

1 [Administrative Code - County Jail No. 4 Closure]

2

3 **Ordinance amending the Administrative Code to require the City to close County Jail**
 4 **No. 4, located on the seventh floor of the Hall of Justice, by November 1, 2020; to**
 5 **require the Sentencing Commission to establish a Safety and Justice Challenge**
 6 **Subcommittee to plan for the reduction of the City’s daily jail population and closure of**
 7 **County Jail No. 4; and affirming the Planning Department’s determination under the**
 8 **California Environmental Quality Act.**

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

13

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

15

16 Section 1. Environmental and Land Use Findings.

17 The Planning Department has determined that the actions contemplated in this
 18 ordinance comply with the California Environmental Quality Act (California Public Resources
 19 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
 20 Supervisors in File No. 200372 and is incorporated herein by reference. The Board affirms
 21 this determination.

22

23 Section 2. General Background and Findings.

24 (a) The City and County of San Francisco (“City”) has four jails: County Jail 1 (the
 25 Intake and Release Center), located at 425 7th Street in San Francisco; County Jail 2, located

1 at 425 7th Street in San Francisco; County Jail 3 located at 850 Bryant Street in San
2 Francisco, County Jail 4, located on the 7th floor of the Hall of Justice at 850 Bryant Street in
3 San Francisco; and County Jail 5, located at 1 Moreland Drive in San Bruno.

4 (b) County Jail 4 is a dilapidated and inhumane facility that requires a closure plan.
5 Opened in 1961, it is seismically unsafe. Its plumbing, sewage, kitchen, and laundry facilities
6 are all in disrepair. In October 2019, Mayor London Breed noted the urgent need to close
7 County Jail 4, and that same week Supervisors Haney, Yee, Ronen, Fewer, and Walton held
8 a hearing on the closure of the jail.

9 The Department of Public Works, Division of Real Estate, and The Crosby Group
10 (independent seismic engineers), all have determined that the building at 850 Bryant Street
11 housing County Jail 4 needs to be decommissioned. In January 2017, City Administrator
12 Naomi Kelly stated that the building should be closed due to seismic and other safety
13 concerns. The Mayor, District Attorney, Public Defender, and Sheriff have all agreed that the
14 Hall of Justice must be closed, and the City Administrator has set a deadline of July 2021 for
15 the exit of all administrative functions housed at the facility.

16 (c) In 2015, the Board of Supervisors (“Board”) denied the Sheriff’s request for Board
17 approval of an application for State matching funds to be used to build a new jail. Instead, in
18 2016, the Board passed Resolution No. 002-16, urging the creation of a work group to plan for
19 the permanent closure of County Jails 3 and 4 by the Department of Public Health and the
20 Sheriff. In response to this resolution, the Work Group to Re-envision the Jail Replacement
21 Project (“Re-envision Work Group”) was established, which proposed 72 policy change
22 recommendations, capital investments, and program investments to reduce the jail population
23 and close the building located at 850 Bryant Street, without construction of a new jail. The
24 recommendations include programs such as cooperative supportive housing, increased
25 treatment beds, co-located neighborhood-based services, and outpatient substance-use

1 treatment. The Re-envision Work Group identified key findings that informed their
2 recommendations: (1) the majority of jail inmates are not eligible for release due to a range of
3 reasons, including that many may be in the midst of the booking process or awaiting transfers,
4 and that many are ineligible due to sentencing terms, their federal detainee status, parole or
5 probation violations, or bail terms; (2) closing County Jail 3 and County Jail 4 permanently
6 would require a jail population reduction goal of 83,220 bed days per year to accommodate an
7 average daily population of between 1,064 and 1,126 in the remaining facilities; (3) a small
8 proportion of inmates have long stays in jail, but account for the vast majority of all bed days;
9 (4) inmates occupying the most bed days are disproportionately young and African American;
10 and 5) in 2015, African American inmates accounted for approximately 53% of all bed days in
11 2015, but made up only 6% of San Francisco residents.

12 (d) The Re-envision Work Group found that data limitations complicate the City's
13 ability to identify, collect, and analyze data and the City's ability to use that data to predict the
14 impact of most jail population recommendations. The Re-envision Work Group recommended
15 expanding the role of the Justice Information Tracking System ("JUSTIS") to support use of
16 criminal justice data to inform system improvements and coordinate data sharing efforts
17 across multiple jurisdictions. JUSTIS is uniquely positioned to play a central role in enhancing
18 the transparency and accountability of San Francisco's criminal justice system. JUSTIS
19 provides a coherent and consistent approach to mechanisms that will enable partners to
20 efficiently provide data and analysis with the highest reliability.

21 (e) Violent crime rates have decreased in San Francisco over the past decade and
22 homicides are at a historic low. Accordingly, as compared to the past, a smaller percentage
23 of inmates in City jails are persons charged with or convicted of violent offenses. Over 80% of
24 inmates in City jails are pre-trial detainees.

1 (f) Most of the inmates in City jails have special needs beyond those of the general
2 population, which, if not attended to, impact others as well as themselves.

3 (1) The majority of inmates in City jails have suffered abuse, neglect, trauma,
4 mental health problems, and family crisis at some point in their lives. People in the criminal
5 justice system suffer from serious mental health problems at a rate far greater than the
6 general population.

7 (2) San Francisco Health Commission Resolution No. 19-5, entitled
8 "Incarceration is a Public Health Issue" ("Health Commission Resolution"), states that
9 incarceration is a public health issue impacting the health and well-being of individuals
10 incarcerated, and the families and communities of those incarcerated, with a disproportionate
11 impact on low-income communities and people of color, specifically African American men.
12 The Health Commission Resolution states that approximately 40% of those incarcerated in
13 San Francisco county jails are homeless or marginally housed.

14 (3) According to a 2016 report of the San Francisco District Attorney's Office
15 entitled, "Justice That Heals: Promoting Behavioral Health, Safeguarding the Public, and
16 Ending Our Overreliance on Jails," 35-40% of individuals detained in San Francisco jails
17 receive care from Jail Behavioral Health Services.

18 (4) According to a 2019 report of the Board's Budget and Legislative Analyst
19 entitled, "Transitional Aged Youth in San Francisco County Jails," between 2015 and 2017, an
20 average of 11,356 individuals were booked into San Francisco jails, of which 21.5% were
21 transitional aged youth (between the ages of 18-24.).

22 (g) For these high-need populations there is an urgent need for the rapid availability of
23 bridge housing and behavioral health treatment beds to ensure individuals are released into
24 stable environments with supports to help them be successful and avoid a return to jail. While
25 people should be held accountable for harm done to others, jails, by themselves, do not repair

1 that harm nor help individuals make different choices upon release; rather we have a number
2 of people cycling in and out of our jail system, whereas an expansion of other kinds of
3 supports and resources could prevent recidivism and invest in healthy individuals and
4 communities.

5 (h) The San Francisco Community Corrections Partnership, Police Commission,
6 Juvenile Justice Coordinating Council, Reentry Council, and Sentencing Commission have
7 endorsed a statement prioritizing racial equity in the criminal justice system to allow all people
8 to thrive. San Francisco’s criminal justice policy bodies collectively acknowledge that
9 communities of color have borne the burdens of inequitable social, environmental, economic,
10 and criminal justice policies, practices, and investments. The legacy of these government
11 actions is deep racial disparities throughout San Francisco’s juvenile justice and criminal
12 justice system. Racial equity is realized when race can no longer be used to predict life
13 outcomes. This ordinance is part of the City’s commitment to the elimination of racial
14 disparities in the criminal justice system.

15 (i) Jailing adds trauma to the lives of already traumatized individuals. While
16 imprisoned, people become more isolated and disconnected from their families and their
17 support networks, and are at risk of losing housing, employment, or child custody and, when
18 detained while awaiting trial, fare far worse at every stage of their case.

19 (j) A 2016 Zellerbach Family Foundation report entitled, “Children, Parents and
20 Incarceration: Descriptive Overview of Data from Alameda and San Francisco County Jails,”
21 found that 46% of inmates who were San Francisco parents and caregivers reported that at
22 least one of their own parents had been incarcerated, and that 57% of those San Franciscans
23 studied, whose first incarceration occurred before the age of 18, reported that at least one
24 parent had been incarcerated. Both statistics indicate a high likelihood of a cycle of
25 incarceration if left uninterrupted. Further, the impact of incarceration on children is incredibly

1 disruptive. The same report stated that the children of 26% of San Francisco parents and
2 caregivers who were incarcerated had to change residences; the children of 16% had to
3 change school because their parent went to jail; and of those 16%, 11% had to change
4 schools six or more times. In addition, 57% of parents and caregivers in San Francisco jails
5 reported a loss of income because they went to jail, and economic considerations also were a
6 barrier to contact with children while incarcerated; for 33% the cost of phone calls was a
7 barrier to contact with children, and for 31% the cost of visiting was a barrier to contacts with
8 children.

9 (k) In March 2019, the Controller’s Office released a report entitled, “Update to
10 Evaluation of Pilot Programs Funded to Reduce the Jail Population.” The purpose of the
11 report was to evaluate the effectiveness of the five pilot programs, supported by the Mayor’s
12 Office in fiscal year 2018, to reduce San Francisco’s jail population, but it focused only on the
13 two programs implemented in time for the evaluation – the Public Defender’s Pretrial Release
14 Unit and the District Attorney’s Weekend Rebooking. The report concluded: “It is unlikely that
15 either program will on its own substantially contribute to the City’s goal of reducing the jail
16 population by 83,220 bed days a year. Each program is designed to serve a segment of the
17 jail population that is in jail for a short period of time and occupies few jail bed days a year.
18 Even at a full level of implementation, the populations served do not account for enough bed
19 days each year to make a [substantial] impact on the reduction goal.”

20 (l) A settlement in the case of *Buffin v. City and County of San Francisco et al.*, Case
21 No. C15-04959 YGR, followed a U.S. District Court ruling that the use of a cash bail schedule
22 as required by state law unconstitutionally discriminates against people who are unable to
23 pay. Under the terms of the settlement, the Sheriff’s Department will provide the San
24 Francisco Superior Court with a public safety assessment for eligible pre-arraignment
25

1 detainees within eight hours of the person's identity being confirmed in the jail, and will not
2 enforce the San Francisco Superior Court's bail schedule.

3 (m) In 2018, the City was awarded \$2 million from the MacArthur Foundation's Safety
4 and Justice Challenge to engage local justice agencies in joint planning and the
5 implementation of strategies that address the main drivers of the local jail population,
6 including practices that take a particularly heavy toll on people of color, low-income
7 communities, and people with mental health and substance abuse issues. To continue safely
8 reducing the jail population, the San Francisco Safety and Justice Challenge Working Group
9 plans to implement five key strategies aimed at addressing system inefficiencies and
10 disparities, meeting the needs of those with behavioral health and substance abuse issues,
11 and non-jail options for lower-risk offenders while prioritizing public safety and victim
12 protection. These strategies include pre-arrest and pretrial diversion strategies, criminal
13 sentencing and correctional strategies that emphasize rehabilitation and reduce recidivism,
14 improvements to case processing efficiency, enhanced services for people with mental illness
15 or substance abuse issues involved with the justice system, and rooting out disparity and
16 racial bias in the system.

17 (n) In the 2019-20 time period, the City jail population has consistently declined,
18 reaching a low of 1,093 on March 16, 2020. With the closure of County Jail 4, the two
19 remaining jails in the system (County Jails 2 and 5) have a combined capacity of 1,160, not
20 including C-Pod medical and behavioral health units, incarcerated people held at Zuckerberg
21 San Francisco General Hospital, or those held in booking at County Jail 1. At 90% capacity,
22 County Jails 2 and 5 would accommodate a maximum capacity of 1,044; at 85% capacity,
23 County Jails 2 and 5 would accommodate a maximum capacity of 986.

24 (o) In 2020, San Francisco, like the nation and the world, is facing a public health crisis
25 caused by the COVID-19 pandemic, which presents serious risks for facilities with communal

1 living, such as the jail system. These public health risks could impact incarcerated people,
2 their communities if they are released without knowledge of possible infection, and City
3 employees like deputy sheriffs and jail health workers who staff the system. The Public
4 Defender, District Attorney, and Sheriff have all publicly announced steps they are taking to
5 address the COVID-19 public health risks, including expediting the release of incarcerated
6 people who were scheduled to be released within the next 60 days, as well as those with
7 compromised immune systems. These measures align not only with public health priorities
8 like social distancing, but are consistent with public safety as a whole.

9
10 Section 3. The Administrative Code is hereby amended by adding Chapter 122,
11 consisting of Section 122.1, to read as follows:

12
13 **CHAPTER 122: CLOSURE OF COUNTY JAIL 4**

14
15 **SEC. 122.1. CLOSURE OF COUNTY JAIL 4.**

16 (a) By no later than November 1, 2020, but as soon as possible, the City shall close County Jail
17 4, located on the 7th floor of the Hall of Justice at 850 Bryant Street in San Francisco.

18 (b) Prior to the closure of County Jail 4 under this Section 122.1:

19 _____ (1) The Department of Human Resources (“DHR”) shall provide notice to unions
20 representing affected employees and, by October 1, 2020, conduct and conclude any necessary meet
21 and confer under state and local law; and

22 _____ (2) The City, acting through the Division of Real Estate (“DRE”), shall comply with the
23 requirements of California Government Code Sections 70341 et seq. and the terms of the Joint
24 Occupancy Agreement and Transfer Agreement between the City and the Judicial Council of
25 California, Administrative Office of the Courts, pertaining to the building at 850 Bryant Street.

1 (c) Notwithstanding the deadline for closure of County Jail 4 stated in subsection (a), the City
2 may close County Jail 4 only after:

3 (1) DHR has submitted a written certification to the Clerk of the Board of Supervisors
4 and the Mayor that the City has satisfied applicable meet-and-confer obligations; and

5 (2) DRE has submitted a written certification to the Clerk of the Board of Supervisors
6 and the Mayor that the City has satisfied its obligations under California Government Code Sections
7 70341 et seq., the Joint Occupancy Agreement, and the Transfer Agreement; and

8 (3) The sooner of either (A) the Board of Supervisors receives the final report from the
9 Safety and Justice Challenge Subcommittee of the Sentencing Commission (required by Administrative
10 Code Section 5.25-4), or (B) the total San Francisco jail population has remained below 1044 for 60
11 consecutive days and both the Sheriff and the Safety and Justice Challenge Subcommittee notify the
12 Board that the City may safely close County Jail 4.

13
14 Section 4. Article XXV of Chapter 5 of the Administrative Code is hereby amended by
15 renumbering existing Section 5.25-4 as Section 5.25-5, and adding new Section 5.25-4, to
16 read as follows:

17
18 **SEC. 5.25-4. SAFETY AND JUSTICE CHALLENGE SUBCOMMITTEE.**

19 (a) For purposes of this Section 5.25-4, the following definitions apply:

20 “County Jail 1” means the Intake and Release Center located at 425 7th Street, in San
21 Francisco.

22 “County Jail 2” means the jail located at 425 7th Street in San Francisco.

23 “County Jail 4” means the jail located on the 7th floor of the Hall of Justice at 850 Bryant
24 Street in San Francisco.

25 “County Jail 5” means the jail located at 1 Moreland Drive in San Bruno.

1 (b) The Commission shall establish the Safety and Justice Challenge Subcommittee
2 (“Subcommittee”).

3 (c) The following Commission members or their designee shall serve on the Subcommittee:
4 District Attorney, Sheriff, Public Defender, Adult Probation, the Department of Public Health, Reentry
5 Council, the member of a nonprofit organization that works with victims, chosen by the Family
6 Violence Council (Article XIX of this Chapter 5), the member of a nonprofit organization that works
7 with ex-offenders, chosen by the Reentry Council (Article I of this Chapter 5), and the Superior Court if
8 it elects to participate on the Commission and the Subcommittee.

9 (d) To facilitate the closure of County Jail 4 as soon as possible, as mandated by
10 Administrative Code Chapter 122, the Subcommittee shall, by October 1, 2020, develop measures and
11 strategies to accomplish the goal of reducing and sustaining an average daily total jail population of
12 no more than 1,044 incarcerated people combined in County Jails 2 and 5. Those measures and
13 strategies shall address system inefficiencies and systemic racial and income disparities in the jail
14 population, meet the needs of incarcerated persons with behavioral health and substance abuse issues,
15 and include non-jail options for lower-risk offenders that prioritize public safety.

16 (e) In carrying out its duties, the Subcommittee shall consult with the Capital Planning
17 Committee, the Division of Real Estate, the Police Department, and a representative from the
18 contractor or agency responsible for provision of pretrial diversion services. The Subcommittee also
19 shall invite a representative of each of these entities to attend all Subcommittee meetings.

20 (f) In carrying out its duties, the Subcommittee shall consider and develop the following
21 measures and strategies:

22 (1) The establishment of a “second look” program, including reviews at the 14-, 30-,
23 and 60-day marks, by the contractor or agency responsible for the provision of pretrial diversion
24 services, to expand the number of incarcerated persons eligible for pretrial release;

- 1 (2) Non-custodial supervision and support for those released, including referrals to
2 community courts, collaborative courts, and diversion programs, excluding money bail;
- 3 (3) Evaluation of the use of electronic monitoring;
- 4 (4) Expansion of eligibility and capacity for programming, including milestone credits
5 and work alternative programs;
- 6 (5) Reduction of redundancies among agencies with regards to holds and reports for
7 short-term stays;
- 8 (6) Elimination of duplicate bookings for the same person during the same jail stay;
- 9 (7) Participation and cooperation with the Superior Court’s plans to address lengthy
10 court case processing and unnecessary continuances;
- 11 (8) Expedited and streamlined sentencing and sentencing-recommendation processes,
12 utilizing reports that are not legally required only upon a specific, articulated need;
- 13 (9) Maximization of data-sharing among all criminal justice partners to facilitate a
14 cohesive assessment of the jail population, using the Justice Tracking Information System (“JUSTIS”);
- 15 (10) Discontinuation of “safe-keeping” arrangements for federal arrestees;
- 16 (11) Expedited processes for providing and sharing police reports and rebooking
17 packets with criminal justice partners;
- 18 (12) Evaluation of the current classification system to provide transparency around jail
19 classification decisions and the impact of those decisions on jail capacity to the extent permitted by
20 law;
- 21 (13) Expedited and streamlined booking in County Jail I;
- 22 (14) Release processes that maximize release from jail before noon to allow access to
23 same-day essential services, and same-day transport to court-ordered placements with verified bed
24 space;
- 25

1 (15) Examination of probation holds, search and seizure conditions, electronic
2 monitoring violations, and other practices that may result in unnecessary detention and criminal
3 records;

4 (16) Evaluation of the correlation between recidivism and behavioral health issues and
5 policies shown to reduce recidivism among persons with behavioral health issues;

6 (17) Evaluation and recommendations to ensure that resources are in place for
7 incarcerated people upon release that ensure stability and support and prevent recidivism, including:
8 bridge housing with case management; models like Hummingbird Place with treatment beds and wrap-
9 around supports, substance use treatment, and mental health supports; and employment services;

10 (18) Evaluation and development of targeted mental health diversion and coordination
11 among all agencies to facilitate quick entry into behavioral health programs that ensure that persons
12 otherwise eligible for release from jail are not held longer than necessary while waiting for treatment
13 beds;

14 (19) Elimination of out-of-county custodial placements; and

15 (20) Consideration of the 2005 Board of Supervisors Resolution No. 545-05 endorsing
16 the bill of rights established by the San Francisco Children of Incarcerated Parents Partnership.

17 (g) In carrying out its duties, the Subcommittee shall not consider or develop:

18 (1) measures or strategies that add new jail beds beyond the current rated capacity of
19 County Jails 2 and 5 through construction, renovation, or reopening of another facility to replace
20 County Jail 4; or

21 (2) the transfer of incarcerated people to placements out of county.

22 (h) Subject to the fiscal, budgetary, and civil service provisions of the Charter, and to the extent
23 consistent with open government laws, the Subcommittee shall, as needed, investigate criminal justice
24 best practices by retaining subject matter experts.

1 (i) The Subcommittee shall prepare and submit to the Board of Supervisors two reports that
2 describe the Subcommittee’s progress in fulfilling the duties set forth in this Section 5.25-4: a
3 preliminary progress report due August 1, 2020, and a final progress report due October 1, 2020.
4 Both reports shall include an assessment of progress made in reducing the daily total jail population to
5 no more than 1,044 in County Jails 2 and 5 combined and sustaining the reduction, data on the
6 average daily total jail population, the measures and strategies that have been implemented across all
7 justice agencies to accomplish the goal of reducing the total jail population to no more than 1,044, and
8 any outstanding tasks, challenges, or needs. Both reports shall be accompanied by a proposed Board
9 of Supervisors resolution accepting the report, and the Board may act by resolution to accept, reject, or
10 modify the report. The Subcommittee also shall submit both reports to the Mayor, any City department
11 or office responsible for a program identified in the report, and the City Administrator. The reports
12 shall be available to the public, and the City Administrator shall post the reports on the City
13 Administrator’s website.

14 (j) In carrying out its duties, the Subcommittee shall receive prompt and full cooperation and
15 assistance from all City departments, offices, officers, and employees. All components of City
16 government shall promptly produce all records and information requested by the Subcommittee, unless
17 prohibited from doing so by state or federal law.

18 (k) This Section 5.25-4 shall expire by operation of law, and the Subcommittee shall terminate,
19 when the Sheriff certifies in writing that County Jail 4 is closed. After said certification, the City
20 Attorney shall cause this Section 5.25-4 to be removed from the Administrative Code.

21 (l) Nothing in this Section 5.25-4 shall be interpreted to interfere with the duties of the District
22 Attorney, Sheriff, or Adult Probation Chief, under State law.

23
24 **SEC. 5.25-4~~5~~. SUNSET CLAUSE.**

25 * * * *

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

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

12
13 Section 6. Undertaking for The General Welfare. In enacting and implementing this
14 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
15 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
16 is liable in money damages to any person who claims that such breach proximately caused
17 injury.

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By: /S/Jon Givner
22 JON GIVNER
23 Deputy City Attorney

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