

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Patrick O'Riordan, Director, Department of Building Inspection  
Sonya Harris, Commission Secretary, Building Inspection Commission  
Harlan Kelly, Jr., General Manager, Public Utilities Commission  
Robert Collins, Executive Director, Rent Board

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

DATE: July 22, 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 Peskin on July 14, 2020:

**File No. 200763**

**Emergency ordinance to temporarily prohibit construction projects in buildings with any residential rental units that require the suspension of water or electricity service to residential tenants without providing alternative sources of water and power, due to 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  
Juliet Ellis, Public Utilities Commission  
Donna Hood, Public Utilities Commission  
John Scarpulla, Public Utilities Commission

1 [Emergency Ordinance - Building Code - Construction During COVID-19 Pandemic That  
2 Results in Temporary Suspension of Water or Electricity Service]

3 **Emergency ordinance to temporarily prohibit construction projects in buildings with**  
4 **any residential rental units that require the suspension of water or electricity service to**  
5 **residential tenants without providing alternative sources of water and power, due to the**  
6 **COVID-19 pandemic; and affirming the Planning Department’s determination under the**  
7 **California Environmental Quality Act.**

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

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

16 Section 1. Declaration of Emergency under Charter Section 2.107.

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

22 (b) On February 25, 2020, Mayor London Breed proclaimed a state of emergency  
23 based on the COVID-19 pandemic (hereinafter referred to as “the emergency”). On March 3,  
24 2020, the Board of Supervisors, in Motion No. 200228, concurred in the Proclamation and in  
25 the actions taken by the Mayor to meet the emergency.

///

1 (c) Since March 16, 2020, City residents have been subject to the County Health  
2 Officer's "shelter in place" orders, which require (with certain exceptions) that all San  
3 Francisco residents must stay in their homes to the extent possible, due to the extreme  
4 circumstances of the emergency. The most recent such order (Order No. C19-07f) was  
5 issued July 13, 2020. Also, on March 16, 2020, the Governor issued Executive Order N-28-  
6 20, finding that local jurisdictions must take measures to preserve and increase housing  
7 security and that additional measures may be necessary to protect public health and to  
8 mitigate the economic effects of COVID-19.

9 (d) For the same reasons that warranted the foregoing orders and directives, the  
10 Board of Supervisors finds that it is essential for the health, safety, and welfare of the tenants  
11 of residential units to have access to water and utility service while they are sheltering in  
12 place.

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

19  
20 Section 3. Prohibition of Certain Construction Activities that Suspend Water or  
21 Electricity Service, for Buildings with Residential Rental Units, Unless an Alternative Source is  
22 Provided; Notice to Tenants.

23 (a) No construction may be performed in a building containing any residential rental  
24 units, whether or not a building permit has been issued prior to the effective date of this  
25 emergency ordinance, if that construction would result in the suspension of water service or

1 electricity service to any resident in the building, unless:

2 (1) in the event of a water shutoff, an alternative water source is provided  
3 including but not limited to water bottles or other containers of water;

4 (2) in the event of an electricity shutoff, a generator or alternative power source  
5 that allows internet use is provided.

6 An alternative that requires the tenant to leave his or her unit is not an acceptable  
7 alternative.

8 (b) The property owner shall give each tenant that will be impacted by water and/or  
9 electricity service interruption caused by construction with one week's advance notice and the  
10 name and contact information of a liaison who can provide information regarding the  
11 interruption and respond to tenant concerns. Advance notice shall also be given to tenants  
12 where it is anticipated that construction activities will cause loud and constant noise at a level  
13 that is likely to disrupt daily activities.

14

15 Section 4. Implementation by the Department of Building Inspection.

16 The Department of Building Inspection shall implement the requirements of this  
17 emergency ordinance.

18

19 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word  
20 of this emergency ordinance, or any application thereof to any person or circumstance, is held  
21 to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such  
22 decision shall not affect the validity of the remaining portions or applications of the ordinance.  
23 The Board of Supervisors hereby declares that it would have passed this emergency  
24 ordinance and each and every section, subsection, sentence, clause, phrase, and word not  
25 declared invalid or unconstitutional without regard to whether any other portion of the

1 ordinance or application thereof would be subsequently declared invalid or unconstitutional.

2  
3 Section 6. Effective Date; Retroactivity; Expiration.

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

9 (b) The Board of Supervisors intends that this emergency ordinance be retroactive to  
10 July 14, 2020, the date of introduction, and urges that the Department of Building Inspection  
11 exercise administrative discretion to implement its provisions prior to the effective date  
12 described in subsection (a).

13 (c) This emergency ordinance shall expire on the 61st day following enactment unless  
14 reenacted as provided by Section 2.107.

15  
16 Section 7. Supermajority Vote Required.

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

19  
20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney

22  
23 By: /s/ JUDITH A. BOYAJIAN  
24 JUDITH A. BOYAJIAN  
25 Deputy City Attorney

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## **LEGISLATIVE DIGEST**

[Emergency Ordinance - Building Code - Construction During COVID-19 Pandemic That Results in Temporary Suspension of Water or Electricity Service]

**Emergency ordinance to temporarily prohibit construction projects in buildings with any residential rental units that require the suspension of water or electricity service to residential tenants without providing alternative sources of water and power, due to 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 activities that suspend water or electricity service in buildings with residential rental units unless an alternative source is provided. In the event of a water shutoff, an alternative source could include, but not be limited to, water bottles or other containers of water. In the event of an electricity shutoff, a generator or alternative power source that allows internet use must be provided. An alternative that requires the tenant to leave his or her unit is not an acceptable alternative. Advance notice to tenants of a disruption in service or loud noise levels is required and the name and contact information of a person who can respond to tenant concerns must be provided.

### Background Information

Residential tenants across San Francisco are attempting to apply with Shelter in Place Orders, working from home, and attempting to care for children and family members, some who are advanced in age or have other unique sensitivities to COVID-19.

Many tenants are encountering the added disruption of ongoing, non-emergency construction that disrupts water and electricity service, often without any notice, and which causes such loud and constant noise that daily tasks are rendered near impossible.

In some instances, the disruption of housing services is a form of tenant harassment intended to displace tenants from their homes during a public health emergency. Even without the intent to harass, the added disruption constitutes an enhanced public health and safety risk to tenants that can and should be mitigated through the provision of alternative, in-home water and electricity supply, advance notice of the use of any loud instruments, and direct communication to ensure agreeable mitigation measures to facilitate compliance with San Francisco's Shelter in Place Order.