance with all standards at all times that the building is occupied, and that systems begin
18 operation and achieve three complete air changes one hour prior to occupation.

19 (e) The virus that causes COVID-19 can be transmitted in the air through aerosols
20 and the risk of airborne transmission is generally higher indoors. The risk of transmission is
21 likely to increase as more people return to offices. Therefore, it is essential that indoor
22 businesses comply with existing ventilation standards and that those standards be enforced in
23 order to best protect people working or visiting indoor offices. Also, while treatments for
24 COVID-19 are improving and vaccines have been approved for use, treatments remain limited
25 and COVID-19 vaccines will not likely be generally available to the majority of the public until

1 mid-2021. The majority of the population remains susceptible to infection. This is especially
2 true for those workers who spend significant time indoors in enclosed spaces, who often do
3 not fit into priority categories for vaccination. This emergency ordinance will reduce the risk of
4 COVID-19 transmission by ensuring compliance with existing ventilation standards applicable
5 to indoor workplaces.

6
7 Section 3. Enforcement of Workplace Ventilation Standards.

8 (a) Within five businesses days of the effective date of this emergency ordinance,
9 the owner and/or operator of each high-rise building, as defined in Section 202 of the San
10 Francisco Building Code, with 50,000 square feet or more of non-residential floor area that
11 uses a mechanical ventilation system shall certify that its mechanical ventilation system
12 complies with applicable requirements and minimum operation time windows—including pre-
13 occupancy air exchange requirements.

14 (b) Each business operating in those buildings referenced in subsection (a) shall post
15 information at the entry to the building space in which it operates confirming that that such
16 certification is complete, and advising occupants of the hours that the ventilation system is set
17 to operate.

18 (c) The Department of Building Inspection (“DBI”) may issue rules or provide
19 guidance regarding certification and posting requirements.

20 (d) Within five business days of the effective date of this emergency ordinance, both
21 the Department of Public Health (“DPH”) and DBI shall post information on their websites
22 advising the public about this emergency ordinance and how to file complaints relating to
23 workplace ventilation standards that are within ~~each departments’ jurisdiction~~DPH’s
24 jurisdiction under Section 4(i) of the Stay-Safer-at-Home Order, as referenced in Section 2(c)
25 of this emergency ordinance, and DBI’s jurisdiction under Chapter 4 of the San Francisco

1 Mechanical Code, Chapter 12 of the San Francisco Building Code, and Section 120.1 of the
2 California Energy Code, as referenced in Section 2(d) of this emergency ordinance. Upon
3 receipt of such a complaint, DBI and DPH shall coordinate to ensure that the complaint is
4 investigated within not more than ~~three~~five business days of receipt.

5
6 Section 4. Preemption.

7 Nothing in this emergency ordinance shall be interpreted or applied so as to create any
8 right, power, or duty in conflict with federal or state law. The term “conflict,” as used in this
9 Section 4 means a conflict that is preemptive under federal or state law.

10
11 Section 5. City Undertaking Limited to Promotion of the General Welfare.

12 In undertaking the adoption and enforcement of this emergency ordinance, the City is
13 undertaking only to promote the general welfare. The City is not assuming, nor is it imposing
14 on its officers and employees, an obligation for breach of which it is liable in money damages
15 to any person who claims that such breach proximately caused injury. This emergency
16 ordinance does not create a legally enforceable right by any member of the public against the
17 City.

18
19 Section 6. Severability.

20 If any section, subsection, sentence, clause, phrase, or word of this emergency
21 ordinance, or any application thereof to any person or circumstance, is held to be invalid or
22 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
23 affect the validity of the remaining portions or applications of this emergency ordinance. The
24 Board of Supervisors hereby declares that it would have passed this ordinance and every
25 section, subsection, sentence, clause, phrase, and word not declared invalid and

1 unconstitutional without regard to whether any other portion of this emergency ordinance or
2 application thereof would be subsequently declared invalid or unconstitutional.

3
4 Section 7. Effective Date; Expiration.

5 Consistent with Charter Section 2.107, this emergency ordinance shall become
6 effective immediately upon enactment, and shall expire on the 61st day following enactment
7 unless reenacted as provided by Section 2.107. Enactment occurs when the Mayor signs the
8 ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within
9 ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the
10 ordinance.

11
12 Section 8. Supermajority Vote Required.

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

15
16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: /s/ Anne Pearson
19 ANNE PEARSON
20 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee, 4/5/2021)

[Emergency Ordinance - Enforcement of Workplace Ventilation Standards - COVID-19]

Emergency ordinance to require property owners of high-rise buildings with 50,000 square feet or more of nonresidential floor area that use mechanical ventilation systems, to certify that such systems are operating in compliance with applicable laws; to require businesses operating within those buildings to post certification within their work spaces; and to require the Department of Public Health and the Department of Building Inspection to post information on their websites about how to file complaints about noncompliance with workplace ventilation standards, and to coordinate to ensure that all such complaints are inspected within five business days.

Existing Law

The Department of Building Inspection (“DBI”) implements and enforces the ventilation standards for occupiable space in office buildings pursuant to Chapter 4 of the San Francisco Mechanical Code, Chapter 12 of the San Francisco Building Code, and Section 120.1 of the California Energy Code. The ventilation standards include: minimum ventilation rates based on the volume of different interior zones within a building; filter, intake, and exhaust requirements; a mandate that mechanical ventilation systems in office buildings operate in compliance with all standards at all times that the building is occupied, and that systems begin operation and achieve three complete air changes one hour prior to occupation.

Section 4(i) of the Stay-Safer-at-Home Order requires that all businesses that are allowed to be open indoors comply with certain ventilation requirements, including that they: (1) implement as many of the San Francisco Department of Public Health’s (“DPH”) recommended ventilation improvements as feasible and (2) keep hand-annotated documents showing which ventilation improvements were considered and implemented. The Stay-Safer-at-Home Order also requires all businesses operating indoors that are open to members of the public to conspicuously post signage, including at all primary public entrances, indicating which ventilation strategies are used at the facility.

Amendments to Current Law

The proposed emergency ordinance would require:

- The owner and/or operator of each high-rise building with 50,000 square feet or more of non-residential floor area that uses a mechanical ventilation system to certify that its mechanical ventilation system complies with applicable requirements and minimum operation time windows—including pre-occupancy air exchange requirements;

- Each business operating in those buildings to post information at the entry to the building space in which it operates confirming that that such certification is complete, and advising occupants of the hours that the ventilation system is set to operate; and
- DPH and DBI to post information on their websites advising the public about this emergency ordinance and how to file complaints relating to workplace ventilation standards that are within each departments' jurisdiction (DPH under Section 4(i) of the Stay-Safer-at-Home Order, and DBI under Chapter 4 of the Mechanical Code, Chapter 12 of the Building Code, and Section 120.1 of the California Energy Code). Upon receipt of such a complaint, DBI and DPH shall coordinate to ensure that the complaint is investigated within not more than five business days of receipt.

Background

Since March 16, 2020, when the City and County of San Francisco implemented its first shelter-in-place order to reduce the impact of the virus that causes COVID-19, most indoor businesses have remained closed. Except for a brief period between October 27 and November 16, 2020, all non-essential offices have been required to remain closed under Health Officer Order No. C19-07 (the "Stay-Safer-at-Home Order") and its subsequent iterations.

On August 28, 2020, the State of California adopted a four-tiered, color-coded framework for reopening statewide based on the prevalence of virus transmission in each county – the Blueprint for a Safer Economy. Except for a brief period in September and October 2020, San Francisco has remained in either the most restrictive (purple) or the second-most restrictive (red) tiers. As vaccines for COVID-19 have arrived and become more available, community transmission of COVID-19 has decreased. As of March 16, 2021, San Francisco's current case rates indicate that the City will likely move from the substantial risk (red) tier into the moderate risk (orange) tier by March 24, 2021, and potentially to the minimal risk (yellow) tier by mid-April 2021. As a result, the San Francisco Health Officer is expected to soon allow the reopening of non-essential offices in the City.

The virus that causes COVID-19 can be transmitted in the air through aerosols and the risk of airborne transmission is generally higher indoors. The risk of transmission is likely to increase as more people return to offices. Therefore, it is essential that indoor businesses comply with existing ventilation standards and that those standards be enforced in order to best protect people working or visiting indoor offices. Also, while treatments for COVID-19 are improving and vaccines have been approved for use, treatments remain limited and COVID-19 vaccines will not likely be generally available to the majority of the public until mid-2021. The majority of the population remains susceptible to infection. This is especially true for those workers who spend significant time indoors in enclosed spaces, who often do not fit into priority categories for vaccination. This emergency ordinance will reduce the risk of COVID-19 transmission by ensuring compliance with existing ventilation standards applicable to indoor workplaces.

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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Dr. Grant Colfax, Director, Department of Public Health
Patrick O'Riordan, Director, Department of Building Inspection

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: March 24, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Safai on March 16, 2021:

File No. 210288

Emergency ordinance to require property owners of high-rise buildings with 50,000 square feet or more of nonresidential floor area that use mechanical ventilation systems, to certify that such systems are operating in compliance with applicable laws; to require businesses operating within those buildings to post certification within their work spaces; and to require the Department of Public Health and Department of Building Inspection to post information on their websites about how to file complaints about noncompliance with workplace ventilation standards, and to coordinate to ensure that all such complaints are inspected within three business days.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: erica.major@sfgov.org.

cc: Greg Wagner, Department of Public Health
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Arielle Fleisher, Department of Public Health

From: [David Harrison](#)
To: [David Harrison](#)
Cc: [John Bryant](#)
Subject: BOMA San Francisco Comments on Proposed Emergency Ordinance for Enforcement of Workplace Ventilation Standards During COVID-19 Pandemic
Date: Friday, April 2, 2021 2:09:00 PM
Attachments: [04-02-2021 BOMA SF Letter on Proposed Ventilation Emergency Ordinance.pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors and Staff,

Please find the attached letter with BOMA San Francisco's comments on the proposed emergency ordinance for enforcement of workforce ventilation standards during the COVID-19 pandemic. Thank you for your consideration, and I hope you have a wonderful weekend.

Sincerely,

David Harrison

Manager of Government and Public Affairs

BOMA San Francisco

(202) 262-5860 (Mobile)

davidh@boma.com



April 2, 2021

The Honorable Ahsha Safai
Supervisor, District 11
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

The Honorable Shamann Walton
President
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Emergency Ordinance - Enforcement of Workplace Ventilation Standards During COVID-19 Pandemic

Dear Supervisor Safai and President Walton,

On behalf of BOMA (Building Owners and Managers Association) San Francisco, I would like to thank you for the opportunity to comment on your proposed emergency ordinance pertaining to the enforcement of workplace ventilation standards during the COVID-19 pandemic. BOMA commends your efforts to reassure all San Franciscans that safety requirements are being met throughout this public health emergency. We look forward to continuing our partnership with the City to craft workable policies that meet this critical public health goal.

Ensuring the safety of our buildings throughout this pandemic is of the utmost priority to our members. Since the release of BOMA International's first COVID-19 guidance document back in January 2020, BOMA San Francisco and our members have acted decisively to take the necessary measures in preventing the spread of COVID-19 within the built environment. These actions include ensuring compliance with state and local public health guidance, promoting enhanced cleaning procedures within our buildings, advising members on PPE usage and COVID-19 prevention plans, and sharing insightful best practices and comprehensive research.

As our City moves towards recovery, we will continue to work with our partners in government and the commercial real estate industry to ensure the continued safety of our buildings. We stand ready to assist in providing industry-specific expertise that addresses health concerns while mitigating unintended environmental or economic consequences that may stem from these policies. With these goals in mind, we offer the following comments and questions for consideration:

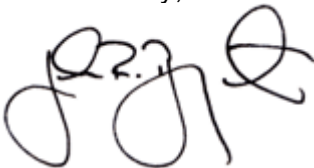
1. We respectfully request further guidance from DBI and DPH on how building operators can meet the hand-annotated notes requirement currently stipulated by the City's Stay-Safer-at-Home Order.
 - a. Is this requirement met by completing the "Draft Ventilation Annotation Form" provided by DPH?
 - b. How should buildings who elect to follow allowable alternative ventilation guidance meet this requirement?
2. What do DBI and DPH anticipate the self-certification process to be?
 - a. Will the City provide a certification posting template through its "COVID-19 Outreach Toolkit?"

3. BOMA is ready to provide our industry expertise to help ensure the efficiency of the certification process.
 - a. Will there be an opportunity for property managers and building engineers to assist the City by providing feedback to DPH and DBI on the certification process?
4. To ensure compliance, we respectfully request a defined grace period between the release of this guidance and the start of enforcement. This will allow building operations staff to ensure that all logistical and posting requirements are met before enforcement begins.

BOMA recognizes the unique public health challenges posed by COVID-19. As long as this challenge remains, we acknowledge the need to take additional measures to ensure the safety of our buildings. However, these additional measures are accompanied by environmental burdens. Beyond the existence of a public health emergency, we caution that any new ventilation requirements pose significant challenges to San Francisco's environmental goals as well as building operations. An extension of these requirements beyond the current health emergency would pose serious barriers for buildings to meet their robust climate change and energy efficiency goals, including ENERGY STAR certifications, Global Real Estate Sustainability Benchmarks (GRESB) obligations, Leadership in Energy and Environmental Design (LEED) certifications, Building Research Establishment Environmental Assessment Methodology (BREEAM) accreditations, and BOMA's 360 Performance Program requirements. Furthermore, an inability to meet these targets would put our buildings in direct conflict with the City's stated and forthcoming environmental goals.

We hope these questions and comments are useful as you continue to review this emergency ordinance. Thank you for your consideration, and we welcome further discussion with our members to address these concerns.

Sincerely,



John R. Bryant
Chief Executive Officer
BOMA San Francisco

Cc: The Honorable Connie Chan, District 1 Supervisor
The Honorable Catherine Stefani, District 2 Supervisor
The Honorable Aaron Peskin, District 3 Supervisor
The Honorable Gordon Mar, District 4 Supervisor
The Honorable Dean Preston, District 5 Supervisor
The Honorable Matt Haney, District 6 Supervisor
The Honorable Myrna Melgar, District 7 Supervisor
The Honorable Rafael Mandelman, District 8 Supervisor
The Honorable Hillary Ronen, District 9 Supervisor
Honorable Members and Staff, Land Use and Transportation Committee

President, District 10
BOARD of SUPERVISORS



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TDD/TTY No. 544-6546

Shamann Walton

PRESIDENTIAL ACTION

Date: 3/18/2021

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,

Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No.

210288

Safai

(Primary Sponsor)

Title.

Emergency Ordinance - Enforcement of Workplace Ventilation Standards - COVID-19

Transferring (Board Rule No 3.3)

File No.

(Primary Sponsor)

Title.

From:

Committee

To:

Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor:

Replacing Supervisor:

For:

(Date)

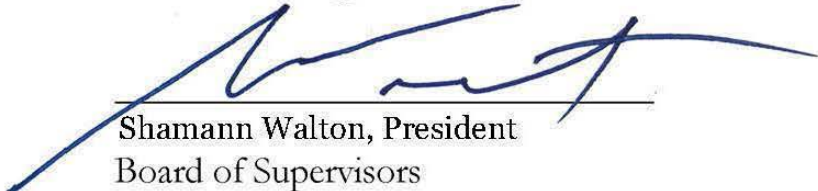
(Committee)

Meeting

Start Time:

End Time:

Temporary Assignment: Partial Full Meeting


Shamann Walton, President
Board of Supervisors

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Supervisor Ahsha Safai

Subject:

Emergency Ordinance - Enforcement of Workplace Standards

The text is listed:

Emergency ordinance to require property owners of high-rise buildings with 50,000 square feet or more of nonresidential floor area that use mechanical ventilation systems, to certify that such systems are operating in compliance with applicable laws; to require businesses operating within those buildings to post certification within their work spaces; and to require the Department of Public Health and the Department of Building Inspection to post information on their websites about how to file complaints about noncompliance with workplace ventilation standards, and to coordinate to ensure that all such complaints are inspected within five business days.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only