

File No. 200473

Committee Item No. _____

Board Item No. 20

COMMITTEE/BOARD OF SUPERVISORS

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Date: _____

Board of Supervisors Meeting

Date: May 12, 2020

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- Mayoral Proclamation - Twelfth Supplement - 04/30/20
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Prepared by: Lisa Lew

Date: May 8, 2020

Prepared by: _____

Date: _____

1 [Concurring in Actions to Meet Local Emergency - Coronavirus Response]

2

3 **Motion concurring in actions taken by the Mayor in the Twelfth Supplement to the**
4 **Proclamation of Emergency, released on April 30, 2020, to meet the ongoing local**
5 **emergency related to the novel coronavirus COVID-19 pandemic.**

6

7 WHEREAS, On February 25, 2020, Mayor London N. Breed declared a local
8 emergency to exist in connection with the spread of the novel coronavirus COVID-19; and

9 WHEREAS, The Mayor transmitted a copy of that Proclamation Declaring the
10 Existence of a Local Emergency to the Board of Supervisors (the "Proclamation"), and on
11 March 3, 2020, the Board of Supervisors concurred in the Proclamation and in the actions
12 taken by the Mayor to meet the emergency; the Proclamation and the Board's concurring
13 motion are on file with the Clerk of the Board of Supervisors in File No. 200228; and

14 WHEREAS, On March 11, 2020 and March 13, 2020, the Mayor took additional steps
15 to meet the local emergency by issuing the First and Second Supplements to the
16 Proclamation, and on March 24, 2020, the Board of Supervisors concurred in the actions
17 taken by the Mayor in those Supplements; the First and Second Supplements and the Board's
18 concurring motion are on file with the Clerk of the Board of Supervisors in File No. 200294;
19 and

20 WHEREAS, On March 17, 2020, March 18, 2020, and March 23, 2020, the Mayor took
21 additional steps to meet the local emergency by issuing the Third, Fourth, and Fifth
22 Supplements to the Proclamation, and on March 31, 2020, the Board of Supervisors
23 concurred in the actions taken by the Mayor in those Supplements; the Third, Fourth, and
24 Fifth Supplements and the Board's concurring motion are on file with the Clerk of the Board of
25 Supervisors in File No. 200326; and

1 WHEREAS, On March 27, 2020, and March 31 2020, the Mayor took additional steps
2 to meet the local emergency by issuing the Sixth and Seventh Supplements to the
3 Proclamation and on April 7, 2020, the Board of Supervisors concurred in the actions taken in
4 those Supplements; the Sixth and Seventh Supplements to the Proclamation and the Board's
5 concurring motion are on file with the Clerk of the Board of Supervisors in File No. 200352;
6 and

7 WHEREAS, On April 1, 2020, the Mayor took additional steps to meet the local
8 emergency by issuing the Eighth Supplement to the Proclamation, and on April 14, 2020, the
9 Board of Supervisors concurred in the actions taken in that Supplement; the Eighth
10 Supplement to the Proclamation and the Board's concurring motion are on file with the Clerk
11 of the Board of Supervisors in File No. 200369; and

12 WHEREAS, On April 10, 2020, and April 14, 2020, the Mayor took additional steps to
13 meet the emergency by issuing the Ninth and Tenth Supplements to the Proclamation, and on
14 April 21, 2020, the Board of Supervisors concurred in the actions taken in those Supplements.
15 The Ninth and Tenth Supplements and the Board's concurring motion are on file with the
16 Clerk of the Board of Supervisors in File No. 2000384; and

17 WHEREAS, On April 23, 2020, the Mayor took additional steps to meet the emergency
18 by issuing the Eleventh Supplement to the Proclamation, and on May 5, 2020, the Board of
19 Supervisors concurred in the actions taken in that Supplement. The Eleventh Supplement
20 and the Board's concurring motion are on file with the Clerk of the Board of Supervisors in File
21 No. 200437; and

22 WHEREAS, On April 30, 2020, the Mayor issued the Twelfth Supplement to the
23 Proclamation, ordering three actions to meet the emergency; the Twelfth Supplement to the
24 Proclamation is on file with the Clerk of the Board of Supervisors in File No. 200473;

25

1 WHEREAS, Government Code, Sections 8550 et seq., and Charter, Section 3.100,
2 provide for the concurrence by members of the Board of Supervisors in such emergency
3 declaration and in action taken by the Mayor to meet the emergency; and now, therefore, be it

4 MOVED, That the Board of Supervisors concurs with the following actions taken by the
5 Mayor to meet the local emergency included in the Mayor’s Twelfth Supplement to the
6 Proclamation, dated April 30, 2020, as those actions are described in full in the Twelfth
7 Supplement and summarized as follows:

8 Action #1: Revising and replacing Sections 1 and 2 of the Fifth Supplement to
9 the Proclamation and extended by the Mayor on April 22, 2020, to extend the moratorium on
10 residential evictions and clarify its intended scope.

11 Action #2: Extending through May 31, 2020, the paid leave program for City
12 employees authorized by the Third Supplement to the Proclamation.

13 Action #3: Extending through May 31, 2020, the prohibition on meetings of
14 City boards, commissions, and advisory bodies other than the Board of Supervisors unless
15 the Mayor or the Board of Supervisors authorizes the meeting based on a determination that
16 the body has an urgent need to take action to ensure public health, safety or essential
17 government operations

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**TWELFTH SUPPLEMENT TO MAYORAL PROCLAMATION DECLARING
THE EXISTENCE OF A LOCAL EMERGENCY DATED FEBRUARY 25, 2020**

WHEREAS, California Government Code Sections 8550 et seq., San Francisco Charter Section 3.100(14) and Chapter 7 of the San Francisco Administrative Code empower the Mayor to proclaim the existence of a local emergency, subject to concurrence by the Board of Supervisors as provided in the Charter, in the case of an emergency threatening the lives, property or welfare of the City and County or its citizens; and

WHEREAS, On February 25, 2020, the Mayor issued a Proclamation (the “Proclamation”) declaring a local emergency to exist in connection with the imminent spread within the City of a novel (new) coronavirus (“COVID-19”); and

WHEREAS, On March 3, 2020, the Board of Supervisors concurred in the Proclamation and in the actions taken by the Mayor to meet the emergency; and

WHEREAS, On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency to exist within the State due to the threat posed by COVID-19; and

WHEREAS, On March 6, 2020, the Local Health Officer declared a local health emergency under Section 101080 of the California Health and Safety Code, and the Board of Supervisors concurred in that declaration on March 10, 2020; and

WHEREAS, On March 6, 2020, the City issued public health guidance to encourage social distancing to disrupt the spread of COVID-19 and protect community health; and

WHEREAS, On March 16, 2020, the City’s Health Officer issued a stay safe at home order, Health Officer Order No. C19-07 (the “Stay Safe At Home Order”), requiring most people to remain in their homes subject to certain exceptions including obtaining essential goods such as food and necessary supplies, and requiring the closure of non-essential businesses; the Health Officer has extended the Stay Safe At Home Order through May 31, 2020; and

WHEREAS, There are currently 1,499 confirmed cases of COVID-19 within the City, and there have been at least 25 COVID-19-related deaths in the City; and there are more than 50,000 confirmed cases in California, and there have been more than 2,000 COVID-19-related deaths in California; and



WHEREAS, This order and the previous orders issued during this emergency have all been issued because of the propensity of the virus to spread person to person and also because the virus physically is causing property loss or damage due to its proclivity to attach to surfaces for prolonged periods of time; and

WHEREAS, On March 16, 2020, the Governor issued Executive Order N-28-20, finding that it is necessary to promote stability among residential and commercial tenancies to further public health and to mitigate the economic pressures of the emergency, and waiving certain provisions of state law so that local jurisdictions may achieve these purposes; and

WHEREAS, On March 18, 2020, the San Francisco Superior Court stayed all actions of unlawful detainer cases for 90 days, except those resulting from violence, threats of violence, or health and safety issues, and ordered that the period from March 18, 2020, through April 15, 2020 is deemed a holiday for purposes of computing time under Code of Civil Procedure Section 1167, with the exception of unlawful detainer cases resulting from violence, threats of violence, or health and safety issues; and

WHEREAS, On April 6, 2020, the California Judicial Council adopted temporary emergency rules modifying the procedures for unlawful detainer actions, including prohibiting courts from issuing summons on complaints, prohibiting entry of default, and extending the time for trial in cases already filed, subject to limited exceptions; the Judicial Council's temporary rule remains in effect until 90 day after the Governor lifts the state of emergency related to COVID-19; and

WHEREAS, The Mayor has issued several orders concerning residential evictions: on March 13, 2020, the Mayor issued the Second Supplement to the Emergency Proclamation, imposing a temporary moratorium on residential evictions to prevent mass displacement of City residents due to the financial impacts of the COVID-19 emergency and to prevent the public health impacts that would result from such displacement; on March 23, 2020, in the Fifth Supplement to the Emergency Proclamation, the Mayor clarified and expanded the scope of the temporary eviction moratorium; the Mayor extended the temporary residential eviction moratorium by an additional 30 days on April 22, 2020; and



WHEREAS, In light of the continuing emergency and its severe impact on renters in the City, it is necessary to amend the temporary residential eviction moratorium to clarify its intended scope, and to provide greater certainty to landlords and tenants regarding the rules that shall apply; and

WHEREAS, In the Third Supplement to the Emergency Proclamation dated March 17, 2020, recognizing that many City employees affected by the Stay Safe At Home Order cannot perform their duties remotely and must stay home and that it is in the public interest to support such employees with paid leave, the Mayor authorized a paid leave program through April 17, 2020, to mitigate financial impacts of the emergency on City employees; the Mayor extended the program to May 1, 2020 through a further order in the Seventh Supplement to the Emergency Proclamation; due to the extension of the Stay Safe At Home Order through May 31, 2020, it is in the public interest to further extend this paid leave program; and

WHEREAS, In the Third Supplement to the Emergency Proclamation dated March 17, 2020, the Mayor prohibited meetings of City boards, commissions, and advisory bodies, other than the Board of Supervisors, through April 7, 2020, unless authorized by the Mayor or the Board of Supervisors; the Mayor extended this order on May 3, 2020, in the Eighth Supplement to the Emergency Proclamation; given the extension of the Stay Safe At Home Order through May 31, 2020, it is necessary to continue the restrictions on meetings of these bodies through May 31, 2020; and

NOW, THEREFORE,

I, London N. Breed, Mayor of the City and County of San Francisco, proclaim that there continues to exist an emergency within the City and County threatening the lives, property or welfare of the City and County and its citizens;

In addition to the measures outlined in the Proclamation and in the Supplements to the Proclamation dated March 11, March 13, March 17, March 18, March 23, March 27, March 31, April 1, April 10, April 14, and April 23, 2020, it is further ordered as follows:



(1) Sections 1 and 2 of the Fifth Supplement to the Emergency Proclamation, dated March 23, 2020 and extended by the Mayor on April 22, 2020, are revised and replaced as follows:

(a) Notwithstanding Sections 37.9(a)(1) or 37.9(b) of the Administrative Code, no owner shall evict a residential tenant due to a missed rent payment that was due between March 13, 2020 and the date this Order expires or is terminated, if the tenant was unable to pay due to financial impacts of COVID-19, until six months after the date this Order expires or is terminated. The tenant shall have at least until the six-month mark to pay any past due rent, and may use the protections of this subsection (1)(a) as an affirmative defense to any action to evict due to the non-payment.

(i) The protections of this subsection (1)(a) shall apply to the following types of units:

(A) all rental units covered by the Chapter 37 of the Administrative Code (including without limitation single-family homes, new construction, and owner/master tenant-occupied units);

(B) all residential units in residential hotels regardless of how long the unit has been occupied; and the Mayor's Office of Housing and Community Development ("MOHCD") may adopt regulations to toll the 32-day period for establishing permanent residency in such units in cases where the landlord was prohibited from evicting due to this Order; and

(C) all units where the rent is controlled or regulated by the City, including without limitation privately-operated units regulated by MOHCD or the Department of Homelessness and Supportive Housing.

(ii) This subsection (1)(a) shall also apply to evictions based on nonpayment of late fees and interest due to missed rent payments, nonpayment of monies due under existing stipulations or payment plans, or failure to replenish or increase security deposits.

(iii) Tenants shall notify their landlords if they are unable to pay due to financial impacts of COVID-19 and shall provide supporting documentation. However, failure to provide notice and/or documentation to the landlord shall not affect a tenant's



ability to claim the protections of this subsection (1)(a) as an affirmative defense in the event the landlord files an action to evict for non-payment. Supporting documentation shall be required in court, though a court may in its discretion waive this requirement in circumstances such as where the documentation is unavailable.

(iv) For purposes of this Order, “financial impacts” means a substantial loss of household income due to business closure, loss of compensable hours of work or wages, layoffs, or extraordinary out-of-pocket expenses. A financial impact is “related to COVID-19” if it was caused by the COVID-19 pandemic, the Mayor’s Proclamation, the Local Health Officer’s Declaration of Local Health Emergency, or orders or recommended guidance related to COVID-19 from local, state, or federal authorities.

(v) Landlords and tenants are strongly encouraged to discuss payments plans for the tenant to repay all or a portion of the back rent. A payment plan may not shorten the six-month period or otherwise require a tenant to waive any of the protections of this subsection (1)(a). A landlord may accept partial rent payments or temporarily discount the rent, without affecting the maximum allowable base rent. Tenants who are unable to pay rent due to financial impacts of COVID-19 shall also be eligible to participate in the Good Samaritan program set forth in Section 37.2(a)(1)(D) of the Administrative Code.

(vi) Nothing in this subsection (1)(a) relieves a tenant of the obligation to pay rent, nor restricts any remedy of the landlord other than to evict for non-payment.

(b) No owner may impose late fees or interest on rent not paid under subsection (1)(a). In addition, no owner of a unit identified in subsection (1)(a)(i)(C) may impose a rent increase, either under an existing lease (including a lease modification) or through the renewal of an expired lease, until one month after the date this Order expires or is terminated.

(c) No owner shall recover possession of a residential dwelling unit, including but not limited to any unit specified in subsection (1)(a)(i), if the effective date of the notice of termination would fall within two months after the date this Order expires, unless the owner can show it is necessary to recover possession due to violence, threats of violence, or health and safety issues. This subsection (1)(c) shall apply to evictions under Section 37.9(a)(13) only if and when the Governor or State Legislature authorize such limitations on Ellis Act evictions during this state of emergency.



(d) The Director of MOHCD or the Director's designee, in consultation with the Executive Director of the Rent Board as appropriate, shall have the authority to adopt regulations and publish guidelines with respect to the types of documentation that may show financial impacts related to COVID-19, notices that landlords must use to inform tenants of the protections of this Order, and such other matters as MOHCD may deem appropriate in order to effectuate the purposes of this Order.

(e) This Order shall last for a period of two months, until the Proclamation of Local Emergency is terminated, or upon further Order from the Mayor, whichever occurs sooner. The Mayor may extend this Order by an additional period of one month if conditions at that time warrant extension. The Mayor shall provide notice of the extension through an Executive Order posted on the Mayor's website and delivered to the Clerk of the Board of Supervisors.

(2) The Human Resources Director is authorized, with the concurrence of the Controller, to extend the existing paid leave program for City employees, first authorized on March 17, 2020 in the Third Supplement to the Emergency Proclamation, through May 31, 2020, to mitigate the financial impacts of the emergency on these City employees. The Director of Transportation is authorized, with the concurrence of the Controller, to extend the existing paid leave program for service critical employees of the San Francisco Municipal Transportation Agency first authorized on March 17, 2020 by the Third Supplement to the Emergency Proclamation, through May 31, 2020. This paid leave program is for employees who are available to work, but not working, including working from home, due to the Stay Safe At Home Order.

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(3) Section 1 of the Eighth Supplement to the Emergency Proclamation dated April 1, 2020, is revised and replaced as follows: From March 18, 2020 through May 31, 2020, City policy and advisory bodies shall not hold public meetings, unless the Board of Supervisors, acting by written motion, or the Mayor or the Mayor's designee directs otherwise, based on a determination that a policy body has an urgent need to take action to ensure public health, safety, or essential government operations. This order applies to all City commissions, boards, and advisory bodies other than the Board of Supervisors and its committees.

DATED: April 30, 2020

A handwritten signature in blue ink that reads "London Breed".

London N. Breed
Mayor of San Francisco

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):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only