



Office of the Mayor

CONSENT CALENDAR  
April 25, 2017

To: Honorable Members of the City Council  
From: Mayor Jesse Arreguín and Councilmember Hahn  
Subject: Support of SB 721 – Statewide Balcony Inspection Standards

RECOMMENDATION

Adopt a Resolution in support of SB 721, which requires inspections of balconies every five years. Send a copy of the Resolution to Governor Jerry Brown, State Senators Jerry Hill and Nancy Skinner, and Assemblymember Tony Thurmond.

BACKGROUND

In response to the June 16, 2015 balcony collapse that killed six students, the Berkeley City Council adopted a package of urgency ordinances to prevent such tragedies from happening again. One of the ordinances ordered the inspection of balconies and other exterior elevated elements within six months of that ordinance. The result was 402 buildings being identified as needing corrective work. Amendments under Ordinance 7,463-N.S. require inspections for exterior elevated elements are every five years. The regulations passed in the City of Berkeley have directly improved housing safety, resulting in lives being saved.

SB 721, introduced by State Senator Jerry Hill, takes many of the regulations approved by the City of Berkeley and turns it into state law. Specifically, it requires all balconies, decks, and elevated walkways above 6 feet from ground level in buildings of three or more units to be inspected by January 1, 2021, and then every five years thereafter. This bill will help identify structural issues such as dry rot (the cause of the Library Gardens balcony collapse) before the damages become catastrophic.

This is not the first state bill to address issues raised in the wake of the Library Gardens tragedy. SB 465, also introduced by State Senator Hill, which was approved last year, requires contractors to report past felonies and other crimes involving construction defects to the Contractors State License Board, and calls upon the California Building Standards Commission to perform a study on recent exterior elevated structure failures and submit a report with suggestions for improvements to existing building codes.

FINANCIAL IMPLICATIONS

None

Support SB 721

CONSENT CALENDAR APRIL 25, 2017  
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ENVIRONMENTAL SUSTAINABILITY  
No adverse effects to the environment.

CONTACT PERSON

Jesse Arreguin, Mayor      510-981-7100

Attachments:

- 1: Resolution
- 2: SB 721 Text
- 3: Ordinance 7,463-N.S.

RESOLUTION NO. ##,###-N.S.

RESOLUTION IN SUPPORT OF SB 721 – STATEWIDE BALCONY INSPECTIONS

WHEREAS, on June 16, 2015, at 2020 Kittredge Street in Downtown Berkeley, six people were killed and seven more seriously injured when a balcony that had become compromised due to dry rot gave way; and

WHEREAS, in response the tragedy, the Berkeley City Council passed a series of urgency ordinances that required inspection of all balconies and exterior elevated elements and stronger balcony construction standards to prevent such tragedies from happening again; and

WHEREAS, inspections of buildings throughout Berkeley as a result of the ordinances revealed that 402 buildings were in need of corrective work; and

WHEREAS, Ordinance 7,463-N.S., approved in March 2016, amended the previous ordinance in setting out a time period of inspections for exterior elevated elements every five years; and

WHEREAS, SB 721, introduced by State Senator Jerry Hill, calls for many of the elements in Berkeley's ordinance on balcony inspections to become state law, including having inspections of exterior elevated elements every five years; and

WHEREAS, the State Legislature has previously taken action on housing safety in response to the balcony collapse by passing SB 465, which requires contractors to report past felonies and other crimes involving construction defects to the Contractors State License Board, and calls upon the California Building Standards Commission to perform a study on recent exterior elevated structure failures and submit a report with suggestions for improvements to existing building codes; and

WHEREAS, implementing SB 721 will help identify structural issues such as dry rot before the damage becomes catastrophic, saving lives.

NOW THEREFORE, BE IT RESOLVED, that the Berkeley City Council hereby supports Senate Bill 721.

BE IT FURTHER RESOLVED that copies of the Resolution be sent to Governor Jerry Brown, State Senators Jerry Hill and Nancy Skinner, and Assemblymember Tony Thurmond.

AMENDED IN SENATE MARCH 27, 2017

SENATE BILL

No. 721

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**Introduced by Senator Hill  
(Coauthor: Senator Skinner)**

February 17, 2017

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An act to add Section 7071.20 to the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 721, as amended, Hill. Contractors: decks and balconies: inspection.

Existing law provides authority for an enforcement agency to enter and inspect any buildings or premises whenever necessary to secure compliance with or prevent a violation of the building standards published in the California Building Standards Code and other rules and regulations that the enforcement agency has the power to enforce.

This bill would require ~~the~~ *a property owner to conduct an* inspection of decks, balconies, and elevated walkways more than 6 feet above ground level in a building containing 3 or more multifamily units by *utilizing* a person licensed to perform these inspections by the Department of Consumer Affairs. The bill would require the inspections ~~and any necessary repairs~~ to be completed by January 1, 2021, *with certain exceptions*, and would require subsequent inspections every 5 years, except as specified. The bill would require a copy of the inspection report to be filed with the county recorder and made available, as specified. The repairs made under these provisions would be required to comply with the latest edition of the California Building Standards Code and all local jurisdictional requirements. *The bill would assess specified civil penalties against a property owner, in the form of a lien*

SB 721

— 2 —

against the property, for failure to timely comply with these provisions, as specified. The bill would authorize local enforcing agencies to recover enforcement costs associated with these requirements.

Because this bill would impose new duties upon local enforcement authorities, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7071.20 is added to the Business and  
2 Professions Code, to read:  
3 7071.20. (a) (1) All buildings containing three or more  
4 multifamily dwelling ~~units, any units that have an~~ existing balcony  
5 or other elevated walking surface exposed to water, including, but  
6 not limited to, rain, snow, or irrigation, with structural framing  
7 that is protected by an impervious moisture barrier shall be  
8 inspected. For purposes of this section, balconies or other elevated  
9 walking surfaces less than six feet above grade are not included.  
10 The inspection shall be performed by a licensed general contractor,  
11 structural pest control licensee, licensed architect, licensed  
12 engineer, *a certified construction inspector, or building official as*  
13 *specified in Section 18949.27 of the Health and Safety Code*, or  
14 other licensee as approved by the Department of Consumer Affairs.  
15 The purpose of the inspection is to verify that all of the balconies  
16 and other elevated walking surfaces covered by this section are in  
17 generally safe condition, adequate working order, and free from  
18 hazardous dry rot, fungus, deterioration, decay, or improper  
19 alteration to the extent that the life, limb, health, property, safety,  
20 or welfare of the public or the occupants is not endangered.  
21 **Building**  
22 (2) *Building* elements, including the walking surface, structural  
23 frame and connector hardware, weatherproofing, landings, stairway  
24 systems, guardrails, handrails, and any other elements critical to  
25 the safety of the balcony or elevated walking surface, found to be

1 in need of repair or replacement, hazardous, structurally deficient,  
2 or noncompliant shall, upon determination by the licensed  
3 professional, be ~~immediately~~ corrected by the property owner or  
4 ~~individual~~ *person or company* responsible for management or  
5 operation of the building. ~~All~~

6 *(3) If corrective work is required, a property owner shall apply*  
7 *for a permit within 60 days of receipt of the inspection report.*  
8 *Once the permit is approved, the property owner or owner's*  
9 *designated agent shall have 90 days to make the repairs.*

10 *(4) All necessary permits for repair or replacement of exterior*  
11 *balconies and elevated walking surfaces shall be obtained from*  
12 *the local jurisdiction. All repair and replacement work, including*  
13 *installation and inspection of impervious moisture barrier systems,*  
14 *must be performed in compliance with manufacturer's instructions,*  
15 *the latest edition of the California Building Standards Code, and*  
16 *all local jurisdictional requirements.*

17 *(5) The property owner shall be responsible for complying with*  
18 *the requirements of this section. The person or business performing*  
19 *the inspection shall be hired by property owner or by the person*  
20 *or company responsible for the management or operation of the*  
21 *building.*

22 (b) The inspection ~~and repairs~~ shall be completed by January  
23 1, 2021, and every five years thereafter. The licensed professional  
24 conducting the inspection shall produce an initial report that states  
25 the condition of the building features and recommendations for  
26 repair, conditioning, or replacement and a final report indicating  
27 that all of the required repairs have been completed. A copy of the  
28 final report shall be submitted to the county recorder for  
29 recordation. Local enforcing agencies may determine the  
30 information to be provided in the report and require a copy of the  
31 initial or final reports, or both, to be submitted to the local  
32 jurisdiction in lieu of recordation.

33 (c) (1) Multifamily buildings of three units or more for which  
34 a building permit application has been submitted on or after  
35 February 1, 2017, are exempt from the inspection certification  
36 requirements for a period of five years following issuance of a  
37 certificate of occupancy from the local jurisdiction.

38 *(2) These multifamily buildings of three units or more shall*  
39 *comply with the inspection and documentation requirements*  
40 *described in subdivision (b), which shall be completed before the*

1 *end of the sixth year following the issuance of the certificate of*  
2 *occupancy and every five years thereafter.*

3 (d) The continued and ongoing maintenance of balconies and  
4 elevated walking surfaces and parts thereof, in a safe and sanitary  
5 condition, shall be the responsibility of the *property* owner or the  
6 *property* owner's designated agent. To determine ongoing  
7 compliance with this subdivision, the enforcing agency shall have  
8 the authority to require reinspection of those structures.

9 (e) Local enforcing agencies shall have the ability to recover  
10 enforcement costs associated with the requirements of this section.

11 (f) (1) *A property owner or the owner's designated agent shall*  
12 *not be required to produce a new inspection report of the*  
13 *multifamily building if both of the following are met:*

14 (A) *The multifamily building was inspected by a licensed*  
15 *professional, described in subdivision (a), within three years prior*  
16 *to January 1, 2018.*

17 (B) *The inspection was performed by a licensed professional,*  
18 *described in subdivision (a), and the inspection report states that*  
19 *the decks, balconies, elevated walkways, or other related exterior*  
20 *elevated elements are in proper working condition and do not pose*  
21 *a threat to the health and safety of the public.*

22 (2) *If the above requirements are met, a property owner or the*  
23 *property owner's designated agent shall file a copy of the final*  
24 *inspection report to the county recorder. Beginning five years after*  
25 *the completion of the inspection, these multifamily buildings of*  
26 *three units or more shall be reinspected and a new inspection*  
27 *report filed with the county recorder and every five years*  
28 *thereafter.*

29 (g) (1) *If a property owner or an owner's designated agent*  
30 *does not comply with the inspection or repair requirements after*  
31 *60 days, the enforcing agency shall send a 30-day corrective notice*  
32 *certified mail to the owner or owner's designated agent. If within*  
33 *30 days of the date of the notice, the inspection is not completed,*  
34 *the owner of the multifamily building shall be assessed a daily*  
35 *civil penalty of one hundred dollars (\$100) per day, which shall*  
36 *constitute a lien against the property, until the inspection is*  
37 *complete.*

38 (2) *If a corrective notice is sent under this subdivision, the*  
39 *property owner or the owner's designated agent shall have 60*  
40 *days from the completion of the inspection to complete the repairs,*

1 *unless an extension of time is granted by the local enforcing*  
2 *agency. If the repairs are not completed within the designated*  
3 *time, the property owner shall be assessed a civil penalty of one*  
4 *hundred dollars (\$100) per day, which shall constitute a lien*  
5 *against the property, until the repairs are completed.*

6 SEC. 2. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 a local agency or school district has the authority to levy service  
9 charges, fees, or assessments sufficient to pay for the program or  
10 level of service mandated by this act, within the meaning of Section  
11 17556 of the Government Code.

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ORDINANCE NO. 7,463-N.S.

AMENDING SECTION 12.48.055 OF THE BERKELEY MUNICIPAL CODE CHAPTER 12.48 (RESIDENTIAL RENTAL HOUSING SAFETY PROGRAM) REQUIRING INSPECTION AND CERTIFICATION OF WEATHER-EXPOSED ELEVATED ELEMENTS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Section 12.48.055 of the Berkeley Municipal Code is amended to read as follows:

**12.48.055 Inspection and certification of weather-exposed elevated elements extending beyond exterior walls**

All owners of apartment houses and hotels shall cause an inspection of all projecting weather-exposed elevated wood and metal decks, balconies, landings, stairway systems, guardrails, handrails, or any parts thereof within six months of adoption of this section, and every five years thereafter, by a licensed general contractor, structural pest control licensee, licensed architect, or licensed engineer to verify that the elements are in general safe condition, adequate working order, and do not exhibit signs of deterioration, decay, corrosion or similar damage that could pose a safety concern and there is no evidence of active water intrusion in concealed spaces of the inspected elements. Property owners shall provide proof of compliance with this section by submitting an affidavit form provided by the City. The affidavit shall be signed by the responsible inspecting party and submitted to the Housing Code Enforcement Office. For purposes of this section, "weather-exposed elevated elements" mean those areas which are not interior building areas, extend beyond exterior walls and are located more than six feet above adjacent grade. Newly constructed residential buildings shall be exempt for a period of five years following issuance of the Certificate of Occupancy for such buildings.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on February 23, 2016, this Ordinance was passed to print and ordered published by posting by the following vote:

- Ayes: Anderson, Arreguin, Capitelli, Droste, Maio, Moore, Wengraf, Worthington and Bates.
- Noes: None.
- Absent: None.

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At a regular meeting of the Council of the City of Berkeley held on March 8, 2016, this Ordinance was adopted by the following vote:

Ayes: Arreguin, Capitelli, Droste, Maio, Moore, Wengraf, Worthington and Bates.

Noes: None.

Absent: Anderson.

ATTEST: *Mark Numainville*  
Mark Numainville, City Clerk

*Tom Bates*  
Tom Bates, Mayor

Date signed: *March 11, 2016*