

FILE NO. 011498

ORDINANCE NO. 227-02

1 [Identification and Use of Surplus City Property for Housing for the Homeless.]

2  
3 **Ordinance adding San Francisco Administrative Code Chapter 23A to identify and**  
4 **establish Board policy regarding surplus, unutilized and underutilized City real**  
5 **property for housing for the homeless.**

6  
7 Note: Additions are single-underline italics Times New Roman;  
8 deletions are ~~strikethrough italics Times New Roman~~.  
9 Board amendment additions are double underlined.  
10 Board amendment deletions are ~~strikethrough-normal~~.

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

12 Section 1. The San Francisco Administrative Code is hereby amended by adding a  
13 new Chapter 23A, to read as follows:

14 Sec. 23A.1. Title. This ordinance may be cited as the "Surplus City Property Ordinance."

15 Sec. 23A.2. Findings. The Board of Supervisors of the City and County of San Francisco  
16 hereby finds:

17 (a) Homelessness in San Francisco is a crisis. The Mayor's Offices of Community  
18 Development and Housing estimate that there are 3,125 homeless families and 9,375 homeless  
19 individuals in San Francisco.

20 (b) The main causes of homelessness are high cost of living, lack of affordable housing units,  
21 welfare reform, de-institutionalization of the mentally ill, substance abuse and San Francisco's unique  
22 place as a destination point. These causes are identified by the Mayor's Offices of Community  
23 Development and Housing in the 2000 Consolidated Plan.

24 (c) For homeless individuals and families, there is an unmet need of 3,187 housing slots for  
25 individuals and 2,025 slots for families.

1 (d) Surplus City property could be utilized to provide housing to homeless men, women and  
2 children.

3 (e) Surplus City property that is unsuitable for housing could be sold to generate income for  
4 permanent housing for people who are homeless.

5 (f) San Francisco's housing stock is unaffordable for many residents. The average rent for a  
6 two-bedroom apartment increased by 110% from 1980 to 1990, while the overall cost of living  
7 increased by 64%. At \$1,940, the average two-bedroom unit is out of reach to households earning less  
8 than \$77,600 per year, based on the Department of Housing and Urban Development's standards.

9 (g) San Francisco is experiencing a severe shortage of housing for low-income people,  
10 resulting in a negligible vacancy rate for habitable ~~low-income~~ housing for persons earning less  
11 than half of the area median income.

12 (h) Many ~~low-income~~ renters are unable to locate rental housing of any kind. These persons  
13 are increasingly seeking shelter in already overcrowded emergency shelters and, when such shelters  
14 are full, finding themselves on the City's streets.

15 (i) Existing rental housing constitutes much of the remaining ~~low-income~~ affordable housing  
16 in the City. The number of such units is diminishing as a result of increased pressures for more  
17 development both downtown and in many neighborhoods.

18 (j) Frequently, real estate speculation results in the premature closure of existing habitable  
19 buildings and the withdrawal of existing rental units from the market long before such closure would be  
20 needed for any physical redevelopment of such sites.

21 (k) The Board of Supervisors and the Mayor have concurred with the findings of the City's  
22 Health Commission that there exists a health and housing emergency, as enumerated in Board  
23 Resolution 537-01, adopted by the Board of Supervisors on June 25, 2001 and approved by the Mayor  
24 on July 6, 2001.

1           (l) Under the City's Charter, a number of City Commissions and Departments, including the  
2 Port, the Airport, the Public Utilities Commission, the Municipal Transportation Agency, the  
3 Recreation and Parks Commission and the Fine Arts Museums Board of Trustees have jurisdiction and  
4 control of their respective Property, and, thus, the provisions of this Chapter regarding declaring  
5 Property surplus or conveying Property shall operate only as recommendations of policy to such  
6 departments and Commissions.

7           (m) State law includes a number of statutes that potentially govern the disposition of surplus  
8 City Property, including Government Code Section 54220 et. seq. (the "State Surplus Property  
9 Statute"). Under the State Surplus Property Statute, State agencies and subdivisions of the State,  
10 including cities or counties, disposing of surplus real property must first send a written offer to sell  
11 surplus property to and negotiate in good faith the conveyance of such surplus property with certain  
12 local agencies designated by the State for affordable housing, recreation, open space and school  
13 purposes. Any conveyances of Surplus Property under this Chapter would be subject to and would first  
14 need to comply with applicable State law, including the State Surplus Property Statute, and the  
15 application of the State Surplus Property Statute may preclude or impair disposing of Surplus Property  
16 for the purposes and in the manner set forth in this Chapter.

17           **Sec. 23A.3. Purpose.** The purpose of this ordinance is to:

18           (a) Identify and use surplus City-owned property for the purpose of providing housing,  
19 shelter, and other services for people who are homeless;

20           (b) Help relieve the crisis of homelessness in the City and County of San Francisco;

21           (c) Provide low or no cost facilities for agencies serving homeless people;

22           (d) Provide "sweat-equity" opportunities for homeless people to create permanent housing  
23 opportunities through rehabilitation and repair of the units;

24           (f) Create a centralized mechanism to responsibly dispose of surplus City property in a  
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1 manner that will help ensure that the property or its proceeds will be used for purposes consistent with  
2 this Chapter.

3 Sec. 23A.4. Definitions. For purposes of this section:

4 (a) "Administrator" shall mean the City Administrator as set forth in Section 3.104 of the City's  
5 Charter.

6 (b). "Homeless" shall mean:

7 1. an individual or family who lacks a fixed, regular and adequate nighttime  
8 residence; or

9 2. an individual or family who has a primary nighttime residence that is:

10 A. a supervised publicly or privately operated shelter designed to provide  
11 temporary living accommodations; or

12 B. an institution that provides a temporary residence for individuals who have  
13 been institutionalized; or

14 C. a public or private place not designed for, or ordinarily used as, a regular  
15 sleeping accommodation for human beings.

16 (c) "Property" shall mean any real property owned by the City and County of San Francisco,  
17 excluding land and buildings reserved for open space or parks purposes, or roads, or transit lines, or  
18 public utility rights-of-way or any publicly dedicated streets or rights-of-way.

19 (d) "Surplus Property" shall mean any Property that is not required to fulfill the mission of the  
20 City department, commission or agency with jurisdiction or control of such Property or that would not  
21 fulfill the mission of another governmental agency pursuant to an inter-governmental transfer;

22 (e) "Underutilized Property" shall mean an entire Property or portion thereof, with or without  
23 improvements, that is used by the City only at irregular periods of time or intermittently, or that is used  
24 by the City for current purposes that can be satisfied with only a portion of such Property, or that is not  
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1 currently occupied or used by the City and for which there are no plans by the City to occupy or use  
2 such Property within the next fiscal year.

3 **Sec. 23A.5. Agency Review of Property.**

4 {By April 1<sup>st</sup> of each year}, each City Commission, department or agency shall compile and  
5 deliver to the Administrator a list of all Property that it occupies or is otherwise under its control. The  
6 list shall include at least the following:

7 (a) The street address of the Property (if there is one), and the Assessor's block and lot number;

8 (b) A general description of the Property, including the current use of the Property or any  
9 planned use of the Property within the next fiscal year;

10 (c) A general description of any structure(s) on the Property as well as an assessment of their  
11 physical condition;

12 (d) Whether the Property is now vacant or scheduled or anticipated to be vacant within the next  
13 fiscal year;

14 (e) If the Property is vacant or contains vacant structures, whether the Commission, department  
15 or agency deems the Property to be "Surplus," or "Underutilized" as defined in this Section; and

16 (f) A general summary of the terms and conditions of any gift, trust, deed restriction, bond  
17 covenant or other covenants or restrictions, deed of trust, lease, license, easement, use agreement or  
18 other agreement applicable to the use or disposition of such Property.

19 Each City department or agency shall maintain or shall work with the Administrator to  
20 maintain adequate inventory and accountability systems for the Property under its control to determine  
21 which Properties are Surplus or Underutilized for purposes of this Chapter, and shall reasonably  
22 cooperate with requests for information from the Administrator or the Surplus Property Citizen's  
23 Committee.

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1           **Sec. 23A.6. Compilation of Information by Administrator.**

2           By June 1<sup>st</sup> of each year, the Administrator shall compile the information described in Section  
3 23A.5 above into a comprehensive report, including a description of the zoning applicable to and  
4 surrounding such Properties (the "Surplus Property Report") and transmit the Surplus Property  
5 Report to the Board of Supervisors and to the Surplus Property Citizens' Committee described in  
6 Section 23.A9 below. The Administrator shall maintain and release written records of all  
7 information compiled under this Chapter in conformance with all state and local laws governing the  
8 retention and disclosure of public records.

9           **Sec. 23A.7 Publication of Surplus Properties List**

10           By June 15<sup>th</sup> of each year, the Administrator shall publish the then current Surplus Property  
11 Report on the City's web site. Additionally, the Administrator shall transmit notice of the availability  
12 of the Surplus Property Report and the applications described in Section 23A.8 below to those private  
13 and public agencies that serve the Homeless that are identified on a list approved by the Board of  
14 Supervisors by motion and transmitted to the Administrator. The Administrator shall maintain a  
15 public information telephone number to provide the public with specific information about properties  
16 on the Surplus Property Report and the application process described below.

17           **Section 23.A8 Application for Property.**

18           A non-profit agency serving the Homeless may submit an application to lease or acquire  
19 Property that is listed as Surplus or Underutilized in any Surplus Property Report for use to assist the  
20 Homeless. The application form shall be developed by the Administrator. Such application form shall  
21 require the applicant to describe in detail (i) the type of conveyance the applicant seeks (i.e., a lease for  
22 a specific term or transfer of fee title) and the compensation, if any, the applicant proposes to pay for  
23 such conveyance, (ii) the intended use of the Property, including how it relates to the priorities of uses  
24 set forth in Section 23A.10 below; (iii) a specific plan and schedule for the development or  
25 improvement of the Property, including compliance with all applicable federal, state and local laws,

1 including, without limitation, laws regarding disabled access, health, building and safety codes, and  
2 environmental compliance with the California Environmental Quality Act ("CEQA"), California  
3 Public Resources Code Sections 21000 et. seq., and San Francisco Administrative Code Chapter 31;  
4 and (iv) evidence of a plan to secure adequate financial resources to develop, improve, insure,  
5 manage and maintain the Property. The Administrator must provide in each application packet sent to  
6 interested persons contact information: (a) identifying any independent organizations working on  
7 behalf of homeless people that can assist homeless service providers in resolving any problems that  
8 may arise in the application processes; and (b) City staff persons who are available to assist in the  
9 application process. An applicant must submit a written notice of intent to apply to the Administrator  
10 by July 15<sup>th</sup> of each year and a complete application to the Administrator by September 15<sup>th</sup>. The  
11 Administrator may, in its sole discretion, grant extensions of the deadline for submitting a completed  
12 application, provided in no event shall such extensions exceed thirty (30) days.

13 ~~Sec. 23A.9. Surplus Property Citizens' Committee.~~

14 ~~There shall be a Surplus Property Citizens' Committee of nine members. Five members shall be~~  
15 ~~appointed by the Board of Supervisors by motion. Three members shall be appointed by the Mayor,~~  
16 ~~two of whom shall be Executive Directors of City departments or their designees. One member shall be~~  
17 ~~appointed by the Controller. A representative from the Department of Real Estate shall serve as an ex-~~  
18 ~~officio member, but may not vote. Members shall include at least one person who is Homeless or~~  
19 ~~formerly Homeless, at least one person from an organization working with Homeless individuals, and~~  
20 ~~at least one person who is a representative from a non profit housing development "entity" or~~  
21 ~~"developer". The Surplus Property Citizen's Committee shall comply with all applicable public~~  
22 ~~records and meetings laws and shall be subject to the Conflict of Interest provisions of the City's~~  
23 ~~Charter and Administrative Code.~~

24 ~~///~~

25 ~~///~~

1            Sec. 23A.10. Recommendations of Surplus Property Citizen's Committee. Board of  
2 Supervisors Review and Criteria.

3            ~~The Surplus Property Citizen's Committee shall review each Surplus Property Report and any~~  
4 ~~applications for such Surplus or Underutilized Property submitted to the Administrator under Section~~  
5 ~~23A.8 above. Based on such review and testimony from such public hearings as the Surplus Property~~  
6 ~~Citizen's Committee may hold, by December 15th of each year, the Surplus Property Citizen's~~  
7 ~~Committee shall make written recommendations to the Board of Supervisors as to (i) Property that was~~  
8 ~~not listed by the City as Surplus or Underutilized Property, but which should be so listed in the next~~  
9 ~~year's Surplus Property Report, (ii) which Property included in that year's Surplus Property Report as~~  
10 ~~Surplus or Underutilized Property is suitable for disposition for the purpose of directly assisting people~~  
11 ~~who are homeless, (iii) which applications for use of such Surplus or Underutilized Property should be~~  
12 ~~granted, and (vi) which Property should be disposed of for other uses, but the proceeds of which~~  
13 ~~should be applied as set forth in Section 23A.10 (iii) below.~~

14            ~~In making its recommendations under this Section 23A.10, the Surplus Property Citizen's~~  
15 ~~Committee~~ The Board of Supervisors shall be guided by the following policy regarding the  
16 disposition of Surplus and Underutilized Property, which policy shall be the official policy of the City,  
17 until the Board of Supervisors adopts a new policy by ordinance or July 1, 2004, which ever  
18 is sooner.

19            Subject to any disposition priority required by State law and other limitations expressly  
20 set forth herein, Surplus and Underutilized Property shall be used in the following order of priority:

21            (i) first, for the development of affordable housing for people who are Homeless at the  
22 time they receive such housing and persons earning less than 20% of the Area Median Income  
23 for the San Francisco PMSA as established by the United States Department of Housing and  
24 Urban Development and reported by the Mayor's Office of Housing. Provided that:

25            1. The housing shall remain affordable for the useful life of the Property;



1 2. Tenants' rents in such housing shall not exceed 2533% of the tenant's income;

2 3. Projects in which people who are Homeless rehabilitate and renovate property in  
3 exchange for their tenancy or "sweat equity" in the property shall be encouraged.

4 (ii) second, for other services for people who are Homeless or for non-profit agencies  
5 servng people who are Homeless-, including not limited to job training, senior services, healthcare  
6 and childcare for people who are homeless.

7 ~~(iii) Property that is unsuitable for the uses described in Section (i) and (ii) above~~  
8 ~~(because the property is unsafe, inconveniently located or is located in an area inappropriate for~~  
9 ~~housing, or cannot not meet the purposes of this Chapter) should be sold in accordance with the~~  
10 ~~requirements of Administrative Code Sec. 23.3 and other applicable laws, with the net proceeds of such~~  
11 ~~conveyance to be reserved exclusively for the purpose of financing affordable housing in~~  
12 ~~San Francisco.~~

13 **Sec. 23A.11. Disposition and Utilization of Surplus, Underutilized and Unutilized Property.**

14 (a) Subject to (i) the terms and conditions of any gift, trust, deed restriction, bond covenant or  
15 other covenants or restrictions, mortgage, deed of trust, lease, license, use agreement or other  
16 agreement applicable to such Property, (ii) state or federal laws related to the disposition of surplus  
17 City Property, including, without limitation, California Government Code Section 54220 et. seq., and  
18 (iii) the jurisdictional authority over City Property granted to certain Commissions under the City's  
19 Charter, including, without limitation, as set forth in Charter Sections 4.112, 4.113, 4.114, 4.115,  
20 5.101, 8A.102, the Board of Supervisors may by resolution direct the Administrator (in cooperation  
21 with the City Attorney) to prepare documents regarding the conveyance of specific Surplus or  
22 Underutilized Property, prepare other documents related to potential discretionary acts of City related  
23 to a change in use or development of such Property, and present such documents to the Board of  
24 Supervisors and other City departments or Commissions with jurisdiction over such Property for their

1 ~~approval. In so directing the Administrator, the Board shall consider, but shall not be bound~~  
2 ~~by, the recommendations of the Surplus Property Citizen's Committee.~~

3 (b) Any final declaration that Property is Surplus or Underutilized and any final conveyance of  
4 Property under this Chapter shall be in accordance with and subject to all applicable laws, including  
5 (i) the terms and conditions of any gift, trust, deed restriction, bond covenant or other covenants or  
6 restrictions, mortgage, deed of trust, lease, license, use agreement or other agreement applicable to  
7 such Property, (ii) state or federal laws related to the disposition of surplus City Property, including,  
8 without limitation, Government Code Section 54220 et. seq., (iii) the jurisdictional authority over City  
9 Property granted to certain Commissions under the City's Charter, including, without limitation, as set  
10 forth in Charter Sections 4.112, 4.113, 4.114, 4.115, 5.101, 8A.102, and (iv) the requirements set forth  
11 in Administrative Code Sec. 23.3 of further Board of Supervisors approval by resolution or ordinance  
12 of final transaction documents after the completion of all required environmental review under CEQA.  
13 Any such duly approved conveyance may be at no cost or less than fair market value.

14 (c) Any conveyance of Property at less than fair market value or for homeless uses under  
15 this section shall include covenants that require that the Property be used in conformance with this  
16 Chapter and prohibits any purchaser of Property from reselling, transferring or subleasing Property  
17 at a profit, or such other "anti-speculation" requirements as the Executive Director of the Mayor's  
18 Office of Housing may approve.

19 **Sec. 23A.12. [Reserved]**

20 **Section 23A.13. General Welfare.** In undertaking this Surplus City Property Program, the City  
21 and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not  
22 assuming, nor is it imposing on its officers, commissions, and employees, an obligation for breach of  
23 which it is liable in money damages to any person who claims that such breach proximately caused  
24 injury.

1           Section 23A.14. Severability. If any section, subsection, subdivision, paragraph, sentence,  
2 clause or phrase of this Chapter 23A or any part thereof is, for any reason, held to be unconstitutional  
3 or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the  
4 validity or effectiveness of the remaining portions of this Chapter or any part thereof. The Board of  
5 Supervisors hereby declares that it would have passed each section, subsection, subdivision,  
6 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more section,  
7 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or  
8 invalid or ineffective.

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

11 By:   
12       Burk Delventhal  
13       Deputy City Attorney



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails

### Ordinance

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**File Number:** 011498

**Date Passed:**

Ordinance adding San Francisco Administrative Code Chapter 23A to identify and establish Board policy regarding surplus, unutilized and underutilized City real property for housing for the homeless.

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May 13, 2002 Board of Supervisors — SUBSTITUTED

October 28, 2002 Board of Supervisors — PASSED ON FIRST READING

Ayes: 7 - Ammiano, Daly, Gonzalez, Leno, Maxwell, Newsom, Sandoval

Noes: 2 - Hall, Yee

Absent: 2 - McGoldrick, Peskin

November 4, 2002 Board of Supervisors — CONTINUED

Ayes: 7 - Ammiano, Hall, Leno, McGoldrick, Newsom, Sandoval, Yee

Noes: 4 - Daly, Gonzalez, Maxwell, Peskin

November 12, 2002 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 9 - Ammiano, Daly, Gonzalez, Hall, Maxwell, McGoldrick, Newsom, Peskin, Sandoval

Absent: 2 - Leno, Yee

November 12, 2002 Board of Supervisors — CONTINUED AS AMENDED ON FINAL PASSAGE

Ayes: 9 - Ammiano, Daly, Gonzalez, Hall, Maxwell, McGoldrick, Newsom, Peskin, Sandoval

Absent: 2 - Leno, Yee

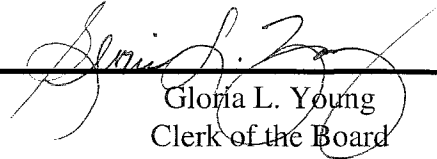
November 18, 2002 Board of Supervisors — FINALLY PASSED

Ayes: 8 - Ammiano, Daly, Gonzalez, Maxwell, McGoldrick, Newsom, Peskin, Sandoval

Absent: 3 - Hall, Leno, Yee

File No. 011498

I hereby certify that the foregoing Ordinance was FINALLY PASSED on November 18, 2002 by the Board of Supervisors of the City and County of San Francisco.

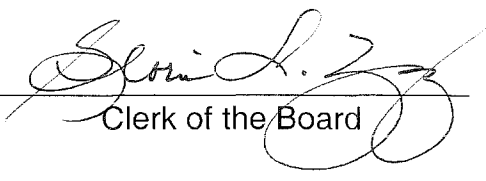
  
Gloria L. Young  
Clerk of the Board

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
Mayor Willie L. Brown Jr.

Date: November 26, 2002

I hereby certify that the foregoing ordinance, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.

  
Clerk of the Board

File No.  
011498