

BOARD of SUPERVISORS



City Hall
1 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

TO: Mohammed Nuru, Director, Public Works
Douglas Legg, Acting Assessor-Recorder, Office of the Assessor
Recorder

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

DATE: July 30, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Peskin on July 23, 2019:

File No. 190810

Ordinance amending the Administrative Code and Public Works Code to require that any resolution approving a jurisdictional transfer of real property (a transfer of the authority over City-owned real property between City departments) be recorded in the Office of the Recorder together with a legal description and map of the real property; to require that any petition to the Board of Supervisors for a street vacation include a legal description and County Surveyor-approved map, and that the Clerk of the Board record in the Office of the Recorder a copy of the adopted Ordinance together with the legal description and map; 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.

c: David Steinberg, Public Works
Jeremy Spitz, Public Works
Jennifer Blot, Public Works
John Thomas, Public Works
Lena Liu, Public Works
Holly Lung, Office of the Assessor-Recorder

1 [Administrative, Public Works Codes - Recording of Jurisdictional Transfers and Street
2 Vacations]

3 **Ordinance amending the Administrative Code and Public Works Code to require that**
4 **any resolution approving a jurisdictional transfer of real property (a transfer of the**
5 **authority over City-owned real property between City departments) be recorded in the**
6 **Office of the Recorder together with a legal description and map of the real property; to**
7 **require that any petition to the Board of Supervisors for a street vacation include a**
8 **legal description and County Surveyor-approved map, and that the Clerk of the Board**
9 **record in the Office of the Recorder a copy of the adopted Ordinance together with the**
10 **legal description and map; and affirming the Planning Department’s determination**
11 **under the California Environmental Quality Act.**

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

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

20 Section 1. The Planning Department has determined that the actions contemplated in
21 this ordinance comply with the California Environmental Quality Act (California Public
22 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
23 Board of Supervisors in File No. _____ and is incorporated herein by reference. The
24 Board affirms this determination.

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1 Section 2. Article II of Chapter 23 of the Administrative Code is hereby amended by
2 revising Section 23.19, to read as follows:

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4 **SEC. 23.19. RECORD OF TRANSFER.**

5 (a) Any resolution transferring any Real Property from one department to another under this
6 Article II shall identify the Assessor's Parcel Number (if any) and shall be accompanied by a plat map
7 and verified legal description, or, if there is no verified legal description, shall be accompanied instead
8 by an Assessor's Block Map and narrative description referencing the Assessor's Block Map that
9 includes sufficient information to identify the geographic location and dimensions of the Real Property
10 being transferred; and shall include the receiving department's mailing address for tax bills and
11 notices. For purposes of this Section 23.19, a "verified legal description" is either the legal
12 description in the City's title insurance policy for the Real Property or a legal description approved by
13 the County Surveyor. Upon introduction of the resolution, the requesting department shall submit the
14 map, description, and department mailing address required in this subsection (a) to the Clerk of the
15 Board of Supervisors.

16 (b) When the Board of Supervisors adopts any resolution transferring any Real
17 Property within the City and County of San Francisco from one department to another under this
18 Article II, the Clerk of the Board of Supervisors shall cause a certified copy of the adopted resolution,
19 including map and description to be recorded without acknowledgment, certificate of acknowledgment,
20 or further proof, in the Office of the Recorder. The Office of the Recorder shall not charge a recording
21 fee in connection with this recordation. For all transfers of any Real Property from one department to
22 another under this Article, the Director of Property shall keep a digital copy of the resolution in
23 his or her the Director's office and make the necessary record of the transfer.

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1 Section 3. Article 15 of the Public Works Code is hereby amended by revising Section
2 787, to read as follows:

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4 **SEC. 787. STREET VACATIONS.**

5 (a) Upon petition to the Board of Supervisors for any street vacation, the Board of
6 Supervisors will refer the request to the Director of Public Works for investigation and
7 recommendation. The street vacation procedure shall be in accordance with the applicable
8 provisions of the Streets and Highways Code of the State of California and such rules and
9 conditions adopted by the Board of Supervisors. The Department of Public Works shall submit to
10 the Board of Supervisors with any petition submitted by the Department of Public Works or any
11 recommendation regarding a street vacation, a legal description, the Assessor's Parcel Number(s) or
12 reserved Assessor's Parcel Number(s), and a County Surveyor-approved map of the area.

13 (b) The Clerk of the Board of Supervisors shall cause a certified copy of any adopted ordinance
14 of vacation, together with the information required in subsection (a), and attested by the Clerk under
15 seal, to be recorded without acknowledgment, certificate of acknowledgment, or further proof, in the
16 Office of the Recorder. The Office of the Recorder shall not charge a recording fee for this
17 recordation.

18 (bc) The Board of Supervisors finds that unimproved streets in the Bernal Heights area
19 are an important open space resource to the citizens in the area where the lots are small, the
20 streets are narrow, and space is at a premium. Therefore the Board of Supervisors declares
21 that it is the policy of the City and County of San Francisco not to vacate unimproved streets
22 and sell, transfer, or relinquish its interest in the underlying property to private ownership in
23 the Bernal Heights area bounded by Army Street on the north, Mission Street on the west,
24 Interstate 280 on the south and Highway 101 on the east except not to include Esmeralda
25 Avenue, between Brewster Street and Holladay Avenue. These streets shall be kept as open

1 space, unless the Board of Supervisors finds that the streets are needed for public passage
2 and proposes to improve and accept them for the same purpose.

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4 Section 4. 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 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
13 additions, and Board amendment deletions in accordance with the "Note" that appears under
14 the official title of the ordinance.

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1 Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word
2 of this ordinance, or any application thereof to any person or circumstance, is held to be
3 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
4 shall not affect the validity of the remaining portions or applications of the ordinance. The
5 Board of Supervisors hereby declares that it would have passed this ordinance and each and
6 every section, subsection, sentence, clause, phrase, and word not declared invalid or
7 unconstitutional without regard to whether any other portion of this ordinance or application
8 thereof would be subsequently declared invalid or unconstitutional.

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

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13 By: 
14 EILEEN K. CHAUVET
15 Deputy City Attorney
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LEGISLATIVE DIGEST

[Administrative, Public Works Codes - Recording of Jurisdictional Transfers and Street Vacations]

Ordinance amending the Administrative Code and Public Works Code to require that any resolution approving a jurisdictional transfer of real property (a transfer of the authority over City-owned real property between City departments) be recorded in the Office of the Recorder together with a legal description and map of the real property; to require that any petition to the Board of Supervisors for a street vacation include a legal description and County Surveyor-approved map, and that the Clerk of the Board record in the Office of the Recorder a copy of the adopted Ordinance together with the legal description and map; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

San Francisco Administrative Code Sections 23.10 through 23.20 govern the transfer of the authority over City Real Property from one department to another (commonly called a "jurisdictional transfer"). There are no requirements for the description of the Real Property or notification of the jurisdictional transfer to the Office of the Assessor Recorder.

San Francisco Public Works Code Section 787 provides that the petition for a street vacation will be referred to the Director of Public Works for investigation and recommendation and otherwise be in accordance with the California Streets and Highways Code. State law requires that the approved petition must be recorded, but does not mandate the specific contents of the petition.

Amendments to Current Law

San Francisco Administrative Code Section 23.19 is amended to require that legislation transferring the authority over City Real Property from one department to another must include a plat map and verified legal description of the Real Property, or a narrative description that refers to the Assessor's Block Map and sufficiently identifies the location and dimensions of the property to be transferred. A verified legal description is the description included in the City's title insurance policy for the Real Property or approved by the County Surveyor. Once the legislation has been passed by the Board of Supervisors, the Clerk of the Board of Supervisors will submit to the Recorder's office the resolution and the accompanying legal description and plat map and new department contact information for tax bills and notices.

San Francisco Public Works Code Section 787 is amended to require that petition for a street vacation submitted to the Board of Supervisors must include a legal description and a County Surveyor-approved map of the area to be vacated. In addition, the Clerk of the Board of

FILE NO. 190810

Supervisors will transmit the adopted ordinance, together with the legal description and the required map, to the Recorder for recording.

Background Information

Under current law, the Assessor would not receive notice of jurisdictional transfers between City Departments, which transfer may result in an assessable interest.

Under the current law, street vacation ordinances would not be consistently be sent to the Recorder with a map, legal description, or Assessor's Parcel Number, which causes problems for indexing.

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