

BOARD of SUPERVISORS



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MEMORANDUM

Date: October 23, 2023
To: Planning Department / Commission
From: Victor Young, Clerk of the Rules Committee *Victor Young*
Subject: Board of Supervisors Legislation Referral - File No. 230985 – Second Draft
Charter Amendment - Minimum Police Department Staffing and Five-Year Annual Funding Requirement

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan Planning Code, Section 101.1 Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Victor Young at Victor.Young@sfgov.org.

1 [Charter Amendment – Minimum Police Department Staffing and Five-Year Annual Funding
2 Requirement]

3 **Describing and setting forth a proposal to the voters at an election to be held on March 5,**
4 **2024, to amend the Charter of the City and County of San Francisco to establish minimum**
5 **staffing levels for sworn officers of the Police Department, requiring for a period of five**
6 **years that the Mayor and Board of Supervisors appropriate funds to meet staffing levels,**
7 **establishing a Police Full Staffing Fund for a period of five years for purposes of**
8 **facilitating minimum police staffing, and allowing for a temporary freeze of appropriations**
9 **to the Police Full Staffing Fund in a budget or economic emergency.**

10
11 Section 1. Findings.

12 (a) For nearly three decades, San Franciscans have been denied the benefits of a fully-
13 staffed police force. Although policymakers have made important progress in recent years to
14 develop a workload-based, data-driven methodology for establishing the number of full-duty
15 officers required to meet the City’s public safety needs, the Police Department has not been able
16 to hire at a pace that would allow for full staffing.

17 (b) Despite considerable efforts over the last several years to remedy the chronic
18 shortage in staffing of full-duty officers, the San Francisco Police Department faces a worsening
19 police understaffing crisis. As of September 2023, there were 1,578 full-duty sworn members (as
20 defined in this proposed amendment) in the Police Department, which is an unprecedented low
21 point in recent history. This is approximately 600 fewer officers than required to staff the
22 Department at a level that would meet the City’s public safety needs, according to the
23 Department’s assessment. Compounding this problem is that police retirements are far
24 outpacing the combined annual total of new recruits and lateral transfers that the Department has
25 been able to hire from other law enforcement agencies. As of September 2023, nearly 350 of the

1 City's current sworn officers were eligible for retirement, having reached 50 years of age with 20
2 years or more of service.

3 (c) San Francisco is competing for officers amid a nationwide crisis in police
4 understaffing and in the most competitive environment for law enforcement personnel in recent
5 history. The City's failure to keep up with the pace of needed hiring is resulting in mounting
6 public safety challenges, which involve myriad harms suffered by our residents and visitors, in
7 our neighborhoods and all areas of the City, and which threaten our City's economic wellbeing.
8 Additionally, chronic understaffing in the Police Department creates needlessly expensive and
9 wasteful inefficiencies, including overtime. In the most recent fiscal year, overtime accounted
10 for nearly 20% of the Department's salary budget.

11 (d) Efforts thus far to recruit the number of full-duty sworn officers required to meet the
12 City's public safety needs have failed. San Francisco has been unsuccessful in competing with
13 other law enforcement agencies for a limited pool of qualified candidates. Our competitors offer
14 hiring bonuses and other incentives for new recruits and lateral transfers that San Francisco has
15 been unable to match or exceed. For example, the City of Alameda recently began offering
16 \$75,000 new hire recruiting bonuses, which has allowed it to reduce its police staffing shortage
17 by two-thirds within five months.

18 (e) This Charter amendment aims to guarantee San Franciscans have a fully-staffed
19 police force to ensure maximum public safety and support San Francisco's economic recovery
20 following the COVID-19 pandemic. The amendment establishes a minimum staffing number for
21 full-time sworn police officers in San Francisco over the next five years, with the goal of
22 reaching full staffing within that time frame. The amendment makes it possible to meet this goal
23 by mandating sufficient funding for the Police Department to hire the needed number of new
24 recruits and lateral transfers. Additionally, the amendment establishes a Police Full Staffing
25

1 Fund to be used to enable the Police Department to adequately compete with other local
2 jurisdictions for new hires.

3
4 Section 2. The Board of Supervisors hereby submits to the qualified voters of the City
5 and County, at an election to be held on March 5, 2024, a proposal to amend the Charter of the
6 City and County by revising Section 4.127 and adding Section 16.132, to read as follows:

7
8 NOTE: **Unchanged Charter text and uncodified text** are in plain font.
9 **Additions** are *single-underline italics Times New Roman font*.
10 **Deletions** are ~~*strike-through italics Times New Roman font*~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Charter
12 subsections.

11 **SEC. 4.127. POLICE DEPARTMENT.**

12 The Police Department shall preserve the public peace, prevent and detect crime, and
13 protect the rights of persons and property by enforcing the laws of the United States, the State of
14 California, and the City and County.

15 The Chief of Police may appoint and remove at pleasure special police officers.

16 The Chief of Police shall have all powers which are now or that may be conferred upon
17 a sheriff by state law with respect to the suppression of any riot, public tumult, disturbance of the
18 public peace, or organized resistance against the laws or public authority.

19 **DISTRICT POLICE STATIONS.** The Police Department shall maintain and operate
20 district police stations. The Police Commission, subject to the approval by the Board of
21 Supervisors, may establish additional district stations, abandon or relocate any district station, or
22 consolidate any two or more district stations.

23 **BUDGET.** Monetary awards and settlements disbursed by the City and County as a
24 result of police action or inaction shall be taken exclusively from a specific appropriation listed
25 as a separate line item in the Police Department budget for that purpose.

1 POLICE STAFFING. For the five fiscal years beginning July 1, 2024 and ending June
2 30, 2029, the police force of the City and County shall consist of no less than the number of
3 officers equal to the Minimum Staffing Number. The Minimum Staffing Number means the
4 minimum number of Full-Duty Sworn Officers of the Police Department; and Full-Duty Sworn
5 Officers means full-time sworn members of the Department except those assigned to the San
6 Francisco International Airport, those on long-term leaves of absence, and Police Academy
7 recruits. For the five fiscal years beginning July 1, 2024, the Minimum Staffing Number shall
8 be: (1) 1,700 in Fiscal Year 2024-2025; (2) 1,800 in Fiscal Year 2025-2026; (3) 1,900 in Fiscal
9 Year 2026-2027; (4) 2,000 in Fiscal Year 2027-2028; and (5) 2,074 in Fiscal Year 2028-2029.
10 Thereafter, the Minimum Staffing Number shall be established as follows.

11 By no earlier than October 1 and no later than November 1 in 2028 and every ~~odd-~~
12 ~~numbered fifth~~ calendar year thereafter, the Chief of Police shall transmit to the Police
13 Commission a report describing the Ddepartment's current number of full-duty sworn officers
14 Full-Duty Sworn Officers and recommending staffing levels of full-duty sworn officers Full-Duty
15 Sworn Officers in the subsequent ~~two~~ five fiscal years. The report shall include an assessment of
16 the Police Department's overall staffing, the workload handled by the dDepartment's employees,
17 the dDepartment's public service objectives, the dDepartment's legal duties, and other
18 information the Chief of Police deems relevant to determining proper staffing levels of Full-Duty
19 Sworn Officers full-duty sworn officers. The report shall evaluate and make recommendations
20 regarding staffing levels at all district stations and in all types of jobs and services performed by
21 full-duty sworn officers Full-Duty Sworn Officers. By no later than July 1 in 2028 and every ~~odd-~~
22 ~~numbered fifth~~ calendar year thereafter, the Police Commission shall adopt a policy prescribing
23 the methodologies that the Chief of Police may use in evaluating staffing levels, which may
24 include consideration of factors such as workload metrics, the Department's targets for levels of
25 service, ratios between supervisory and non-supervisory positions in the Department, whether

1 particular services require a fixed number of hours, and other factors the Police Commission
2 determines are best practices or otherwise relevant. The Chief of Police may, but is not required
3 by this Section 4.127 to, submit staffing reports regarding ~~full-duty sworn officers~~ Full-Duty
4 Sworn Officers to the Police Commission more frequently than every five even-numbered years.

5 Beginning in 2028, ~~t~~The Police Commission shall hold a public hearing regarding the
6 Chief of Police's staffing report by December 31 in every year in which the Chief of Police
7 submits a staffing report between October 1 and November 1, as described above ~~odd-numbered~~
8 ~~calendar year~~. At that public hearing, the Police Commission shall consider the most recent
9 report and adopt a Minimum Staffing Number for the Police Department. The Police
10 Commission shall not reduce the Minimum Staffing Number by more than 5% year-over-year
11 absent a two-thirds vote of the Police Commission. The Police Commission shall consider the
12 most recent report and Minimum Staffing Number in its consideration and approval of the Police
13 Department's proposed budget every fiscal year, ~~but the Commission shall not be required to~~
14 ~~accept or adopt any of the recommendations in the report.~~ The Police Commission shall approve
15 a budget that includes funding for the salaries required to meet at least the Minimum Staffing
16 Number as set forth in this Section 4.127.

17 For the five fiscal years beginning July 1, 2024 and ending June 30, 2029, the biennial
18 budget in Section 9.101 shall appropriate funds sufficient to pay for at least the number of Full-
19 Duty Sworn Officers as of February 1 of the prior fiscal year. In any of those five fiscal years, in
20 the event that this funding level to support Full-Duty Sworn Officers is lower than the actual or
21 projected Full-Duty Staffing Levels described in this Section 4.127, the Police Department may
22 submit an amendment to the appropriations ordinance to the Board of Supervisors if the
23 department subsequently projects that it can achieve higher Full-Duty Sworn Officer staffing
24 levels than those contained in the adopted biennial budget. No amendment to the appropriations
25

1 ordinance may be adopted unless the Controller certifies availability of funds and the need for
2 the requested funds to meet expected staffing levels for that fiscal year.

3 Except that the Board of Supervisors may not reduce the Minimum Staffing Number as
4 set forth in this Section 4.127 for Fiscal Years 2024-2029, tThe Board of Supervisors is
5 empowered to adopt ordinances necessary to effectuate the purpose of this section regarding
6 staffing levels including but not limited to ordinances regulating the scheduling of police training
7 classes.

8 Further, the Police Commission shall initiate an annual review to civilianize as many
9 positions as possible and submit that report to the Board of Supervisors annually for review and
10 approval.

11 PATROL SPECIAL POLICE OFFICERS. The Commission may appoint patrol special
12 police officers and for cause may suspend or dismiss patrol special police officers after a hearing
13 on charges duly filed with the Commission and after a fair and impartial trial. Patrol special
14 police officers shall be regulated by the Police Commission, which may establish requirements
15 for and procedures to govern the position, including the power of the Chief of Police to suspend
16 a patrol special police officer pending a hearing on charges. Each patrol special police officer
17 shall be at the time of appointment not less than 21 years of age and must possess such physical
18 qualifications as may be required by the Commission.

19 Patrol special police officers may be designated by the Commission as the owners of a
20 certain beat or territory which may be established or rescinded by the Commission. Patrol special
21 police officers designated as the owners of a certain beat or territory or the legal heirs or
22 representatives of the owners may dispose of their interest in the beat or territory to a person of
23 good moral character, approved by the Police Commission and eligible for appointment as a
24 patrol special police officer.

25 Commission designation of beats or territories shall not affect the ability of private

1 security companies to provide on-site security services on the inside or at the entrance of any
2 property located in the City and County.

3
4 **SECTION 16.132. THE SAN FRANCISCO POLICE FULL STAFFING ACT.**

5 (a) Establishment of Fund. There is hereby established the Police Full Staffing Fund to
6 be administered by the Police Department. Monies therein shall be expended or used solely by
7 the Department, subject to the budgetary and fiscal provisions of the Charter, for the purposes
8 set forth in this Section 16.132.

9 (b) Purpose and Use of Fund. The purpose of the Fund is to provide additional
10 resources to the Department to ensure adequate staffing of Full-Duty Sworn Officers and to meet
11 the Minimum Staffing Number in each year. These resources shall be in addition to those
12 amounts previously appropriated for the Department's staffing in the Fiscal Year 2023-2024
13 biennial budget. The Fund will be used exclusively to support full staffing, including, but not
14 limited to, recruitment and hiring efforts, advertising, development and administration of hiring
15 strategies, and funding hiring incentives for new police officers. The Fund will prioritize local
16 hiring and diversity in recruitment of applicants in accordance with the principles of President
17 Obama's Task Force on 21st Century Policing and the recommendations of the U.S. Department
18 of Justice's Collaborative Reform Initiative.

19 **(c) Definitions.**

20 "Department" means the San Francisco Police Department.

21 "Full-Duty Sworn Officers" has the meaning set forth in Section 4.127.

22 "Fund" means the Police Full Staffing Fund established by this Section 16.132.

23 "Minimum Staffing Number" means the minimum number of Full-Duty Sworn Officers as
24 established under Section 4.127.

1 “Recruitment Supplement” means an amount to be calculated by the Controller equal to
2 \$75,000 for each Fully-Duty Sworn Officer the Department is, as of February 1 of each year,
3 short of the Minimum Staffing Number.

4 (d) Appropriations to the Fund. For fiscal year 2024-2025, the City shall appropriate
5 to the Fund \$16,800,000. On July 1 of each fiscal year for the four fiscal years commencing in
6 2025-2026, the Controller shall appropriate to the Fund an amount equal to the Recruitment
7 Supplement, but not to exceed \$30 million. The City may, at its discretion, continue to
8 appropriate money to the Fund after Fiscal Year 2028-2029. The Controller shall set aside and
9 maintain appropriations, together with any interest earned thereon, in the Fund. Nothing herein
10 is intended to limit the City’s ability to accept private donations to satisfy the required
11 appropriations to the Fund.

12 (e) Temporary Freezes. Notwithstanding subsection (d) or Charter Section 4.127, the
13 City may freeze contributions to the Fund at the level of contributions for the prior fiscal year for
14 any fiscal year after Fiscal Year 2024-2025 when the City’s projected budget deficit for the
15 upcoming fiscal year at the time of the March Joint Report or March Update to the Five Year
16 Financial Plan as prepared jointly by the Controller, the Mayor’s Budget Director, and the
17 Board of Supervisors’ Budget Analyst exceeds \$250 million, adjusted annually beginning with
18 Fiscal Year 2025-2026 by the percentage increase or decrease in aggregate City discretionary
19 revenues, as determined by the Controller, based on calculations consistent from year to year.

20 (f) Unspent Funds. All unspent amounts in the Fund on June 30 of each fiscal year
21 shall be returned to the General Fund.

22 (g) Expiration. This Section 16.132 shall expire by operation of law on December 31,
23 2035, following which the City Attorney may cause it to be removed from the Charter unless the
24 Section is extended by Charter amendment.

1 APPROVED AS TO FORM:
2 DAVID CHIU, City Attorney

3 By: /s/ Kate G. Kimberlin
4 KATE G. KIMBERLIN
Deputy City Attorney

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