

BOARD of SUPERVISORS



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MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing and Community Development
Nadia Sesay, Interim Executive Director, Office of Community Investment and Infrastructure
Robert Collins, Executive Director, Rent Board
Barbara A. Garcia, Director, Department of Public Health
Harlan Kelly, Jr., General Manager, Public Utilities Commission
Mohammed Nuru, Director, Public Works
John Rahaim, Director, Planning Department

FROM: *ll*
fr Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: February 13, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Peskin on February 7, 2017:

File No. 170159

Ordinance amending the Housing Code to prohibit the installation of timers or devices, other than required water conservation fixtures, that restrict or interrupt the water flow from showerheads in dwellings, apartment houses, dormitories, lodging houses, and hotels, subject to an exception for owner-occupied dwelling units; affirming the Planning Department's determination under the California Environmental Quality Act; making findings under the California Health and Safety Code; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage as required by State law.

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: alisa.somera@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Kate Hartley, Mayor's Office of Housing and Community Development
Greg Wagner, Department of Public Health
Colleen Chawla, Department of Public Health
Juliet Ellis, Public Utilities Commission
Donna Hood, Public Utilities Commission
John Scarpulla, Public Utilities Commission
Frank Lee, Public Works
John Thomas, Public Works
Lena Liu, Public Works
Scott Sanchez, Planning Department
Lisa Gibson, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Jeanie Poling, Planning Department

1 [Housing Code - Timers and Devices Restricting Showerhead Water Flow]

2
3 **Ordinance amending the Housing Code to prohibit the installation of timers or devices,**
4 **other than required water conservation fixtures, that restrict or interrupt the water flow**
5 **from showerheads in dwellings, apartment houses, dormitories, lodging houses, and**
6 **hotels, subject to an exception for owner-occupied dwelling units; affirming the**
7 **Planning Department's determination under the California Environmental Quality Act;**
8 **making findings under the California Health and Safety Code; and directing the Clerk of**
9 **the Board of Supervisors to forward this Ordinance to the California Building**
10 **Standards Commission upon final passage as required by State law.**

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. Findings.

20 (a) The Planning Department has determined that the actions contemplated in this
21 ordinance comply with the California Environmental Quality Act (California Public Resources
22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
23 Supervisors in File No. ___ and is incorporated herein by reference. The Board affirms this
24 determination.

25 (b) On _____, the Building Inspection Commission considered this ordinance at
a duly noticed public hearing pursuant to Charter Section D3.750.5.

1 Section 2. Findings Under California Health and Safety Code. The Board of
2 Supervisors hereby finds that the following local conditions apply to the amendments to the
3 Housing Code enacted by this ordinance:

4 (a) The City and County of San Francisco is unique among California communities
5 with respect to its significant stock of over 500 single room occupancy hotels (“SROs”), which
6 house approximately 18,000 low-income San Franciscans. SROs are intended to house one
7 or two individuals and typically measure 8 feet by 10 feet and feature toilet and shower
8 facilities shared by other SRO occupants. The majority of SRO buildings in San Francisco
9 were built in the early 1900s, following the 1906 earthquake. SROs tend to be older, and
10 contain older plumbing, than most of the housing stock in San Francisco. SROs in San
11 Francisco were built as housing for low-wage workers, transient laborers, and recent
12 immigrants. However, with decreased demand for unskilled labor in the workforce and as
13 welfare policies changed and in the 1960s, SROs began to house more unemployed and
14 elderly people, and deinstitutionalized psychiatric patients.

15 (b) Today, SROs continue to house the most vulnerable populations, including the
16 indigent, the elderly, and mental health patients. The San Francisco Department of Public
17 Health has reported that SROs commonly suffer from plumbing issues, including lack of
18 running water, lack of hot or cold water, and non-functioning showers. In recognition of the
19 unique characteristics of SROs and other older housing stock in which the most vulnerable
20 populations reside, unique Housing Code provisions are required to prevent building owners
21 from exacerbating existing plumbing problems in SROs and other older housing stock.

22 (c) The San Francisco Housing Code (“Housing Code”) mandates minimum
23 requirements for the “protection of life, limb, health, property, safety and welfare of the general
24 public and the owners and occupants of residential buildings in San Francisco.” Pursuant to
25 Housing Code Section 1001, a building or portion thereof is “substandard” and a “nuisance” if

1 it contains inadequate sanitation and safety, such as “lack of, or improper water closet,
2 lavatory, and bath tub or shower in a dwelling unit”; “lack of, or improper water closets,
3 lavatories, bath tubs or showers per number of guests in a hotel”; or “lack of hot and cold
4 running water to plumbing fixtures in a hotel or lodging house.” The use of timers or other
5 devices that restrict or interrupt water flow from showerheads, other than any water
6 conservation fixtures required by Chapters 12 and 12A of the Housing Code, constitutes
7 “inadequate sanitation and safety” under Housing Code Section 1001.

8 (d) It is important to reduce residents’ water usage as part of a plan to address drought
9 and climate change. However, timers or devices that restrict or interrupt water flow from
10 showerheads may lead to serious inequities and hardships. Water conservation through the
11 use of such timers or devices disproportionately benefits landlords and disproportionately
12 targets tenants of buildings in which such timers and devices are installed. Often, these
13 buildings are large multi-unit residential buildings, such as SROs, housing the most vulnerable
14 populations -- including the indigent, the elderly, and mental health patients -- who suffer as a
15 result of showerheads being equipped with such timers and devices. There are superior
16 alternatives to address water conservation and regulation of water flow.

17 (e) The goals of both protecting residents’ welfare and reducing water use can be
18 achieved by regulating showerhead water flow instead of regulating the duration of a shower.
19 For example, conservation can be achieved by requiring the installation of updated plumbing
20 fixtures designed to improve efficiency without significantly decreasing performance. The
21 California Energy Commission anticipates that, once all showerheads and faucets have been
22 updated by 2029, the reduced flow will save 38 billion gallons of water, 20.2 billion cubic feet
23 of natural gas, and 1,322 gigawatt hours of electricity per year. This approach is more
24 effective and more equitable than installing timers or other devices that restrict water flow from
25 showerheads, particularly where such timers or devices are being used in below-market

1 housing. Property owners concerned about water usage should install low-flow showerheads,
2 faucets, toilets, and washing machines.

3 (f) California Health and Safety Code Sections 17958 and 17958.5 allow the City to
4 make changes or modifications in the requirements contained in the provisions published by
5 the California Building Standards Commission when those changes or modifications are
6 reasonably necessary because of local climatic, geological, or topographical conditions.
7 California Health and Safety Code Section 17958.7 provides that before making any such
8 changes or modifications, the governing body must make express findings that such changes
9 or modifications are reasonably necessary because of the specified local conditions, and
10 those findings shall be filed with the California Building Standards Commission.

11 (g) Pursuant to the applicable California Health and Safety Code sections, the Board
12 of Supervisors finds and determines that the conditions described above constitute a general
13 summary of the most significant local conditions giving rise to the need for variance from the
14 California Building and Plumbing Codes and any other applicable provisions published by the
15 California Building Standards Commission. Further, the Board of Supervisors finds and
16 determines that the proposed variances are reasonably necessary based on these local
17 conditions, and that these conditions justify more restrictive standards applicable to the
18 showerhead fixtures in residential buildings in San Francisco.

19 Section 3. The Housing Code is hereby amended by revising Section 505, to read as
20 follows:

21 **SEC. 505. SANITATION.**

22 * * * *

23 (d) Fixtures.

24 (1) All plumbing fixtures shall be connected to a sanitary sewer. All plumbing
25 fixtures shall be connected to an approved system of water supply and required fixtures shall

1 be provided with hot and cold running water, except water closets shall be provided with cold
2 water only.

3 (2) All plumbing fixtures shall be of an approved nonabsorbent material. No timers
4 or devices, other than water conservation fixtures required by Chapters 12 and 12A of this Code, shall
5 be permitted to restrict or interrupt the water flow from showerheads installed in any dwellings,
6 apartment houses, dormitories, lodging houses, and hotels, as defined in this Code; provided, however,
7 that the prohibition set forth in section 505(d)(2) shall not apply to owner-occupied dwelling units.

8 (3) For the purposes of this Section, water heated to a minimum temperature of
9 105 degrees Fahrenheit (41 degrees Centigrade) and a maximum of 120 degrees Fahrenheit
10 (49 degrees Centigrade) at the tap shall be furnished to hotels and apartment houses.

11 (4) Each building shall provide four gallons of hot water storage capacity per guest
12 room and eight gallons of hot water storage capacity per dwelling unit.

13 (5) Shower heads with no more than a three-gallon-per-minute flow shall be
14 required. Showerheads of the ball-joint type that cannot easily be removed from the wall
15 without structural alteration are exempt from this requirement.

16 * * * *

17
18 Section 4. Effective Date. This ordinance shall become effective 30 days after
19 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
20 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
21 of Supervisors overrides the Mayor's veto of the ordinance.


22
23 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

1 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
2 additions, and Board amendment deletions in accordance with the "Note" that appears under
3 the official title of the ordinance.

4
5 Section 6. Undertaking for the General Welfare. In enacting and implementing this
6 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
7 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
8 is liable in money damages to any person who claims that such breach proximately caused
9 injury.

10
11 Section 7. Directions to Clerk. The Clerk of the Board of Supervisors is hereby
12 directed to forward a copy of this ordinance to the California Building Standards Commission
13 upon final passage as required by State law.

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By: 
18 CHRISTOPHER T. TOM
Deputy City Attorney

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LEGISLATIVE DIGEST

[Housing Code - Timers and Devices Restricting Showerhead Water Flow]

Ordinance amending the Housing Code to prohibit the installation of timers or devices, other than required water conservation fixtures, that restrict or interrupt the water flow from showerheads in dwellings, apartment houses, dormitories, lodging houses, and hotels, subject to an exception for owner-occupied dwelling units; affirming the Planning Department's determination under the California Environmental Quality Act; making findings under the California Health and Safety Code; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage as required by State law.

Existing Law

Currently, the San Francisco Housing Code ("Housing Code") does not prohibit the installation of timers or devices that restrict or interrupt the water flow from showerheads in dwellings, apartment houses, dormitories, lodging houses, and hotels.

Amendments to Current Law

This legislation would amend the Housing Code to prohibit the installation of timers or devices, other than water conservation fixtures required under State law and the Housing Code, that restrict or interrupt the water flow from showerheads in dwellings, apartment houses, dormitories, lodging houses, and hotels, subject to an exception for owner-occupied dwelling units. In addition, the legislation would affirm the Planning Department's determination under the California Environmental Quality Act, make findings of local conditions required under the California Health and Safety Code, and direct the Clerk of the Board of Supervisors to forward this ordinance to the California Building Standards Commission upon final passage, as required by State law.

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