

BOARD of SUPERVISORS



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MEMORANDUM

TO: Carol Isen, Director, Department of Human Resources

FROM: Victor Young, Assistant Clerk, Rules Committee *Victor Young*
Board of Supervisors

DATE: June 24, 2024

SUBJECT: LEGISLATION INTRODUCED – MEET AND CONFER DETERMINATION

The Board of Supervisors' Rules Committee has received the following matter. This matter is being **referred** to you as it may require the Department of Human Resources to fulfill "**Meet and Confer**" requirements. Please review, assess the impact and provide proper noticing as required and report back to on the status of the "Meet and Confer" requirement.

File No. 240705 (ver1)

Hearing to consider the proposed Initiative Ordinance submitted by the Mayor to the voters for the November 5, 2024, Election, entitled "Ordinance amending the Administrative Code to 1) declare it official City policy to safeguard comprehensive reproductive freedoms; 2) establish a fund to receive monies to support reproductive rights and health services; 3) require the City to provide public information through website and signage about where abortions and emergency contraception may be available, including signage in front of limited services pregnancy centers that do not provide those services; 4) direct the City to identify and allocate funding that supports access to abortions and emergency contraception services in San Francisco; 5) prohibit City-funded providers from requiring providers to obtain additional medical qualifications not required by state or federal law; 6) restrict City officers and employees from cooperating with state or federal prosecutions as to reproductive health care that is provided or obtained lawfully in California; and 7) direct City departments to monitor changes in state and federal law that prevent discrimination on the basis of a person's reproductive health decision making; and amending the Planning Code to establish that reproductive health care centers that provide services for abortions and emergency contraception are principally permitted in non-residential zoning districts."

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@sfgov.org. To submit documentation, please email or forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM THE DEPARTMENT OF HUMAN RESOURCES - Date: _____

☒ **Meet and Confer requirement has been fulfilled.**

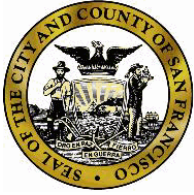
☐ **Meet and Confer requirement not applicable.**

☐ **Additional information attached.**



Department of Human Resources

c: Mawuli Tugbenyoh, Department of Human Resources
Aliya Chisti, Department of Human Resources



City and County of San Francisco

Master Report

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

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| File Number: 240705 | File Type: Hearing | Status: Pending Committee Action |
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| Enacted: | Effective: | |
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| Version: 1 | In Control: Rules Committee | |
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| File Name: Hearing - Initiative Ordinance - Administrative, Planning Codes - Reproductive Rights | Date Introduced: 06/18/2024 | |
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| Requester: | Cost: | Final Action: |
| <hr/> | | |
| Comment: | Title: Hearing to consider the proposed Initiative Ordinance submitted by the Mayor to the voters for the November 5, 2024, Election, entitled "Ordinance amending the Administrative Code to 1) declare it official City policy to safeguard comprehensive reproductive freedoms; 2) establish a fund to receive monies to support reproductive rights and health services; 3) require the City to provide public information through website and signage about where abortions and emergency contraception may be available, including signage in front of limited services pregnancy centers that do not provide those services; 4) direct the City to identify and allocate funding that supports access to abortions and emergency contraception services in San Francisco; 5) prohibit City-funded providers from requiring providers to obtain additional medical qualifications not required by state or federal law; 6) restrict City officers and employees from cooperating with state or federal prosecutions as to reproductive health care that is provided or obtained lawfully in California; and 7) direct City departments to monitor changes in state and federal law that prevent discrimination on the basis of a person's reproductive health decision making; and amending the Planning Code to establish that reproductive health care centers that provide services for abortions and emergency contraception are principally permitted in non-residential zoning districts." | |
| <hr/> | | |
| Sponsor: Mayor | | |

History of Legislative File 240705

| Ver | Acting Body | Date | Action | Sent To | Due Date | Result |
|-----|--------------------|------------|-----------------------|-----------------|----------|--------|
| 1 | President | 06/18/2024 | RECEIVED AND ASSIGNED | Rules Committee | | |
| 1 | Clerk of the Board | 06/18/2024 | RECEIVED | | | |

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BY

Rp

**PROPOSED INITIATIVE ORDINANCE AND DECLARATION OF POLICY TO BE
SUBMITTED BY THE MAYOR TO THE VOTERS AT THE NOVEMBER 5, 2024
ELECTION.**

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[Under Charter Sections 3.100(16) and 2.113(b), this measure must be submitted to the Board of Supervisors and filed with the Department of Elections no less than 45 days prior to the deadline for submission of such initiatives to the Department of Elections set in Municipal Elections Code Section 300(b).]

[Initiative Ordinance - Administrative, Planning Codes- Reproductive Rights]

Initiative ordinance amending the Administrative Code to 1) declare it official City policy to safeguard comprehensive reproductive freedoms; 2) establish a fund to receive monies to support reproductive rights and health services; 3) require the City to provide public information through website and signage about where abortions and emergency contraception may be available, including signage in front of limited services pregnancy centers that do not provide those services; 4) direct the City to identify and allocate funding that supports access to abortions and emergency contraception services in San Francisco; 5) prohibit City-funded providers from requiring providers to obtain additional medical qualifications not required by state or federal law; 6) restrict City officers and employees from cooperating with state or federal prosecutions as to reproductive health care that is provided or obtained lawfully in California; and 7) direct City departments to monitor changes in state and federal law that prevent discrimination on the basis of a person's reproductive health decisionmaking; and amending the Planning Code to establish that reproductive health care centers that provide services for abortions and emergency contraception are principally permitted in non-residential zoning districts.

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NOTE: **Unchanged Code text and uncodified text** are in plain font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Title.

This measure shall be known and may be cited as the "San Francisco Reproductive Freedom Act."

Section 2. Purpose and Findings.

(a) Comprehensive reproductive health care is a fundamental human right that should not be taken away, restricted, or denied.

(b) Access to safe and legal abortions, contraception, in vitro fertilization, and accurate information about reproductive health is a critical factor in the health, safety, and quality of life of women and people with capacity for pregnancy.

(c) According to recent studies conducted at the University of California San Francisco, people who obtained an abortion presented with fewer mental health struggles, were more financially stable, and raised children under more stable conditions, as compared to people who were unable to receive abortions.

(d) Despite the vital importance of women and people with the capacity for pregnancy maintaining bodily autonomy and access to the reproductive health care services they need, all around the country, many states and municipalities are taking away these critical services.

(e) The landmark Roe v. Wade decision protected access to abortion for nearly 50 years, and the United States Supreme Court's decision to overturn this long-established

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precedent took our country backwards and dramatically reduced access to abortion for millions of people. Many jurisdictions across the country have since weaponized their newfound ability to limit abortions, by criminalizing the procedure, controlling and monitoring pregnancies, and imposing onerous conditions on providers that make it harder and legally risky for them to operate.

(f) Access to abortion is fundamental to comprehensive reproductive health care. Abortion is a critical medical procedure that is the foundation of reproductive freedom and an essential aspect of routine pregnancy care and miscarriage management. Pregnant patients in states that restrict access to abortion are being forced to endure traumatic miscarriages, carry non-viable pregnancies, and experience other complications that can be life-threatening and dramatically risk their overall health and future fertility. Patients who need abortion care also are often forced to travel hours to access that care. If San Francisco residents or visitors experience difficulty or delays in obtaining care, it can lead them to seek more invasive and expensive options, endangering their health, and costs may fall upon City health facilities that provide medical services of last resort for patients who are indigent.

(g) San Francisco recognizes First Amendment protections including the freedom of speech and religion. This measure is not intended to curtail those protections. Instead, this measure is intended to ensure that factual, comprehensive, and science-based health care services can be accessible to all San Francisco residents and visitors.

(h) San Francisco has always been and will continue to be a City that strives to protect fundamental human rights.

(i) San Francisco will continue to be a beacon of hope, care, and compassion, including by upholding the right to access unbiased, fact-based health care.

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(j) The City supports the autonomy of all women and people with capacity for pregnancy, including young people and members of the LGBTQ+ community, to exercise their reproductive rights and freedoms at any point in their pregnancy.

(k) San Francisco is a welcoming place for abortion clinics and providers.

(l) People in San Francisco should always be able to access reproductive health care services free from coercion, threat, violence, or fear.

(m) No person in San Francisco should be criminalized for the reproductive health decisions they make.

(n) Governments should not be involved in a person's reproductive health care decisions, as those decisions should be made by an individual, along with their provider and any other natural supports they choose to include in these very personal decisions.

(o) San Francisco will remain a safe and secure place for women to access comprehensive reproductive health care, including accurate medical information, in vitro fertilization, contraception, and abortion.

Section 3. Article XIII of Chapter 10 of the Administrative Code is hereby amended by adding Section 10.100-265, to read as follows:

SEC. 10.100-265. REPRODUCTIVE FREEDOM FUND.

(a) Establishment of Fund. *The Reproductive Freedom Fund (the "Fund") is established as a category eight fund to receive all private grants, gifts, and bequests of money and property which may be offered to the City and County of San Francisco to support reproductive rights and health services.*

(b) Use of Fund. *The City shall use the Fund for the purpose of supporting comprehensive reproductive health, consistent with the San Francisco Reproductive Rights Policy set forth in Chapter 93A of the Administrative Code.*

(c) Administration of Fund. *The Department of Public Health shall administer the Fund.*

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Section 4. The Administrative Code is hereby amended by adding Chapter 93A, consisting of Sections 93A.1, 93A.2, 93A.3, and 93A.4, to read as follows:

CHAPTER 93A: SAN FRANCISCO REPRODUCTIVE RIGHTS POLICY

SEC. 93A.1. DECLARATION OF POLICY.

It shall be the official policy of the City and County of San Francisco to serve as a safe and welcoming place for patients seeking reproductive health care, to protect the rights of pregnant persons to bodily autonomy and control over their private medical decisions, and to safeguard confidential health information between patients seeking access to reproductive health care and their providers. To these ends:

(a) The City shall keep personally identifiable health information regarding reproductive health care confidential, and shall not disclose such information unless authorized or required by law. This policy does not prohibit the lawful use or disclosure of health information otherwise authorized by law for the purpose of providing medical care, social services, or similar assistance, or prohibit the lawful sharing of deidentified data for research purposes as provided by applicable law.

(b) It shall be against City policy to criminally investigate or prosecute a person for having accessed or provided reproductive health care, or to assist or cooperate with such an investigation or prosecution. This policy does not apply to cases involving the use of coercion or force against the pregnant person, or to cases based on conduct that was criminally negligent to the health of the pregnant person seeking care.

(c) The City shall ensure that City-funded reproductive health care providers provide accurate medical information as it relates to reproductive health care.

(d) March 10, or such other date approved by the Board of Supervisors by resolution, shall be known and celebrated in San Francisco as Abortion Provider Appreciation Day.

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(e) The City shall endeavor to keep patients and providers safe, secure, and free from harassment or abuse when they are receiving and providing reproductive health care.

(f) The City Attorney is urged to continue supporting reproductive rights.

SEC. 93A.2. ACCESS TO REPRODUCTIVE HEALTH SERVICES.

(a) For purposes of this Chapter 93A, the terms "abortion," "client," "emergency contraception," "health information," "licensed medical provider," "limited services pregnancy center," "pregnancy services center," "premises," and "prenatal care" shall be defined consistent with Administrative Code Chapter 93, as it may be amended from time to time. The findings and purposes of Chapter 93 are incorporated herein by reference.

(b) The Department of Public Health ("DPH") shall maintain a website that lists pregnancy services centers in the City that provide or offer referrals for abortions or emergency contraception, as well as limited service pregnancy centers. In addition, the City shall maintain a non-emergency telephone number where members of the public can obtain information about where to obtain abortions and emergency contraception.

(c) DPH may install signage outside of limited services pregnancy centers in the City, to inform the public that those facilities do not provide or offer referrals for abortions or emergency contraception, and to provide information about where those services may be available. DPH may prioritize installing such signage in geographic areas of the City where there is a greater need for abortion or emergency contraception services. DPH shall provide a limited services pregnancy center at least 30 days' written notice before installing the signage. If the facility or the owner of the premises at any time wishes to contest the determination that the facility is a limited services pregnancy center, they may file a petition with the Director of Public Health to review the matter. The Director's decision shall be final. Subject to that decision, DPH shall install the signage in the public right of

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way, at or near the entrance to the facility. The Department of Public Works shall assist DPH with the installation and maintenance of the signage.

SEC. 93A.3. USE OF CITY FUNDS.

(a) The City shall identify and allocate funding that supports access to abortions and emergency contraception in San Francisco. The City shall allocate revenues from the Reproductive Rights Fund in Section 10.100-265 of the Administrative Code for these purposes, and may supplement monies in the Fund with additional City funds, subject to the budgetary and fiscal provisions set forth in the Charter.

(b) Commencing January 1, 2025, City departments shall prohibit City-funded pregnancy services centers that offer abortions from requiring abortion providers to possess or obtain additional medical qualifications beyond those required by state and federal law, in order to provide abortions. The Director of Public Health may grant exceptions to this prohibition if the additional qualifications will further the patient receiving adequate care.

(c) California Penal Code Section 13778.2(b) restricts City officers and employees from cooperating with or providing information to any individual or agency or department from another state or to a federal law enforcement agency regarding an abortion that is lawful under California law and performed in California. City officers and employees also may not cooperate with or provide information to any individual or agency or department from another state's law enforcement agency or a federal law enforcement agency, regarding any of the following, to the extent they do not fall under 13778.2(b) as it may be amended from time to time: (1) a person's possession or use of contraception; (2) a person's use of in vitro fertilization; (3) a person's pregnancy status; and (4) a person's choice to get an abortion. This subsection (c) does not prohibit the use of City resources to investigate criminal activity in San Francisco that may involve the performance of an abortion, or any of the numbered items in the preceding sentence, provided that information relating to a specific individual is not shared

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for the purpose of enforcing another state's abortion law or a federal abortion law. This subsection (c) also shall not be construed to obstruct the constitutional and statutory powers and duties of the District Attorney, the Sheriff, the Chief Adult Probation Officer, or the Chief Juvenile Probation Officer.

SEC. 93A.4. MONITORING AND PREVENTING DISCRIMINATION.

Existing law prohibits housing and employment discrimination on the basis of a person's reproductive health decisionmaking. The Department on the Status of Women and the Department of Public Health shall monitor changes in these laws, and consider policy and legislative strategies to reinstate those protections in San Francisco if such laws are modified contrary to the San Francisco Reproductive Rights Policy in Section 93A.1.

Section 5. Articles 1 and 2 of the Planning Code are hereby amended by revising Section 102 and adding Section 202.5, to read as follows:

SEC. 102. DEFINITIONS.

* * * *

Reproductive Health Clinic. A Retail Sales and Service Use that is a clinic licensed pursuant to applicable provisions of the California Health and Safety Code that meets both of the following requirements: a) provides directly to patients medical services consisting of Abortions or Emergency Contraception as those terms are defined in Administrative Code Section 93.3; and b) primarily specializes in reproductive health services as defined in California Penal Code 423.1. A Reproductive Health Clinic that meets the foregoing requirements may also provide additional medical and allied health services by physicians or other healthcare professionals.

Required Open Space. See Open Space, Required.

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Service, Health. A Retail Sales and Service Use that provides medical and allied health services to the individual by physicians, surgeons, dentists, podiatrists, psychologists, psychiatrists, acupuncturists, chiropractors, Sole Practitioner massage therapists as defined in Section 29.5 of the Health Code, or any other health-care professionals when licensed by a State-sanctioned Board overseeing the provision of medically oriented services. It includes, without limitation, a clinic, primarily providing outpatient care in medical, psychiatric, or other health services, and not part of a Hospital or medical center, as defined by this Section of the Code, and Sole Practitioner Massage Establishments as defined in Section 29.5 of the Health Code, but does not include other Massage Establishments, which are defined elsewhere in this Code. Health Service does not include Reproductive Health Clinic, which is defined separately in this Section 102.

* * * *

SEC. 202.5. REPRODUCTIVE HEALTH CLINICS.

Notwithstanding any other provision of this Code, a Reproductive Health Clinic is a Principally Permitted use on all stories in all use districts, except the following residential districts: Residential, House (Section 209.1); Residential, Mixed (Section 209.2); and Residential, Transit-Oriented (Section 209.4). In the aforementioned residential districts, Reproductive Health Clinics shall be permitted as a Limited Corner Commercial Use pursuant to Section 231, to the same extent such uses were permitted under Section 231 as of the effective date of this ordinance. If development of a Reproductive Health Clinic would require Residential Conversion of a Residential Unit or Unauthorized Unit under Section 317, the development shall be subject to Section 317 and may require Conditional Use authorization, or may be prohibited in the aforementioned residential districts. It shall not be deemed a change in use for a Health Services use or a use categorized as Institutional under this Code to become a Reproductive Health Clinic use. For any Reproductive Health Clinic established prior to the effective

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date of the ordinance adding this Section 202.5, it shall not be deemed a change in use to revert to the use in existence prior to the effective date of said ordinance, such as Health Services.

Section 6. The Planning Department shall, within 120 days of the effective date of this ordinance, submit for introduction at the Board of Supervisors an ordinance that makes all changes necessary to conform the Planning Code to the requirements of Section 202.5 adopted herein, including but not limited to, amending Zoning Control Tables to list Reproductive Health Clinics as a Principally Permitted use.

Section 7. Amendments.

The Board of Supervisors may by ordinance, with a supermajority vote of at least eight votes, amend Sections 3, 4, 5, and 6 of this Ordinance, provided that any such amendment is in furtherance of the purposes stated in Section 2 of this Ordinance.

Section 8. Promotion of the General Welfare.

In undertaking the adoption and enforcement of this Ordinance, the City is undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 9. Severability.

(a) If any part or provision of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and

shall continue in full force and effect. To this end, the People of the City and County of San Francisco declare that the provisions and applications of this Ordinance are severable.

(b) Notwithstanding subsection (a), the amendment to the Planning Code Section 102 definition of Health Services in Section 5 of this Ordinance is not severable, in the event the definition of Reproductive Health Clinic added to Planning Code Section 102 is invalidated, and/or the first sentence of the new Planning Code Section 202.5 is invalidated.

* * *

SUBMITTED.



LONDON BREED
Mayor, City and County of San Francisco

Date:

6/18/2024

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