

1 [Limitation on Number of Users of and Loitering At or Near Automatic Public Toilets]

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3 **Ordinance amending Part II, Chapter VIII, Article 2 of the San Francisco Municipal**
4 **(Police) Code by adding Section 124-124.6 to prohibit more than one person from**
5 **entering or remaining in an automatic public toilet at one time and to prohibit loitering**
6 **at or near automatic public toilets..**

7 Note: Additions are single-underline italics Times New Roman;
8 deletions are ~~strikethrough italics Times New Roman~~.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

11 The San Francisco Municipal (Police) Code is hereby amended by adding new
12 Sections 124, 124.1, 124.2, 124.3, 124.4, 124.4 and 124.5 to read as follows:

13 Section 1. Chapter VIII, Article 2 of the San Francisco Municipal (Police) Code is hereby
14 amended by adding Section 124-124.6, to read as follows:

15 SEC. 124. Findings. The People of the City and County of San Francisco find that persons who
16 loiter or linger at or near automatic public toilets imperil the public's safety and welfare. Some of the
17 automatic public toilets are being used as a place of narcotics sales and use, and for disposal of
18 hypodermic needles. In addition, the People find that persons making legitimate use of automatic
19 public toilets have become intimidated and fearful for their safety because of the presence of persons
20 loitering in or near the toilets and leaving drug paraphernalia in and around the toilets, preventing
21 persons with legitimate need for the toilets from using the toilets. Limiting the number of persons who
22 may use an automatic public toilet at any one time and prohibiting loitering or lingering at or near
23 such toilets may decrease the incidence of these crimes by providing law enforcement officers with an
24 additional crime fighting tool that does not infringe on any person's basic rights.

25 No state law addresses this type of behavior or protects the public from these problems.

1 SEC. 124.1. Definitions. (1) For the purpose of this ordinance, a person loiters or lingers at or
2 near an automatic public toilet when the person remains within 20 feet of such a toilet for a period of
3 over two minutes without lawful business.

4 (2) For the purpose of this ordinance, an automatic public toilet is a single-user toilet
5 located on a public sidewalk or other public property. Automatic public toilets include what are
6 commonly referred to as Decaux toilets.

7 SEC. 124.2. Loitering Prohibited. it shall be unlawful for any person to loiter or linger at or
8 near any automatic public toilet in the City and County of San Francisco. This section is not intended
9 to prohibit any person from engaging in any lawful business that must be conducted within 20 feet of an
10 automatic public toilet, such as (1) using an automatic public toilet; (2) waiting in line to use an
11 automatic public toilet; (3) accompanying or assisting another person who is using an automatic public
12 toilet; or (4) activities such as waiting for a bus at a bus stop or waiting in line to enter a theater or
13 other business where the bus stop or line is within 20 feet of an automatic public toilet. Lawful
14 business does not include any activity that can be conducted more than 20 feet from a public toilet.

15 SEC. 124.3. Use of Toilet by More Than One Person Prohibited. It shall be unlawful for more
16 than one person over the age of thirteen (13) years old to enter or remain in an automatic public toilet
17 at one time, unless the person using the automatic public toilet has a disability that causes the person to
18 require assistance, in which case the person's assistants may enter and remain in an automatic public
19 toilet with the disabled person. The Department of Public Works shall post signs on all automatic
20 public toilets notifying users of the restrictions set forth in this section.

21 SEC. 124.4. Warning Required Prior to Enforcement. Before any law enforcement officer may
22 cite or arrest a person under Sections 124.2 of this ordinance, the officer must warn the person that his
23 or her conduct is in violation of this ordinance and must give the person an opportunity to comply with
24 the provisions of this ordinance.

1 SEC. 124.5. Penalties. (1) First Conviction. Any person violating any provision of
2 this ordinance shall be guilty of an infraction. Upon conviction, the violator shall be punished by a fine
3 of not less than \$50 or more than \$100, and/or community service, for each provision violated.

4 (2) Subsequent Convictions. In any accusatory pleading charging a violation of Section
5 124.2 or 124.3, if the defendant has been previously convicted of a violation of such Sections, each such
6 previous violation and conviction shall be charged in the accusatory pleading. Any person violating
7 any provision of such Sections a second time within a 30-day period shall be guilty of an infraction and
8 shall be punished by a fine of not less than \$300 or more than \$500, and/or community service, for
9 each provision violated. Any person violating any provision of such Sections a third time, and each
10 subsequent time, within a 30-day period shall be guilty of an infraction and shall be punished by a fine
11 of not less than \$400 and not more than \$500, and/or community service, for each provision violated.

12 SEC. 124.6. Severability. If any subsection, sentence, clause, phrase, or word of this ordinance
13 be for any reason declared unconstitutional or invalid or ineffective by any court of competent
14 jurisdiction, such decision shall not affect the validity or the effectiveness of the remaining portions of
15 this ordinance or any part thereof. The People hereby declare that they would have adopted this
16 ordinance notwithstanding the unconstitutionality, invalidity or ineffectiveness of any one or more of its
17 subsections, sentences, clauses, phrases, or words.

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19 APPROVED AS TO FORM:
20 LOUISE H. RENNE, City Attorney

21 By: _____
22 MARGARET W. BAUMGARTNER
23 Deputy City Attorney
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