

BOARD of SUPERVISORS



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MEMORANDUM

TO: Jeff Kositsky, Director, Department of Homelessness and Supportive Housing
Nicole Elliott, Mayor's Office
Sam Dodge, Director, Housing Opportunity, Partnership and Engagement
Toney D. Chaplin, Acting Chief of Police, Police Department
Mohammed Nuru, Director, Public Works
Jon Givner, City Attorney's Office
Olson Lee, Director, Mayor's Office of Housing and Community Development

FROM: Erica Major, Assistant Clerk, Public Safety and Neighborhood Services
Committee, Board of Supervisors

DATE: July 27, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Kim on July 12, 2016:

File No. 160791

Ordinance amending the Police Code to provide a process for the removal of encampments when housing or shelter is available for encampment residents, and authorizing the Department of Homelessness and Supportive Housing to develop protocols governing the removal and storage of personal property when removing an encampment.

If you have any 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.

c:
Christine Fountain, Police Department
Dee Schexnayder, Housing Opportunity, Partnership and Engagement
Christine Keener, Housing Opportunity, Partnership and Engagement
Frank Lee, Public Works
Fuad Sweiss, Public Works
Eugene Flannery, Mayor's Office of Housing and Community Development

1 [Police Code - Process for Removal of Encampments and Transition to Housing]

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3 **Ordinance amending the Police Code to provide a process for the removal of**
4 **encampments when housing or shelter is available for encampment residents, and**
5 **authorizing the Department of Homelessness and Supportive Housing to develop**
6 **protocols governing the removal and storage of personal property when removing an**
7 **encampment.**

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

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

17 Section 1. The Police Code is hereby amended by adding Section 169, to read as
18 follows:

19 **SEC. 169. PROCESS FOR REMOVAL OF ENCAMPMENTS AND TRANSITION TO**
20 **HOUSING.**

21 *(a) Findings.*

22 *(1) The United States Interagency Count on Homelessness 2015 report, "Ending*
23 *Homelessness for People Living in Encampments," prepared at the request of the Obama*
24 *administration, recommends an encampment clearance process that involves the active participation of*
25 *homeless persons living in such encampments and recommends that people be transitioned from*
encampments into housing of greater stability.

1 (2) San Francisco is committed to a housing-first model for addressing homelessness,
2 which has proven successful in numerous jurisdictions, and its encampment removal policy and
3 procedures must acknowledge that the removal of encampments alone is insufficient to end
4 homelessness in San Francisco.

5 (3) On June 29, 2016, the Mayor signed legislation creating a new Department of
6 Homelessness and Supportive Housing, effective July 29, 2016. This new department will be charged
7 with managing and directing all housing, programs, and services for homeless persons in the City
8 including, but not limited to, street outreach, homeless shelters, transitional housing, and permanent
9 supportive housing. In recognition of the establishment of the new department, the Board of
10 Supervisors intends to provide policy guidance, while recognizing that the department, with its
11 expertise, should be given the opportunity to work in collaboration with community partners to develop
12 more detailed operational protocols.

13 (b) Definitions. For purposes of this Section 169:

14 “Behavioral Health Services” shall mean services designed to improve the mental health of
15 individuals or address alcohol dependency and/or drug abuse.

16 “City” shall mean the City and County of San Francisco.

17 “Department” shall mean the Department of Homelessness and Supportive Housing.

18 “Encampment” shall mean a tent, tarpaulin, or other non-permanent structures used as
19 temporary quarters for sleeping and shelter.

20 “Group of Encampments” shall mean a group of no fewer than six Encampments all located
21 within 200 feet of one another.

22 “Homeless Services” shall mean resources or services provided by or through the Department
23 of Homelessness and Supportive Housing, its contractors, or grantees, including but not limited to case
24 management, job training services, health services, and Behavioral Health Services.

1 “Housing Exits” shall mean any service or placement that offers a homeless individual or
2 household a stable place to live.

3 “Personal Property” shall mean any tangible property, and includes, but is not limited to,
4 goods, materials, merchandise, tents, tarpaulins, bedding, blankets, sleeping bags, personal items such
5 as household items, luggage, backpacks, clothing, food, documents, and medication.

6 “Shelter” shall mean temporary shelter provided by the City, including but not limited to
7 homeless shelters and Navigation Centers.

8 “Transitional Housing” shall mean a project which provides housing and supportive services to
9 homeless persons and households and which has as its purpose the facilitation of movement of
10 homeless persons and households to independent living within a reasonable amount of time.

11 (c) Process for Removal of Encampments.

12 (1) Before the City issues an order requiring the permanent removal of an
13 Encampment, the City shall:

14 (A) identify and offer specific Shelter, Transitional Housing, or Housing
15 Exits for residents of the Encampment. Individuals who are offered and accept Shelter will be permitted
16 to stay in Shelter for no fewer than 90 days. During the first 30 days of an individual’s stay in Shelter,
17 the Department of Homelessness and Supportive Housing shall develop with them a housing plan that
18 will outline the steps the individual must take to permit a move to Transitional Housing or a Housing
19 Exit. The City shall also offer homeless services to persons, as appropriate; and

20 (B) provide no less than 7 and no more than 14 days’ notice in advance of
21 any action to remove the Encampment. Notice shall be in writing and shall be served personally on the
22 residents of the Encampment present when the City official or employee attempts to serve notice. In
23 addition, the City official or employee shall post the notice on or near the Encampment, so as
24 reasonably to communicate the notice to persons living at the Encampment but not present during the
25

1 attempt to serve notice. The notice shall follow a format developed by the Department of Homelessness
2 and Supportive Housing and approved by the City Attorney.

3 (2) Before the City issues an order requiring the permanent relocation of a Group of
4 Encampments, the City shall comply with the requirements set forth in subsection (c)(1), and the
5 Department of Homelessness and Supportive Housing shall also:

6 (A) develop a written relocation plan, in consultation with residents of the
7 Group of Encampments, outlining the steps that will be taken to relocate such residents, based on
8 policies and procedures approved by the Department which must be consistent with the principles
9 contained in the United States Interagency Count on Homelessness 2015 report, "Ending
10 Homelessness for People Living in Encampments"; and

11 (B) notify residential and commercial neighbors located within one block of
12 the Group of Encampments of the City's plans to order the removal of the Group of Encampments.
13 Such notice shall describe the relocation plan and provide contact information for a representative of
14 the Department of Homelessness and Supportive Housing who can answer community inquiries. This
15 notice shall follow a format developed by the Department of Homelessness and Supportive Housing
16 and approved by the City Attorney.

17 (3) The requirements of subsections (c)(1) and (c)(2) shall not apply where the City
18 orders the temporary relocation of an Encampment or Group of Encampments for the purpose of
19 engaging in City operations, such as street cleaning or repairs.

20 (4) The requirements of subsection (c)(1)(B) shall not apply if the City finds that the
21 immediate relocation of Encampment residents is necessary due to an immediate threat to public health
22 or safety; provided, however, that the City shall give residents of the Encampment whatever notice is
23 reasonable under the circumstances before the removal occurs.

24 (5) The Department of Homelessness and Supportive Housing shall explore the
25 creation of additional shelter and housing options to facilitate the removal of Encampments, including

1 but not limited to additional Navigation Centers, pop-up temporary shelters, or temporary
2 campgrounds.

3 (6) Nothing in this Section 169 shall be interpreted to preclude the City from
4 enforcing any other city or state law.

5 (7) Nothing in this Section 169 shall be interpreted to preclude the City from
6 providing other services to homeless persons, including but not limited to homeless persons not living
7 in encampments.

8 (d) Removal and storage of personal property. The Department of Homelessness and
9 Supportive Housing, in consultation with the Department of Public Works and the City Attorney, shall
10 develop procedures for the removal, storage, and retrieval of Personal Property located in an
11 Encampment at the time the City orders the permanent removal of the Encampment. These procedures
12 shall allow a person residing in an Encampment who is present at the time the City orders removal of
13 the Encampment to retain his or her Personal Property, except any items constituting an immediate
14 threat to the health or safety of the public or items that constitute evidence of a crime or contraband.
15 These procedures will also address the circumstances under which the City shall store the Personal
16 Property of persons residing in an Encampment who are not present at the time the City orders
17 removal of the Encampment, and the process for retrieval of such Personal Property.

18 (e) Report to Local Homeless Coordinating Board. Within 90 days of the execution of an order
19 to permanently remove a Group of Encampments, as set forth in subsection (c)(2), the Department of
20 Homelessness and Supportive Housing shall present a report on the action to the Local Homeless
21 Coordinating Board. The report shall include, but not be limited to:

22 (1) the written relocation plan described in subsection (c)(2)(A);

23 (2) the factors that informed the City's decision to take action regarding the specific
24 Group of Encampments;

1 (3) the number of Encampments removed and the number of Encampment residents
2 relocated, and any other information needed for the Local Homeless Coordinating Board to assess
3 whether the removal was conducted in a manner that adhered to the principles contained in the United
4 States Interagency Count on Homelessness 2015 report, “Ending Homelessness for People Living in
5 Encampments”; and

6 (4) the status of any housing plans developed for residents of the Group of
7 Encampments pursuant to subsection (c)(1).

8 (f) Rules and regulations. The Department of Homelessness and Supportive Housing may issue
9 regulations or guidelines necessary or appropriate to aid in the implementation of this Section 169 and
10 may create any additional procedures consistent with this Section necessary or appropriate to protect
11 the property rights of individuals whose property is seized pursuant to this Section. Prior to the final
12 issuance of any rules or regulations, the Department shall seek the input of homeless individuals,
13 formerly homeless individuals, and organizations that work on homelessness.


14 (g) Undertaking for the general welfare. In enacting and implementing this Section 169, the
15 City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it
16 imposing on its officers and employees, an obligation for breach of which it is liable in money damages
17 to any person who claims that such breach proximately caused injury.

18 (h) Severability. If any subsection, sentence, clause, phrase, or word of this Section 169, or any
19 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
20 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
21 portions of applications of this Section. The Board of Supervisors hereby declare that it would have
22 adopted this Section and each and every subsection, sentence, clause, phrase, and word not declared
23 invalid or unconstitutional without regard to whether any other portion of this Section or application
24 thereof would be subsequently declared invalid or unconstitutional.

1 invalid or unconstitutional without regard to whether any other portion of this Section or application
2 thereof would be subsequently declared invalid or unconstitutional.

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4 Section 2. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

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9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: 
12 Anne Pearson
13 Deputy City Attorney

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LEGISLATIVE DIGEST

[Police Code - Process for Removal of Encampments and Transition to Housing]

Ordinance amending the Police Code to provide a process for the removal of encampments when housing or shelter is available for encampment residents, and authorizing the Department of Homelessness and Supportive Housing to develop protocols governing the removal and storage of personal property when removing an encampment.

Existing Law

City law does not provide a process governing the City's removal of tent encampments.

Amendments to Current Law

This ordinance will create a process the City must follow when exercising its existing legal authority to order the permanent removal of an encampment. For purposes of this ordinance, an encampment is defined as "a tent, tarpaulin, or other non-permanent structure used as temporary living quarters for sleeping and shelter."

Prior to ordering the permanent removal of an encampment, the City must identify and offer specific shelter, transitional housing, or other stable housing opportunities to the residents of the encampment. The City must also provide encampment residents with at least 7 days' advance notice of the City's action to remove the Encampment. Such notice must be in writing and must be delivered to the encampment residents personally if they are present at the time the City attempts to serve the notice. The notice must also be posted on or near the encampment.

When the City orders the removal of a group of at least six encampments that are all located within 200 feet of one another, in addition to identifying and offering shelter and providing advance notice of the removal, the City also must develop a written relocation plan outlining the steps that will be taken to relocate the Encampment residents, and must notify residential and commercial neighbors within one block of the group of encampments of the City's plans. Where the City orders the removal of a group of at least six encampments, it must present a report to the Local Homeless Coordinating Board including information about the factors that informed the City's decision to take action regarding the specific group of encampments, the number of encampments that were removed, the number of residents who were relocated, and the status of any housing plans developed on behalf of those residents.

The City will not be required to follow the removal process outlined in the ordinance when it is requiring encampments to move temporarily in order to permit City operations, such as street

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cleaning. In addition, the City will not be required to provide seven days' advance notice of the removal order if the City finds that the immediate relocation of residents is necessary due to a public health or safety emergency.

The ordinance will require the Department of Homelessness and Supportive Housing to develop a protocol governing the removal, storage and retrieval of personal property located in an encampment at the time the City orders its permanent removal.

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