

BOARD of SUPERVISORS



City Hall  
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

### LAND USE AND TRANSPORTATION COMMITTEE SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Aaron Peskin, Chair, Land Use and Transportation Committee

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

DATE: August 17, 2020

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, August 18, 2020

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, August 18, 2020. This item was acted upon at the Committee Meeting on Monday, August 17, 2020, at 1:30 p.m., by the votes indicated.

**Item No. 35**                      **File No. 200763**

Emergency ordinance to temporarily prohibit construction projects in buildings with any residential rental units that require the suspension of water or utility service to residential tenants without providing alternative sources of water and power, or reaching agreement with tenants, due to the COVID-19 pandemic.

#### RECOMMENDED AS A COMMITTEE REPORT

Vote: Supervisor Aaron Peskin - Aye  
Supervisor Ahsha Safai - Aye  
Supervisor Dean Preston - Aye

c: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Alisa Somera, Legislative Deputy  
Anne Pearson, Deputy City Attorney  
Kristen Jensen, Deputy City Attorney



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

3 **Emergency ordinance to temporarily prohibit construction projects in buildings with**  
4 **any residential rental units that require the suspension of water or utility service to**  
5 **residential tenants without providing alternative sources of water and power, or**  
6 **reaching agreement with tenants, due to the COVID-19 pandemic.**

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

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

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

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

21 (b) On February 25, 2020, Mayor London Breed proclaimed a state of emergency  
22 based on the COVID-19 pandemic (hereinafter referred to as “the emergency”). On March 3,  
23 2020, the Board of Supervisors, in Motion No. 200228, concurred in the Proclamation and in  
24 the actions taken by the Mayor to meet the emergency. On March 13, 2020, the Mayor issued  
25 a Second Supplement to the Proclamation, finding that the emergency is causing severe  
financial impacts to renters in the City, and providing certain protections to those renters who

1 will be unable to pay their rent on time due to the emergency, to avoid the further risks and  
2 contamination that will result if they are displaced from their homes.

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

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

14 (e) Affordable housing units are less likely to be subject to ongoing or elective  
15 renovation construction work, and repairs are more likely to be for the purpose of maintaining  
16 safe and habitable housing. Tenants in affordable housing units, including long-term tenants  
17 in that housing, are less likely to be subject to harassment and constructive eviction motivated  
18 by a desire to re-rent those units at high market rates. Therefore, affordable housing units  
19 have been exempted from the requirements of this legislation.

20  
21 Section 2. CEQA Finding. The Planning Department has determined that the actions  
22 contemplated in this emergency ordinance comply with the California Environmental Quality  
23 Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file  
24 with the Clerk of the Board of Supervisors in File No. 200763 and is incorporated herein by  
25 reference. The Board affirms this determination.

1 Section 3. Temporary Prohibition of Construction Activities that Suspend Water or  
2 Other Utility Service Unless an Alternative Source is Provided; Notice to Tenants.

3 (a) Except as provided in subsection (e) below, No construction may be performed  
4 in a building containing any residential rental units, whether or not a building permit has been  
5 issued prior to the effective date of this emergency ordinance, if that construction would result  
6 in the suspension of water service or other utility service to any other resident in the building  
7 unless: (i) in the event of a water shutoff exceeding two hours in a single day, the property  
8 owner provides an alternative water source is provided to each impacted resident, including  
9 but not limited to water bottles or gallons of water; (ii) in the event of an electricity shutoff  
10 exceeding two hours in a single day, the property owner provides a generator or alternative  
11 power source that allows internet use is provided to each impacted resident.

12 (b) The property owner shall give each tenant that will be impacted by water and/or  
13 utility service interruption ~~caused by construction with one week's advance notice and the~~  
14 name and contact information of a liaison who can provide information ~~regarding the~~  
15 ~~disruption~~ and respond to tenant concerns, as well as advance notice to each impacted  
16 resident as follows: Advance notice shall also be given to tenants where it is anticipated that  
17 ~~construction activities will cause loud and constant noise at a level that is likely to disrupt daily~~  
18 ~~activities.~~

19 (i) in the event of an anticipated water or electricity shutoff lasting more than  
20 two consecutive hours or four non-consecutive hours in a single day, all impacted residents  
21 must be provided with 72 hours advance written notice;

22 (ii) in the event of an anticipated water or electricity shutoff of more than two  
23 consecutive hours or four non-consecutive hours on two or more consecutive days, or on  
24 more than three days in a single week, all impacted residents must be provided with written  
25

1 notice at least one week in advance of the first shutoff, and with weekly updates for prolonged  
2 construction projects.

3 (c) If over the course of construction the need emerges to shut off water or power  
4 for more than two hours, construction must pause and may only resume pursuant to the  
5 notice and alternative accommodations provisions of subsections (a) and (b) of this  
6 emergency ordinance; provided, however, that the Department of Building Inspection may  
7 authorize the construction to continue if a pause would create an imminent safety hazard .

8 (d) In the event of any anticipated use of loud instruments for a continuous or long  
9 period of time, the property owner shall install temporary insulation to mitigate the resulting  
10 noise and disruption to impacted residential tenants.

11 (e) Property owners shall be exempt from the obligations set forth in this emergency  
12 if:

13 (i) a property owner and all impacted residential tenants agree to terms  
14 other than those set forth in subsections (a)-(c) above, and the property owner submits an  
15 email to an address established by the Department of Building Inspection reflecting the terms  
16 and duration of that agreement; or

17 (ii) all impacted residents reside in a building where 100% of the residential  
18 units (A) have a maximum affordable purchase price or affordable rent set at 120% of the  
19 unadjusted area median family income (AMI) determined by MOHCD on any annual basis and  
20 derived from the HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco; (B)  
21 at a rent that shall not exceed 30% of the applicable household income limit for a rental unit,  
22 or at a purchase price with an annual housing cost that shall not exceed 33% of the applicable  
23 income limit for an owner-occupied unit, as each may be adjusted for household size and  
24 bedroom count; and (C) for the life of the project or a minimum of 55 years, whichever is  
25 longer, by a recorded regulatory agreement and consistent with any applicable federal, state

1 or local government regulatory requirements.

2  
3 Section 4. Implementation by the Department of Building Inspection.

4 The Department of Building Inspection shall implement the requirements of this  
5 emergency ordinance. Upon finding a first violation, the Department of Building Inspection  
6 shall issue a warning to the property owner along with a copy of the requirements of this  
7 emergency ordinance. After receiving a warning, the property owner shall be required to send  
8 an e-mail to an address established by the Department of Building Inspection concurrent with  
9 any notice provided to impacted residents pursuant to this emergency ordinance. Failure to do  
10 so shall constitute a separate violation of this emergency ordinance. For any subsequent  
11 violations, the Department of Building Inspection shall issue a Notice of Violation and/or any  
12 other applicable citation pursuant to its authority under the Chapter 1A of the Building Code.

13  
14 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word  
15 of this ordinance, or any application thereof to any person or circumstance, is held to be  
16 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision  
17 shall not affect the validity of the remaining portions or applications of the ordinance. The  
18 Board of Supervisors hereby declares that it would have passed this ordinance and each and  
19 every section, subsection, sentence, clause, phrase, and word not declared invalid or  
20 unconstitutional without regard to whether any other portion of this ordinance or application  
21 thereof would be subsequently declared invalid or unconstitutional.

22  
23 Section 6. Effective Date; Retroactivity; Expiration.

24 (a) Consistent with Charter Section 2.107, this emergency ordinance shall become  
25 effective immediately upon enactment. Enactment occurs when the Mayor signs the

1 ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within  
2 ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the  
3 ordinance.

4 (b) The Board of Supervisors intends that this emergency ordinance become effective  
5 on July 14, 2020, the date of introduction, and urges that the Department of Building  
6 Inspection to exercise administrative discretion to implement its provisions prior to effective  
7 date described in subsection (a).

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

10  
11 Section 7. Supermajority Vote Required.

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

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

17 By: /s/ Judith A. Boyajian  
18  
19 JUDITH A. BOYAJIAN  
Deputy City Attorney

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22  
23  
24  
25



**REVISED LEGISLATIVE DIGEST**  
(Amended in Committee, 8/10/2020)

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

**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, or reaching agreement with tenants, 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 exceeding two hours in a single day 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. Advance notice to tenants of a disruption in service or loud noise levels over specified limits is required and the name and contact information of a person who can respond to tenant concerns must be provided. The Department of Building Inspection may authorize the construction to continue without the advance notice if a pause in construction would create an imminent safety hazard. Property owners are exempt from the requirements of the ordinance if the owner and all impacted residential tenants agree to different terms. Also exempt are buildings with 100% affordable units.

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.

Buildings with 100% affordable housing units are exempt from the requirements of this emergency ordinance because these units are less likely to be subject to ongoing or elective renovation construction work, and repairs are more likely to be for the purpose of maintaining safe and habitable housing. Further, tenants are less likely to be subject to harassment and constructive eviction motivated by a desire to re-rent those units at high market rates.

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Fax No. 554-5163  
TDD/TTY No. 554-5227

July 14, 2020

File No. 200763

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On July 14, 2020, Supervisor Peskin submitted the following legislation:

**File No. 200762**

**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.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

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

Attachment

c: Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

08/05/2020

A handwritten signature in cursive script, appearing to read "Joy Navarrete".

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July 14, 2020

File No. 200763

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On July 14, 2020, Supervisor Peskin submitted the following legislation:

**File No. 200762**

**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.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

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

Attachment

c: Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning

BOARD of SUPERVISORS



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San Francisco 94102-4689  
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TDD/TTY No. 554-5227

## 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

President, District 7  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. 554-6516  
Fax No. 554-7674  
TDD/TTY No. 544-6546

**Norman Yee**

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**PRESIDENTIAL ACTION**

Date:

To: Angela Calvillo, Clerk of the Board of Supervisors

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Madam Clerk,

Pursuant to Board Rules, I am hereby:

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

File No.

(Primary Sponsor)

Title.

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:

Meeting

(Date)

(Committee)

Start Time:

End Time:

Temporary Assignment: Partial

Full Meeting

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Norman Yee, President  
Board of Supervisors

Member, Board of Supervisors  
District 3



City and County of San Francisco

**AARON PESKIN**

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DATE: August 13, 2020

TO: Angela Calvillo  
Clerk of the Board of Supervisors

FROM: Supervisor Aaron Peskin, Chair, Land Use and Transportation  
Committee

RE: Land Use and Transportation Committee  
COMMITTEE REPORTS

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Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on Tuesday, August 18, 2020, as Committee Reports:

**200763      Emergency Ordinance - Building Code - Construction During COVID-19 Pandemic That Results in Temporary Suspension of Water or Electricity Service or Excessive Noise**

**Emergency ordinance to temporarily prohibit construction projects in buildings with any residential rental units that require the suspension of water or utility service to residential tenants without providing alternative sources of water and power, or reaching agreement with tenants, due to the COVID-19 pandemic.**

**200764      Health Code - Cleaning and Disease Prevention Standards in Tourist Hotels and Large Commercial Office Buildings**

**Ordinance amending the Health Code to establish cleaning and disease prevention standards and practices in tourist hotels and large commercial office buildings to help contain COVID-19, or other contagious public health threats; to require training related to these standards for employees, provide certain protections to employees as they perform cleaning duties, and prohibit retaliation against employees for refusing to perform work under conditions they believe may be unsafe or for reporting such conditions or exercising rights protected by the Ordinance; authorizing the Office of Labor Standards Enforcement to enforce the employee rights and protections under the ordinance; and to provide for administrative enforcement by the Department of Public Health, and for financial penalties and civil actions as authorized by City and state law.**

## COMMITTEE REPORT MEMORANDUM

Land Use and Transportation Committee

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**200762      Emergency Ordinance - Protections for Occupants of  
Residential Hotels During COVID-19 Pandemic**

**Reenactment of emergency ordinance (Ordinance No. 84-20) to establish protections for occupants of residential hotels (“SRO Residents”) during the COVID-19 pandemic by, among other things: making it City policy to place in solitary hotel rooms SRO residents who meet the criteria for isolation or quarantine established by the County Health Officer, and requiring the Department of Public Health to: develop a protocol to assist health care providers to identify SRO Residents who may require protection against or treatment for COVID-19; notify the operator of a residential hotel when an SRO Resident has tested positive for COVID-19, to facilitate contact tracing, testing for COVID-19, and cleaning; establish a telephone hotline for SRO Residents, to respond to questions about accessing COVID-19 health screenings, testing, and solitary hotel rooms; provide face coverings to SRO Residents and workers in residential hotels; and provide daily aggregate data concerning the incidence of COVID-19 among SRO Residents, access to quarantine rooms by such residents, and the number of such residents who have died due to complications from COVID-19.**

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, August 17, 2020, at 1:30 p.m.

*/s/ Aaron Peskin*



# 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