

BOARD of SUPERVISORS



City Hall  
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## MEMORANDUM

TO: Patrick O'Riordan, Director, Department of Building Inspection  
Robert Collins, Executive Director, Rent Board  
Dr. Grant Colfax, Director, Department of Public Health

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

DATE: August 18, 2020

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Stefani on August 11, 2020:

**File No. 200914**

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

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](mailto:erica.major@sfgov.org).

cc: Patty Lee, Department of Building Inspection  
John Murray, Department of Building Inspection  
Greg Wagner, Department of Public Health  
Dr. Naveena Bobba, Department of Public Health  
Sneha Patil, Department of Public Health

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

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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.

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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 61<sup>st</sup> day following enactment  
22 unless reenacted as provided by Section 2.107.

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**Section 6. 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 BOYAJIAN  
Deputy City Attorney

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**LEGISLATIVE DIGEST**

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

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

Existing Law

There is no existing law being amended.

Amendments to Current Law

This emergency ordinance will prohibit construction work using powered construction equipment inside a residential building of three units or more, if there are tenants residing in at least one of the units, unless the noise level of the construction work measured from inside the occupied unit or units is not more than 5 dBA above the ambient level. The terms “ambient,” “noise level,” and “powered construction equipment” are as defined in Police Code Section 2901 and the noise level is measured in accordance with Police Code Section 2902. This prohibition does not apply if the property owner has reached an agreement to relocate or make other accommodations acceptable to the affected tenant or tenants

Background Information

Residential tenants across San Francisco are attempting to comply with Shelter in Place Orders, working from home, attempting to care for themselves and family members, and potentially soon to be homeschooling children. At the same time, many tenants are also encountering the added disruption of construction taking place in the apartment buildings in which they reside. In many cases, this construction activity creates continuous noise by powered equipment at very disruptive noise levels. This legislation would require some accommodation to the tenants to ameliorate this situation while still allowing construction to proceed.

# 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