

BOARD of SUPERVISORS



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MEMORANDUM

TO: Jeff Kositsky, Director, Department of Homelessness and Supportive Housing

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

DATE: March 8, 2019

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed substitute legislation, introduced by Mayor Breed on March 5, 2019:

File No. 190047-3

Ordinance amending the Administrative Code and Planning Code to streamline contracting for homeless shelters, and siting of homeless shelters by, among other things, authorizing the Department of Homelessness and Supportive Housing (HSH) to enter into and amend contracts without requiring competitive bidding for professional and other services relating to sites and programs for people experiencing homelessness (Projects Addressing Homelessness); authorizing Public Works to enter into and amend contracts without adhering to the Environment Code or to provisions relating to competitive bidding, equal benefits, local business enterprise utilization, and other requirements, for construction work and professional and other services relating to Projects Addressing Homelessness; permitting Homeless Shelters in PDR (Production Distribution Repair) and SALI (Service/Arts/Light Industrial) Districts; authorizing HSH to operate Navigation Centers for more than two years; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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: Emily Cohen, Department of Homelessness and Supportive Housing

1 [Administrative, Planning Codes - Streamlined Contracting for Homeless Services and Siting
2 for Homeless Shelters]

3 **Ordinance amending the Administrative Code and Planning Code to streamline**
4 **contracting for homeless shelters, and siting of homeless shelters by, among other**
5 **things, authorizing the Department of Homelessness and Supportive Housing (HSH) to**
6 **enter into and amend contracts without requiring competitive bidding for professional**
7 **and other services relating to sites and programs for people experiencing**
8 **homelessness (Projects Addressing Homelessness); authorizing the Department of**
9 **Public Works to enter into and amend contracts without adhering to the Environment**
10 **Code or to provisions relating to competitive bidding, equal benefits, local business**
11 **enterprise utilization, and other requirements, for construction work and professional**
12 **and other services relating to Projects Addressing Homelessness; permitting**
13 **Homeless Shelters in PDR (Production Distribution Repair) and SALI**
14 **(Service/Arts/Light Industrial) districts; authorizing HSH to operate Navigation Centers**
15 **for more than two years; and affirming the Planning Department's determination under**
16 **the California Environmental Quality Act, and making findings of consistency with the**
17 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

18
19 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
20 **Additions to Codes** are in *single-underline italics Times New Roman font*.
21 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
22 **Board amendment additions** are in double-underlined Arial font.
23 **Board amendment deletions** are in ~~strikethrough Arial font~~.
24 **Asterisks (* * * *)** indicate the omission of unchanged Code
25 subsections or parts of tables.

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

2 Section 1. Findings.

3 (a) California Government Code Sections 8698 through 8698.2 authorize the
4 governing body of a political subdivision, including the Board of Supervisors, to declare the
5 existence of a shelter crisis upon a finding by the governing body that a significant number of
6 persons within the jurisdiction are without the ability to obtain shelter, and that the situation
7 has resulted in a threat to the health and safety of those persons. In 2016, through the
8 enactment of Ordinance No. 57-16, the Board of Supervisors declared the existence of a
9 shelter crisis in San Francisco, based on findings that in January 2015, there were 6,686
10 individuals in San Francisco who were homeless. Since that time, the shelter crisis has
11 grown. According to the January 2017 Point in Time Homeless Count administered by the
12 Department of Homelessness and Supportive Housing (HSH), there were approximately
13 7,499 people experiencing homelessness in San Francisco on a single night. Of those
14 persons, 58% were unsheltered, 21% were under the age of 25 years, and 32% were over the
15 age of 51 years with attendant deteriorating physical and mental health.

16 (b) On October 2, 2018, Mayor London Breed declared her intent that the City add
17 1,000 new shelter beds for people experiencing homelessness, with half of the new beds
18 becoming available by the summer of 2019, and the remainder becoming available by 2020.
19 The beds will become available as a result of establishing new Navigation Centers, expanding
20 existing Navigation Centers, and opening a new type of shelter called a SAFE Center, a name
21 that stands for Shelter Access for Everyone.

22 (c) In early 2018, the Board of Supervisors enacted Ordinance No. 29-18, which
23 waived competitive bidding requirements for contracts and leases relating to a number of
24 identified Shelter Crisis Sites, as well as the City's existing Navigation Centers and homeless
25 shelters. That ordinance allowed HSH to expedite the award of contracts and grants for

1 construction and services relating to homeless individuals, and to open three Navigation
2 Centers with 340 beds and a permanent supportive housing site with 51 units. However, the
3 expedited contracting and leasing authority that was granted by Ordinance No. 29-18 will
4 expire on March 1, 2019. It is in the public interest to extend this authority so long as the City
5 is experiencing a shelter crisis.

6 (d) In 2016, the Board of Supervisors enacted Ordinance No. 117-16, requiring the
7 City to open and operate six Navigation Centers to address street homelessness and connect
8 homeless people to health and mental health services, housing, and other benefits. The City
9 has complied with that mandate, and plans to expand upon this successful model of shelter
10 and service delivery. Ordinance No. 117-16 provided that once a Navigation Center opened,
11 it could operate for no more than two years without approval of extension of the time limit by
12 resolution of the Board of Supervisors. In light of the success of Navigation Centers, the
13 capital investments that are required to open a center, and the fact that Navigation Centers
14 have not been found to have had adverse impacts on the neighborhoods in which they have
15 been located, the Board of Supervisors has, in Resolution No. 180522, approved the
16 extension of two Navigation Centers beyond the two-year limit. For the same reasons, it is in
17 the public interest to permit Navigation Centers generally to operate longer than two years
18 without re-authorization.

19 (e) For all HSH-funded projects that involve new construction, a change in use, or an
20 expansion of an existing use at a specific location, HSH complies with the requirements of
21 Administrative Code Chapter 79 (Citizens' Right-to-Know Act of 1998) and Chapter 79A by
22 providing community notice that it is considering approval of such a project, and by
23 establishing a process by which members of the public may obtain additional information
24 about the project, and submit comments. Before opening a new facility, HSH staff collaborate
25 with the member of the Board of Supervisors who represents the district in which the facility

1 will be located, to conduct a thorough community outreach process that includes, at a
2 minimum, written notice to neighbors located within 300 feet of the facility, information about
3 how neighbors may provide input into the proposed programming at the facility, and the
4 hosting of a community meeting. After opening a facility, HSH takes steps to ensure that its
5 immediate surroundings are kept clean and secure.

6 (f) The Planning Department has determined that the actions contemplated in this
7 ordinance comply with the California Environmental Quality Act (California Public Resources
8 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
9 Supervisors in File No. 190047 and is incorporated herein by reference. The Board affirms
10 this determination.

11 (g) The Planning Department has determined that the actions contemplated in this
12 ordinance are consistent, on balance, with the City's General Plan and eight priority policies of
13 Planning Code Section 101.1. The Board adopts these findings as its own. A copy of this
14 determination is on file with the Clerk of the Board of Supervisors in File No. 190047 and is
15 incorporated herein by reference.

16
17 Section 2. The Administrative Code is hereby amended by adding Chapter 21B,
18 consisting of Sections 21B.1, 21B.2, 21B.3, and 21B.4, to read as follows:

19
20 **CHAPTER 21B: COMMODITIES AND SERVICES RELATING TO PROJECTS**

21 **ADDRESSING HOMELESSNESS.**

22
23 **SECTION 21B.1. PURPOSE AND GOALS.**

24 In recognition of the fact that a significant number of persons within San Francisco lack the
25 ability to obtain shelter, resulting in a threat to the health and safety of those persons, and that such

1 threat constitutes a shelter crisis, the intent of this Chapter 21B is to expedite the procurement of
2 professional and other services relating to Projects Addressing Homelessness. For purposes of this
3 Chapter 21B, "Projects Addressing Homelessness" means projects designed to prevent homelessness
4 through the provision of housing subsidies or other services, and projects designed to provide shelter,
5 housing, food, and/or social services to people experiencing homelessness.

6
7 **SECTION 21B.2. WAIVER OF COMPETITIVE BIDDING REQUIREMENTS.**

8 Notwithstanding Section 21.1 of the Administrative Code or any other provision of the
9 Municipal Code, the Department of Public Works and the Department of Homelessness and Supportive
10 Housing may enter into and/or amend contracts, including grants, for professional and other services
11 or commodities relating to Projects Addressing Homelessness without adhering to the requirements of
12 Section 21.1 or any other competitive procurement requirements. The power to amend such contracts
13 and grants extends to contracts and grants entered into prior to the effective date of the ordinance in
14 Board File No. _____ enacting this Chapter 21B.

15
16 **SECTION 21B.3. REPORTING.**

17 Within one year of the effective date of this Chapter 21B, and every year thereafter, the
18 Department of Homelessness and Supportive Housing and the Department of Public Works shall
19 submit to the Board of Supervisors a report that includes the following information for each contract or
20 grant that the department executed during the prior year without adhering to the requirements of
21 Section 21.1, pursuant to the authority in this Section 21B.3: the name of the contractor or grantee; the
22 services to be provided under the contract or grant; the amount of funds conveyed; the duration of the
23 contract or grant; and any measurable outcomes of the contract or grant.

1 **SECTION 21B.4. SUNSET PROVISION.**

2 This Chapter 21B shall expire by operation of law five years from its effective date, or on the
3 effective date of an ordinance making the finding that according to the most recent Point in Time
4 Homeless Count, there are fewer than 5,250 homeless persons in San Francisco, whichever date is
5 earlier. Upon expiration of this Chapter 21B, the City Attorney shall cause this Chapter to be removed
6 from the Administrative Code.

7
8 Section 3. Article IV of Chapter 6 of the Administrative Code is hereby amended by
9 adding Section 6.76, to read as follows.

10
11 **SECTION 6.76. PUBLIC WORKS ADDRESSING HOMELESSNESS.**

12 (a) The Department of Public Works is authorized to enter into and/or amend any contract for
13 any Public Work or Improvement, as defined in Administrative Code Section 6.1, including any
14 professional services for a Public Work or Improvement, without adherence to the requirements of this
15 Chapter 6, Administrative Code Chapters 12B and 14B, and the Environment Code; provided,
16 however, that the Public Work or Improvement is for the construction, repair, or improvement of one or
17 more sites that will be used for the primary purpose of providing housing, shelter, or services to people
18 experiencing homelessness. The power to amend such contracts extends to contracts entered into prior
19 to the effective date of the ordinance in Board File No. _____ enacting this Chapter 21B.

20 (b) This Section 6.76 shall expire by operation of law five years from its effective date, or on
21 the effective date of an ordinance making the finding that according to the most recent Point in Time
22 Homeless Count, there are fewer than 5,250 homeless persons in San Francisco, whichever date is
23 earlier. Upon expiration of this Section 6.76, the City Attorney shall cause this Section to be removed
24 from the Administrative Code.

1 Section 4. Chapter 106 of the Administrative Code is hereby amended by revising
2 Sections 106.1 and 106.3, to read as follows:

3
4 **SEC. 106.1. NAVIGATION CENTERS REQUIRED.**

5 As specified further in this Chapter 106, the City ~~may open and operate~~*shall open and*
6 ~~operate no fewer than six~~ Navigation Centers to address street homelessness and connect
7 homeless people to health and mental health services, housing, benefits, and other services.
8 For purposes of this Chapter, "Navigation Center" means a temporary, low-barrier-to-entry
9 shelter that, through case management and social service programs, aids in moving homeless
10 people off the streets and into permanent housing or transitional or stable supportive housing
11 that eventually leads to permanent housing.

12
13 **SEC. 106.3. PROGRAM IMPLEMENTATION.**

14 * * * *

15 ~~(b) Navigation Centers shall be temporary facilities, and once opened shall operate on a~~
16 ~~specific site for no fewer than six months and no more than two years without approval of adjustment~~
17 ~~or extension of the time limit by resolution of the Board of Supervisors.~~

18 (b) The City may enter into grant agreements with nonprofit organizations to provide services
19 relating to Navigation Centers.

20 * * * *

21
22 Section 5. Article 2 of the Planning Code is hereby amended by modifying Section
23 210.3 as follows:

1 **SEC. 210.3. PDR DISTRICTS.**

2 * * * *

3 (19) During a declared shelter crisis, Homeless Shelters that satisfy the provisions of
4 California Government Code Section 8698.4(a)(1) shall be P, principally permitted and may be
5 permanent. Otherwise, ~~In this District,~~ Homeless Shelter uses are permitted only with
6 Conditional Use authorization and only if each such use (a) would operate for no more than
7 four years, and (b) would be owned or leased by, operated by, and/or under the management
8 or day-to-day control of the City and County of San Francisco. If such a use is to be located
9 within a building or structure, the building or structure must be either (a) preexisting, having
10 been completed and previously occupied by a use other than a Homeless Shelter, or (b)
11 temporary. Other than qualifying Homeless Shelters constructed during a declared shelter crisis, ~~In~~
12 this District, construction of a permanent structure or building to be used as a Homeless
13 Shelter is not permitted.

14
15 Section 6. Article 8 of the Planning Code is hereby amended by modifying Section 846
16 as follows:

17 **SEC. 846. SALI – SERVICE/ARTS/LIGHT INDUSTRIAL DISTRICT.**

18 * * * *

SPECIFIC PROVISIONS FOR SALI DISTRICTS		
Article Code Section	Other Code Section	Zoning Controls
§ 846.23b § 890.88(d)	§ 102	<u>During a declared shelter crisis, Homeless Shelters that satisfy the provisions of California Government Code Section 8698.4(a)(1) shall be P, principally permitted and may be permanent.</u> <u>Otherwise In this District,</u> Homeless Shelter uses are permitted only with Conditional Use authorization and only if each such use (a) would operate for no more than four

		years, and (b) would be owned or leased by, operated by, and/or under the management or day-to-day control of the City and County of San Francisco. If such a use is to be located within a building or structure, the building or structure must be either (a) preexisting, having been completed and previously occupied by a use other than a Homeless Shelter, or (b) temporary. <u>Other than qualifying Homeless Shelters constructed during a declared shelter crisis, In this District,</u> construction of a permanent structure or building to be used as a Homeless Shelter is not permitted.
* * * *	* * * *	* * * *

Section 7. Effective Date; Retroactive Operation; Ratification of Prior Acts.

(a) This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

(b) Sections 2 and 3 of this ordinance (Chapter 21B and Section 6.76 of the Administrative Code, respectively) shall be retroactive to March 1, 2019.

(c) The Board of Supervisors hereby ratifies and confirms all actions taken by City officials or City agencies in accordance with the provisions of Chapter 21B and Section 6.76 of the Administrative Code, respectively, from March 1, 2019, to the effective date of this ordinance.

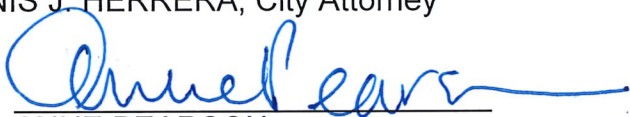
Section 8. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

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additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 9. Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an 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.

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

By: 
ANNE PEARSON
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(Substituted, 3/5/2019)

[Administrative, Planning Codes - Streamlined Contracting for Homeless Services and Siting for Homeless Shelters]

Ordinance amending the Administrative Code and Planning Code to streamline contracting for homeless shelters, and siting of homeless shelters by, among other things, authorizing the Department of Homelessness and Supportive Housing (HSH) to enter into and amend contracts without requiring competitive bidding for professional and other services relating to sites and programs for people experiencing homelessness (Projects Addressing Homelessness); authorizing Public Works to enter into and amend contracts without adhering to the Environment Code or to provisions relating to competitive bidding, equal benefits, local business enterprise utilization, and other requirements, for construction work and professional and other services relating to Projects Addressing Homelessness; permitting Homeless Shelters in PDR (Production Distribution Repair) and SALI (Service/Arts/Light Industrial) Districts; authorizing HSH to operate Navigation Centers for more than two years; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

California law authorizes the Board of Supervisors to declare the existence of a shelter crisis based on a finding that a significant number of people in the City and County of San Francisco (the "City") lack shelter, and that the situation has resulted in a threat to their health and safety. The law authorizes the City to suspend state or local laws setting housing, health, or safety standards for new homeless shelter facilities in response to the shelter crisis, to the extent that strict compliance would prevent, hinder, or delay the mitigation of the shelter crisis. In Ordinances No. 57-16 and 29-18, and Resolution No. 319-18, the Board of Supervisors has declared the existence of a shelter crisis.

Local Law generally requires City departments to use a competitive bidding process and follow other contracting requirements for personal services, procurement, and construction contracts, subject to exceptions. In 2018, the Board of Supervisors enacted Ordinance No. 29-18, which waived competitive bidding requirements for contracts and leases relating to a number of identified Shelter Crisis Sites, as well as the City's existing Navigation Centers and homeless shelters. The expedited contracting and leasing authority that was granted by Ordinance No. 29-18 will expire on March 1, 2019.

Chapter 106 of the City's Administrative Code regulates the opening and operation of Navigation Centers. Currently, Navigation Centers are defined as temporary facilities, and once opened may operate at a specific site for no fewer than six months and no more than two years without approval of adjustment or extension of the time limit by resolution of the Board of Supervisors.

Currently, homeless shelter uses are permitted in Production, Design, and Repair ("PDR") and Service/Arts/Light Industrial ("SALI") districts only with conditional use authorization, and only if such use would operate for no more than four years.

Amendments to Current Law

The proposed ordinance would reaffirm the Board of Supervisors' prior declarations of a shelter crisis.

The proposed ordinance would allow the Departments of Homelessness ("HSH") and Supportive Housing and Public Works to enter into and amend contracts and grants for professional and other services or commodities relating to projects addressing homelessness without using a competitive bidding process. For purposes of this authority, "projects addressing homelessness" are projects designed to prevent homelessness through the provision of housing subsidies or other services, and projects designed to provide shelter, housing, food, and/or social services to people experiencing homelessness. The authority to enter into and amend contracts without competitive bidding would expire five years from the effective date of the ordinance, or on the effective date of an ordinance making a finding that according to the most recent Point in Time Homeless Count, there are fewer than 5,250 homeless persons in San Francisco, whichever date is earlier.

The proposed ordinance would also allow the Department of Public Works to enter into or amend contracts for public works and improvements without using a competitive bidding process, provided the contracts are for public works or improvements for the construction, repair, or improvement of one or more sites that will be used for the primary purpose of providing housing, shelter, or services to people experiencing homelessness. The authority to enter into and amend contracts without competitive bidding would expire five years from the effective date of the ordinance, or on the effective date of an ordinance making a finding that according to the most recent Point in Time Homeless Count, there are fewer than 5,250 homeless persons in San Francisco, whichever date is earlier.

The proposed ordinance would also eliminate the requirement that the Board of Supervisors approve by resolution an extension of the deadline for operation of a Navigation Center beyond two years, and would clarify that HSH may enter into grant agreements with nonprofit organizations to provide services relating to Navigation Centers.

The proposed ordinance would amend the Planning Code to provide that during a declared shelter crisis, homeless shelters that are located or constructed on land owned or leased by

the City would be principally permitted in PDR and SALI districts and therefore would not require a conditional use permit, and would not be subject to the four-year limit, but may operate permanently.

Background Information

In 2016, through the enactment of Ordinance No. 57-16, the Board of Supervisors declared the existence of a shelter crisis in San Francisco, based on findings that in January 2015, there were 6,686 individuals in San Francisco who were homeless. Since that time, the shelter crisis has grown. According to the January 2017 Point in Time Homeless Count administered by HSH, there were approximately 7,499 people experiencing homelessness in San Francisco on a single night. Of those persons, 58% were unsheltered, 21% were under the age of 25 years, and 32% were over the age of 51 years with attendant deteriorating physical and mental health.

On October 2, 2018, Mayor London Breed declared her intent that the City add 1,000 new shelter beds for people experiencing homelessness, with half of the new beds becoming available by the summer of 2019, and the remainder becoming available by 2020. The beds will become available as a result of establishing new Navigation Centers, expanding existing Navigation Centers, and opening a new type of shelter called a SAFE Center, a name that stands for Shelter Access for Everyone.

In 2016, the Board of Supervisors enacted Ordinance No. 117-16, requiring the City to open and operate six Navigation Centers to address street homelessness and connect homeless people to health and mental health services, housing, and other benefits. The City has complied with that mandate, and plans to expand upon this successful model of shelter and service delivery. Ordinance No. 117-16 provided that once a Navigation Center opened, it could operate for no more than two years without approval of extension of the time limit by resolution of the Board of Supervisors. In light of the success of Navigation Centers, the capital investments that are required to open a center, and the fact that Navigation Centers have not been found to have had adverse impacts on the neighborhoods in which they have been located, the Board of Supervisors has, in Resolution No. 180522, approved the extension of two Navigation Centers beyond the two-year limit.

For all HSH-funded projects that involve new construction, a change in use, or an expansion of an existing use at a specific location, HSH complies with the requirements of Administrative Code Chapter 79 (Citizens' Right-to-Know Act of 1998) and Chapter 79A by providing community notice that it is considering approval of such a project, and by establishing a process by which members of the public may obtain additional information about the project, and submit comments. Before opening a new facility, HSH staff collaborate with the member of the Board of Supervisors who represents the district in which the facility will be located, to conduct a thorough community outreach process that includes, at a minimum, written notice to

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neighbors located within 300 feet of the facility, information about how neighbors may provide input into the proposed programming at the facility, and the hosting of a community meeting. After opening a facility, HSH takes steps to ensure that its immediate surroundings are kept clean and secure.

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