

BOARD of SUPERVISORS



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MEMORANDUM

TO: Joanne Hayes-White, Chief, Fire Department
Elaine Forbes, Executive Director, Port Department
Mohammed Nuru, Director, Public Works
John Rahaim, Director, Planning Department

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

DATE: January 23, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Breed on January 15, 2019:

File No. 190045

Ordinance amending the Building Code to adopt standards and procedures for constructing homeless shelters during a shelter crisis, pursuant to California Government Code, Section 8698.4; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk to forward this Ordinance to the California Department of Housing and Community Development upon final passage.

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: Kelly Alves, Fire Department
Daley Dunham, Port Department
Amy Quesada, Port Department
David Steinberg, Public Works
Jeremy Spitz, Public Works
Jennifer Blot, Public Works
John Thomas, Public Works
Lena Liu, Public Works
Scott Sanchez, Planning Department
Corey Teague, Planning Department
Lisa Gibson, Planning Department
Devyani Jain, Planning Department
AnMarie Rodgers, Planning Department
Dan Sider, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Laura Lynch, Planning Department

1 [Building Code - Temporary Homeless Shelter Provisions During Shelter Crisis]

2
3 **Ordinance amending the Building Code to adopt standards and procedures for**
4 **constructing homeless shelters during a shelter crisis, pursuant to California**
5 **Government Code, Section 8698.4; affirming the Planning Department's determination**
6 **under the California Environmental Quality Act; and directing the Clerk to forward this**
7 **Ordinance to the California Department of Housing and Community Development upon**
8 **final passage.**

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.

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

17 Section 1. Findings.

18 (a) On April 12, 2016, the Board of Supervisors adopted Ordinance No. 57-16,
19 declaring, pursuant to California Government Code Sections 8698 through 8698.2, a shelter
20 crisis in the City and County of San Francisco. The Board of Supervisors found that in
21 January 2015, there were 6,686 individuals in San Francisco who were homeless. Since that
22 time, the shelter crisis has grown. According to the January 2017 Point in Time Homeless
23 Count administered by the Department of Homelessness and Supportive Housing (HSH),
24 there were approximately 7,499 people experiencing homelessness in San Francisco on a
25 single night. Of those persons, 58% were unsheltered, 21% were under the age of 25 years,

1 and 32% were over the age of 51 years with attendant deteriorating physical and mental
2 health.

3 (b) Since the Board adopted Ordinance No. 57-16, the State Legislature amended
4 the California Government Code to add Section 8698.4, which allows the cities of Berkeley,
5 Emeryville, Los Angeles, Oakland, and San Diego, and the County of Santa Clara, and the
6 City and County of San Francisco—upon declaring the existence of a shelter crisis that a
7 significant number of persons within the jurisdiction are without the ability to obtain shelter and
8 that state and local standards prevent, hinder, or delay efforts to mitigate the crisis—to adopt
9 by ordinance standards and procedures for the design, site development, and operation of
10 homeless shelters in lieu of complying with local building approval procedures, state housing,
11 health, habitability, planning and zoning, or safety standards, procedures, and laws.

12 (c) Pursuant to California Government Code Section 8698.4, the Board of
13 Supervisors finds that the building approval process requiring discretionary building permits
14 for construction and siting of homeless shelters prevents, hinders, and delays efforts to
15 mitigate the shelter crisis. In lieu of requiring discretionary building permits for homeless
16 shelters, the Board adopts the alternative approval and siting process for homeless shelters
17 codified in this ordinance.

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

23 (e) On _____ 2018, the Building Inspection Commission considered this
24 ordinance at a duly noticed public hearing pursuant to Charter Section D3.750-5.
25

1 Section 2. California Health and Safety Code Section 18909(d). No local findings are
2 required under Health and Safety Code Section 17958.7 because the amendments to the
3 Building Code contained in this ordinance relate in their entirety to the administrative
4 procedure for approving construction, which is expressly excluded from the definition of a
5 "building standard" by Section 18909, and does not alter the substantive building code
6 provisions or standards.

7
8 Section 3. Chapter 106A of the Building Code is hereby amended by revising Section
9 106A.2, to read as follows:

10 **106A.2 Work exempt from permit.** Exemptions from the permit requirements of this
11 code shall not be deemed to grant authorization for any work to be done in any manner in
12 violation of the provisions of this code or any other laws or ordinances of this jurisdiction. A
13 building permit shall not be required for the following:

14 * * * *

15 23. Construction or repair of a homeless shelter located on City owned or leased land
16 during a declared shelter crisis where the following conditions are satisfied: (a) the City agency
17 proposing the construction or repair submits written notice to the Clerk of the Board of Supervisors of
18 the agency's intention to invoke this subsection 23 and 60 calendar days elapse without the Board of
19 Supervisors enacting an ordinance restricting the agency's invocation of this subsection; (b) the
20 Department confirms in writing that the proposed work complies with the provisions of this code,
21 including, if applicable, the Emergency Housing provisions detailed in Appendix N of the 2016
22 California Building Code; and (c) the Department receives written confirmation from the Fire
23 Marshal, Port Chief Engineer (if applicable) and the Directors of the Departments of Public Works,
24 Planning, and Homelessness and Supportive Housing that the construction or repair will comply with
25 all applicable zoning and public health and safety standards.

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. Directions to the Clerk. The Clerk of the Board of Supervisors is hereby
14 directed to forward a copy of this ordinance to the California Department of Housing and
15 Community Development upon final passage.

16
17 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

18
19 By: 
20 ROBB KAPLA
Deputy City Attorney

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LEGISLATIVE DIGEST

[Building Code - Temporary Homeless Shelter Provisions During Shelter Crisis]

Ordinance amending the Building Code to adopt standards and procedures for constructing homeless shelters during a shelter crisis, pursuant to California Government Code, Section 8698.4; affirming the Planning Department’s determination under the California Environmental Quality Act; and directing the Clerk to forward this Ordinance to the California Department of Housing and Community Development upon final passage.

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. California Government Code Section 8698.4 (“Section 8698.4”) specifically authorizes the City to suspend local building approval procedures and state housing, health, habitability, planning and zoning, or safety standards, procedures, and laws, for new homeless shelter facilities in response to the shelter crisis, upon finding that that strict compliance would prevent, hinder, or delay the mitigation of the shelter crisis. In Ordinance Nos. 57-16 and 29-18, and Resolution No. 319-18, the Board of Supervisors has declared the existence of a shelter crisis.

The City’s Building Code generally requires City departments to receive building permits to site, construct, or repair homeless shelters. The building permits may then be appealed and subject to an automatic stay pending resolution of the appeal.

Chapter 106A.2 of the City’s Building Code lists 22 types of construction or repair projects that do not require building permits. Among the permit exemptions are projects owned and operated by Federal or State government entities and City owned projects that were funded by revenue bonds prior to July 1, 1989.

Amendments to Current Law

The proposed ordinance reaffirms the Board of Supervisors’ prior declarations of a shelter crisis and finds, per Section 8698.4, that the local building approval procedure requiring City homeless shelters go through the standard building permit approval and appeal process prevents and hinders that City’s ability to mitigate the shelter crisis by building shelters in a timely fashion.

The proposed ordinance would add construction or repair of homeless shelters on City owned or leased land during a shelter crisis to Section 106A.2's list of permit-exempt projects provided that: (1) the City department proposing the homeless shelter notifies the Clerk of the Board of Supervisors of the intention to invoke the exemption and 60 calendar days elapse without the Board enacting an ordinance restricting the shelter from using the exemption; (2) the Department of Building Inspection confirms the shelter complies with all Building Code provisions, including, if applicable, new State provisions for Emergency Housing; and (3) the Department of Building Inspection receives written confirmation from all other applicable City departments and entities that the proposed work complies with applicable codes.

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.

The proposed ordinance would streamline the approval process for qualifying homeless shelters without relaxing any building, housing, or safety provisions in City or State code. Per the requirements of Section 8698.4, the City's proposed ordinance, if enacted, will be forwarded to the State's Department of Housing and Community Development for review.

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