

BOARD of SUPERVISORS



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## MEMORANDUM

GOVERNMENT AUDIT AND OVERSIGHT COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Gordon Mar, Chair  
Government Audit and Oversight Committee

FROM: John Carroll, Assistant Clerk

DATE: January 8, 2021

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, January 12, 20210

The following file should be presented as COMMITTEE REPORT at the regular Board meeting on Tuesday, January 12, 2021. This ordinance was acted upon at the regular Government Audit and Oversight Committee meeting on Thursday, January 7, 2021, at 10:00 a.m., by the votes indicated.

**Item No. 12                      File No. 201329**

**Reenactment of emergency ordinance (Ordinance No. 74-20, as reenacted by Ordinance Nos. 110-20, 156-20, and 230-20) to temporarily require grocery store, drug store, restaurant, and on-demand delivery service employers to provide health and scheduling protections to employees during the public health emergency related to COVID-19.**

RECOMMENDED AS A COMMITTEE REPORT

Vote:                      Supervisor Gordon Mar - Aye  
                                 Supervisor Aaron Peskin - Aye  
                                 Supervisor Matt Haney - Aye

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

File No. 201329

Committee Item No. 6

Board Item No. 12

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight  
Board of Supervisors Meeting:

Date: January 7, 2021

Date: January 12, 2021

#### Cmte Board

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|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

- |                          |                          |       |
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| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
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Prepared by: John Carroll

Date: December 31, 2020

Prepared by: John Carroll

Date: January 8, 2021

1 [Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery  
2 Service Employee Protections]

3 **Reenactment of emergency ordinance (Ordinance No. 74-20, as reenacted by**  
4 **Ordinance Nos. 110-20, 156-20, and 230-20) to temporarily require grocery store, drug**  
5 **store, restaurant, and on-demand delivery service employers to provide health and**  
6 **scheduling protections to employees during the public health emergency related to**  
7 **COVID-19.**

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*;  
10 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman*~~.  
11 **Board amendment additions** are in double underlined Arial font.  
12 **Board amendment deletions** are in ~~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 Pursuant to 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. An emergency ordinance enacted under Charter Section 2.107 automatically  
21 terminates on the 61st day after passage, but may be reenacted upon the same terms and  
22 conditions applicable to its initial enactment.

23 (b) Pursuant to Charter Section 2.107, the City enacted Ordinance No. 74-20, an  
24 emergency ordinance to temporarily require grocery store, drug store, restaurant, and on-  
25 demand delivery service employers to provide health and scheduling protections to  
employees during the public health emergency related to COVID-19. The emergency

1 ordinance became effective when enacted, on May 1, 2020. On July 10, 2020, Ordinance No.  
2 110-20 reenacted Ordinance No. 74-20; on August 28, 2020, Ordinance No. 156-20 again  
3 reenacted Ordinance No. 74-20, as reenacted; and on November 13, 2020, Ordinance No.  
4 230-20 again reenacted Ordinance No. 74-20, as reenacted. Ordinance No. 74-20, as  
5 reenacted, will terminate automatically on January 12, 2021, unless again reenacted.

6 (c) The Board of Supervisors hereby finds that the findings declared in Sections 1 and  
7 2 of Ordinance No. 74-20 and reaffirmed in Ordinance No. 110-20, Ordinance No. 156-20,  
8 and Ordinance No. 230-20 remain valid and compelling, and declares further that an actual  
9 emergency continues to exist that requires the reenactment of Ordinance No. 74-20 to reduce  
10 the likelihood of COVID-19 infection among employees of grocery stores, drug stores,  
11 restaurants, and on-demand delivery services and the members of the public with whom they  
12 interact.

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14 Section 2. Reenactment of Emergency Ordinance.

15 Consistent with Charter Section 2.107, this emergency ordinance reenacts for an  
16 additional 60 days the emergency ordinance temporarily requiring grocery store, drug store,  
17 restaurant, and on-demand delivery service employers to provide health and scheduling  
18 protections to employees during the public health emergency related to COVID-19 (Ordinance  
19 No. 74-20, as reenacted by Ordinance No. 110-20, Ordinance No. 156-20, and Ordinance No.  
20 230-20).

21

22 Section 3. Effective Date; Expiration.

23 (a) If enacted prior to the expiration of Ordinance No. 230-20, which reenacted  
24 Ordinance No. 74-20, this reenacted emergency ordinance shall become effective  
25 immediately upon the date of expiration of Ordinance No. 230-20, and shall itself expire on the

1 61st day following its effective date unless reenacted as provided by Charter Section 2.107, or  
2 upon the termination of the Public Health Emergency, whichever occurs first.

3 (b) If enacted after the expiration of Ordinance No. 230-20, this reenacted emergency  
4 ordinance shall become effective immediately upon enactment, shall have operative effect  
5 retroactively to the date that Ordinance No. 230-20 expired, and shall expire on the 61st day  
6 following the date that Ordinance No. 230-20, expired, unless reenacted as provided by  
7 Charter Section 2.107.

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9 Section 4. Directions to Clerk.

10 The Clerk of the Board of Supervisors is hereby directed to place a copy of this  
11 reenacted emergency ordinance in File No. 200360 for Ordinance No. 74-20, File No. 200609  
12 for Ordinance No. 110-20, File No. 200912 for Ordinance No. 156-20, and File No. 201054 for  
13 Ordinance No. 230-20 and to make a notation cross-referencing this emergency ordinance  
14 where Ordinance No. 74-20, Ordinance No. 110-20, Ordinance No. 156-20, and Ordinance  
15 No. 230-20 appear on the Board of Supervisors website as legislation passed.

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1 Section 5. Supermajority Vote Required.

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

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6 APPROVED AS TO FORM:  
7 DENNIS J. HERRERA, City Attorney

8 By: /s/ \_\_\_\_\_  
9 LISA POWELL  
Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections]

**Reenactment of emergency ordinance (Ordinance No. 74-20, as reenacted by Ordinance Nos. 110-20, 156-20, and 230-20) to temporarily require grocery store, drug store, restaurant, and on-demand delivery service employers to provide health and scheduling protections to employees during the public health emergency related to COVID-19.**

Existing Law

An emergency ordinance (Ordinance No. 74-20, as reenacted by Ordinance No. 110-20, Ordinance No. 156-20, and Ordinance No. 230-20) temporarily requires certain health and scheduling protections for grocery store, drug store, restaurant, and on-demand delivery service employees during the public health emergency related to COVID-19.

The legislative digest for emergency Ordinance No. 74-20 is found in Board File No. 200360. Lightly edited, it summarizes the emergency ordinance as follows:

The emergency ordinance provides certain protections for employees of “covered employers,” which are grocery stores, drug stores, restaurants, and on-demand delivery services. On-demand delivery service workers are defined as employees for the purposes of the emergency ordinance regardless of how the delivery service classifies them.

The emergency ordinance supplements and clarifies the social distancing and sanitation requirements in the City’s Stay-Safer-at-Home Health Order (Order No. C19-07o) in the on-demand delivery service context. The emergency ordinance requires on-demand delivery services to provide to or reimburse employees for the reasonable cost of purchasing necessary hand sanitizer, disinfecting cleaning supplies, and any needed personal protective equipment such as gloves and face masks, and to provide employees a social distancing protocol. Additionally, on-demand delivery services must offer delivery employees the option of a no-contact delivery method where feasible to facilitate social distancing and must provide employees detailed guidance on how to safely make both in-person and no-contact deliveries. On-demand delivery services also must require delivery drivers to regularly disinfect high-touch surfaces in their vehicles and compensate them for doing so.

The emergency order provides scheduling protections that give grocery, drug store, restaurant, and on-demand delivery service employees an additional tool to keep

themselves safe. Covered employers must, where reasonably feasible, allow employees to cancel work for any reason for which sick leave or emergency paid sick leave under the federal Families First Coronavirus Response Act may be taken. Employees may use any available accrued paid sick leave or emergency paid sick leave, or reschedule the work.

The emergency ordinance includes anti-retaliation protections that, among other provisions, prohibit interfering with any right protected under the emergency ordinance and taking any adverse action against an employee for exercising rights protected under the emergency ordinance.

The Office of Labor Standards Enforcement (OLSE) has implemented and is enforcing the emergency ordinance. Complaints of potential violations can be reported by calling 311 or contacting OLSE.

The original emergency ordinance, Ordinance No. 74-20, became effective on May 1, 2020. On July 10, 2020, Ordinance No. 110-20 reenacted Ordinance No. 74-20; on August 28, 2020, Ordinance No. 156-20 again reenacted Ordinance No. 74-20, as reenacted; and on November 13, 2020, Ordinance No. 230-20 again reenacted Ordinance No. 74-20, as reenacted. Ordinance No. 74-20, as reenacted, will terminate automatically on January 12, 2021, unless again reenacted.

#### Amendments to Existing Law

The proposed emergency ordinance reenacts Ordinance No. 74-20, with the result that it does not terminate on January 12, 2021, but rather is extended for an additional 60 days.

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# 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):

Haney

Subject:

Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections

The text is listed:

Reenactment of emergency ordinance (Ordinance No. 74-20, as reenacted by Ordinance No. 110-20, Ordinance No. 156-20, and Ordinance No. 230-20) to temporarily require grocery store, drug store, restaurant, and on-demand delivery service employers to provide health and scheduling protections to employees during the public health emergency related to COVID-19.

Signature of Sponsoring Supervisor:

For Clerk's Use Only