

LEGISLATIVE DIGEST

[Emergency Ordinance - Enforcement of Workplace Ventilation Standards - COVID-19]

Emergency ordinance to require property owners of high-rise buildings with 50,000 square feet or more of nonresidential floor area that use mechanical ventilation systems, to certify that such systems are operating in compliance with applicable laws; to require businesses operating within those buildings to post certification within their work spaces; and to require the Department of Public Health and Department of Building Inspection to post information on their websites about how to file complaints about noncompliance with workplace ventilation standards, and to coordinate to ensure that all such complaints are inspected within three business days.

Existing Law

The Department of Building Inspection (“DBI”) implements and enforces the ventilation standards for occupiable space in office buildings pursuant to Chapter 4 of the San Francisco Mechanical Code, Chapter 12 of the San Francisco Building Code, and Section 120.1 of the California Energy Code. The ventilation standards include: minimum ventilation rates based on the volume of different interior zones within a building; filter, intake, and exhaust requirements; a mandate that mechanical ventilation systems in office buildings operate in compliance with all standards at all times that the building is occupied, and that systems begin operation and achieve three complete air changes one hour prior to occupation.

Section 4(i) of the Stay-Safer-at-Home Order requires that all businesses that are allowed to be open indoors comply with certain ventilation requirements, including that they: (1) implement as many of the San Francisco Department of Public Health’s (“DPH”) recommended ventilation improvements as feasible and (2) keep hand-annotated documents showing which ventilation improvements were considered and implemented. The Stay-Safer-at-Home Order also requires all businesses operating indoors that are open to members of the public to conspicuously post signage, including at all primary public entrances, indicating which ventilation strategies are used at the facility.

Amendments to Current Law

The proposed emergency ordinance would require:

- The owner and/or operator of each high-rise building with 50,000 square feet or more of non-residential floor area that uses a mechanical ventilation system to certify that its mechanical ventilation system complies with applicable requirements and minimum operation time windows—including pre-occupancy air exchange requirements;

- Each business operating in those buildings to post information at the entry to the building space in which it operates confirming that that such certification is complete, and advising occupants of the hours that the ventilation system is set to operate; and
- DPH and DBI to post information on their websites advising the public about this emergency ordinance and how to file complaints relating to workplace ventilation standards that are within each departments' jurisdiction. Upon receipt of such a complaint, DBI and DPH shall coordinate to ensure that the complaint is investigated within not more than three business days of receipt.

Background

Since March 16, 2020, when the City and County of San Francisco implemented its first shelter-in-place order to reduce the impact of the virus that causes COVID-19, most indoor businesses have remained closed. Except for a brief period between October 27 and November 16, 2020, all non-essential offices have been required to remain closed under Health Officer Order No. C19-07 (the "Stay-Safer-at-Home Order") and its subsequent iterations.

On August 28, 2020, the State of California adopted a four-tiered, color-coded framework for reopening statewide based on the prevalence of virus transmission in each county – the Blueprint for a Safer Economy. Except for a brief period in September and October 2020, San Francisco has remained in either the most restrictive (purple) or the second-most restrictive (red) tiers. As vaccines for COVID-19 have arrived and become more available, community transmission of COVID-19 has decreased. As of March 16, 2021, San Francisco's current case rates indicate that the City will likely move from the substantial risk (red) tier into the moderate risk (orange) tier by March 24, 2021, and potentially to the minimal risk (yellow) tier by mid-April 2021. As a result, the San Francisco Health Officer is expected to soon allow the reopening of non-essential offices in the City.

The virus that causes COVID-19 can be transmitted in the air through aerosols and the risk of airborne transmission is generally higher indoors. The risk of transmission is likely to increase as more people return to offices. Therefore, it is essential that indoor businesses comply with existing ventilation standards and that those standards be enforced in order to best protect people working or visiting indoor offices. Also, while treatments for COVID-19 are improving and vaccines have been approved for use, treatments remain limited and COVID-19 vaccines will not likely be generally available to the majority of the public until mid-2021. The majority of the population remains susceptible to infection. This is especially true for those workers who spend significant time indoors in enclosed spaces, who often do not fit into priority categories for vaccination. This emergency ordinance will reduce the risk of COVID-19 transmission by ensuring compliance with existing ventilation standards applicable to indoor workplaces.