

BOARD of SUPERVISORS



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MEMORANDUM

TO: Phil Ginsburg, General Manager, Recreation and Parks Department
Abigail Stewart-Kahn, Interim Director, Department of Homelessness and Supportive Housing
Dr. Grant Colfax, Director, Department of Public Health

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

DATE: May 8, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Fewer on May 5, 2020:

File No. 200453

Emergency ordinance authorizing the use of park property for temporary shelter and other measures in response to the COVID-19 pandemic; directing the Recreation and Park Department to report to the Board of Supervisors with a list of potential locations for such uses; and waiving contrary provisions in Administrative Code, Chapters 79 and 79A, and Charter, Section 4.113, if and to the extent applicable.

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.

cc: Sarah Madland, Recreation and Parks Department
Margaret McArthur, Recreation and Parks Department
Dylan Schneider, Department of Homelessness and Supportive Housing
Emily Cohen, Department of Homelessness and Supportive Housing
Greg Wagner, Department of Public Health
Dr. Naveena Bobb, Department of Public Health
Sneha Patil, Department of Public Health

1 [Emergency Ordinance - Emergency Response In Parks]

2

3 **Emergency ordinance authorizing the use of park property for temporary shelter and**
 4 **other measures in response to the COVID-19 pandemic; directing the Recreation and**
 5 **Park Department to report to the Board of Supervisors with a list of potential locations**
 6 **for such uses; and waiving contrary provisions in Administrative Code, Chapters 79**
 7 **and 79A, and Charter, Section 4.113, if and to the extent applicable.**

8

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. Declaration of Emergency under Charter Section 2.107.

17 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
 18 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
 19 of any City or County department or office required to comply with time limitations established
 20 by law. The Board of Supervisors hereby finds and declares that an actual emergency exists
 21 that requires the passage of this emergency ordinance.

22 (b) San Francisco is facing an unprecedented public health crisis due to the COVID-19
 23 pandemic. With the Board's concurrence, the Mayor declared an emergency on February 25,
 24 2020, and has issued a series of executive orders to keep residents safe and to respond to
 25 the emergency. Also, the County Health Officer has issued Order No. C19-07, replaced most

1 recently by Order C19-07c on April 29, 2020, directing residents to stay safely in their homes
2 and practice social distancing, and to require persons to self-isolate if they have contracted
3 the disease or are vulnerable to it.

4 (c) This ordinance addresses two challenges that the City continues to face with
5 respect to COVID-19. The first is that thousands of City residents cannot realistically comply
6 with orders to shelter in their homes, because they are homeless and without shelter. In the
7 resolution in File No. 200406, the Board of Supervisors found that unsheltered persons are
8 sleeping outdoors in encampments with insufficient hygiene and sanitation and inadequate
9 physical distancing, which is posing a serious challenge to the City's COVID-19 mitigation
10 efforts. The City is trying to house these persons in vacant hotel rooms, but it is essential to
11 put other strategies in place and explore all possible options, including the option of temporary
12 shelter in parks. The second challenge is to find additional locations where the City can
13 provide testing and other emergency services related to COVID-19. It is insufficient to provide
14 these services only in hospitals. Medical facilities are overburdened, and many residents are
15 fearful of contracting the disease from hospital visits. Medical services must be safely
16 available to all residents, and there are parks all across the City that can potentially be used
17 for these purposes. Of course, parks must also remain available for outdoor exercise, but
18 some parks are closed or restricted in other ways due to the pandemic, and areas within
19 certain parks can potentially be re-purposed without unduly interfering with existing
20 recreational uses.

21 (d) For these reasons, the Board of Supervisors finds it is essential to expeditiously
22 plan for and establish temporary sites in the parks for unsheltered people and to slow the
23 spread of COVID-19.

1 Section 2. Finding of Park Purpose.

2 San Francisco has a long history of using parks to respond to emergencies. For
3 example, tens of thousands found temporary shelter and medical care in Golden Gate Park
4 and other City parks after the 1906 Earthquake, and in 2016, the City established a temporary
5 shelter in the County Fair Building in Golden Gate Park to protect homeless residents from the
6 El Niño storms. In response to the COVID-19 pandemic, cities across California such as Los
7 Angeles and Long Beach, as well in other parts of the country, are finding it is necessary and
8 appropriate in this emergency to provide temporary shelter and medical care in their public
9 parks. Consistent with this history and with the current practice of many other cities, the
10 Board of Supervisors finds it is necessary and appropriate and in the public interest to use
11 park property in the City's response to the COVID-19 pandemic. All existing or prior uses of
12 park property to assist in the response to COVID-19 are hereby ratified.

13
14 Section 3. Temporary Shelters and Other Uses.

15 (a) The Board of Supervisors hereby recognizes the authority of the Recreation and
16 Park Department (RPD) to allow temporary shelters and other emergency response sites on
17 park property during the COVID-19 emergency. In exercising that authority, RPD shall
18 consult with, and may authorize such sites to be operated by, the Department of Public Health
19 (DPH), the Department of Homelessness and Supportive Housing (HSH), and/or the Healthy
20 Streets Operations Center (HSOC). Each shelter site shall provide adequate space between
21 each tent or other living area to allow for social distancing, meals, drinking water,
22 handwashing stations, bathrooms, and sanitation. Each shelter site shall also have a safety
23 plan and shall receive 24/7 staffing, and may provide access to such other services as the
24 City determines may be necessary and practically feasible to maintain the health and safety of
25 those at the site and in the surrounding neighborhood.

1 (b) RPD shall prepare a written report that identifies locations on park property where it
2 may be possible to establish shelter sites, as well as other types of sites that DPH, HSH or
3 HSOC may advise are necessary for City's emergency response such as testing sites. The
4 report shall take into account factors such as (1) the proposed use; (2) the size, topography,
5 and other features of the location that bear on the ability to provide adequate hygiene and
6 sanitation and to accommodate social distancing at the location; (3) the degree to which the
7 proposed use would interfere with existing recreational uses at the site; and (4) such other
8 factors as RPD may deem appropriate. RPD shall submit the report to the Board of
9 Supervisors by May 18, 2020, or three days after the effective date of this ordinance,
10 whichever is later, and shall also post a copy of the report on its website.

11 (c) This ordinance shall not affect any requirement to perform environmental review, in
12 the event such a requirement applies with respect to a proposed use of park property. Upon
13 approving a proposed use, RPD shall provide public notice of the approval on its website.
14 RPD shall consult as necessary with DPH, HSH, and HSOC with respect to the operation and
15 eventual closure of the sites.

16 17 Section 4. Suspension of Existing Laws.

18 It is necessary to address the emergency conditions described above, notwithstanding
19 any City law to the contrary, which is hereby suspended if and to the extent in conflict with this
20 emergency ordinance. Further, the Board of Supervisors hereby suspends Charter Section
21 4.113, if and to the extent Section 4.113 would otherwise restrict the use of park property as
22 set forth herein. The Board of Supervisors also suspends Administrative Code Chapters 79
23 and 79A, which impose certain notice requirements prior to approval of City projects, if and to
24 the extent those Chapters would otherwise apply.

1 Section 5. Undertaking for the General Welfare. In enacting and implementing this
2 emergency ordinance, the City is assuming an undertaking only to promote the general
3 welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for
4 breach of which it is liable in money damages to any person who claims that such breach
5 proximately caused injury.

6
7 Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word of
8 this emergency ordinance, or any application thereof to any person or circumstance, is held to
9 be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
10 shall not affect the validity of the remaining portions or applications of the ordinance. The
11 Board of Supervisors hereby declares that it would have passed this ordinance and each and
12 every section, subsection, sentence, clause, phrase, and word not declared invalid or
13 unconstitutional without regard to whether any other portion of this ordinance or application
14 thereof would be subsequently declared invalid or unconstitutional.

15
16 Section 7. Effective Date; Expiration. Consistent with Charter Section 2.107, this
17 emergency ordinance shall become effective immediately upon enactment. Enactment occurs
18 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
19 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
20 Mayor's veto of the ordinance. Once enacted, it shall remain in effect for 60 days, unless
21 reenacted as provided by Section 2.107. If not reenacted, it shall expire on the 61st day after
22 enactment.

1 Section 8. Supermajority Vote Required. In accordance with Charter Section 2.107,
2 passage of this emergency ordinance by the Board of Supervisors requires an affirmative vote
3 of two-thirds of the Board of Supervisors.

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

7 By: /s/
8 MANU PRADHAN
9 Deputy City Attorney

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LEGISLATIVE DIGEST

[Emergency Ordinance - Emergency Response In Parks]

Emergency ordinance authorizing the use of park property for temporary shelter and other measures in response to the COVID-19 pandemic; directing the Recreation and Park Department to report to the Board of Supervisors with a list of potential locations for such uses; and waiving contrary provisions in Administrative Code, Chapters 79 and 79A, and Charter, Section 4.113, if and to the extent applicable.

Existing Law

The Recreation and Park Department (RPD) manages park property on behalf of the City.

Amendments to Current Law

The ordinance would direct RPD to prepare a report identifying park properties that could be used as temporary shelters or for other uses that may be necessary to respond to the COVID-19 pandemic (e.g., testing facilities). RPD would have to submit the report to the Board of Supervisors and post a copy on its website.

If RPD were to allow such uses on park property, it would need to consult with the Department of Public Health (DPH), the Department of Homelessness and Supportive Housing (HSH), and the Healthy Streets Operations Center (HSOC), as appropriate. Any shelter sites would need to allow for adequate social distancing and provide basic necessities such as bathrooms, sanitation, and a safety plan.

The ordinance would suspend existing City laws concerning public notice of City projects (e.g., Admin. Code §§ 79, 79A), and regarding the allowable uses of park property (Charter, § 4.113), if and to the extent those rules would otherwise apply.

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