

1 [Emergency Ordinance - Restroom and Hand Washing Facilities for Unsheltered People]

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3 **Emergency ordinance to limit the spread of COVID-19 by requiring the City, through**  
4 **service agreements with third parties, to provide, staff, and maintain restrooms**  
5 **equipped with toilets and hand washing facilities, at a ratio of one restroom per 50**  
6 **unsheltered people, within three weeks of the effective date of this ordinance; waive**  
7 **the requirement under Charter, Section 9.118, that the Board of Supervisors approve**  
8 **the service agreements for restrooms equipped with toilets and hand washing**  
9 **facilities; and affirming the Planning Department’s determination under the California**  
10 **Environmental Quality Act.**

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

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

20 Section 1. CEQA Findings.

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

Section 2. Declaration of Emergency under Charter Section 2.107.

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

6 (b) On February 25, 2020, Mayor London Breed proclaimed a state of emergency in  
7 response to the COVID-19 pandemic. On March 3, 2020, the Board of Supervisors concurred  
8 in the February 25 Proclamation and in the actions taken by the Mayor to meet the  
9 emergency.

10 (c) On March 16, 2020, the County Health Officer issued Order No. C19-07, replaced  
11 by Order No. C19-07b on March 31, 2020 (March 31 Order), directing San Franciscans to  
12 stay in their homes and follow social distancing requirements when outside their residence.  
13 The social distancing requirements include a requirement that people frequently wash hands  
14 with soap and water for at least 20 seconds, or use hand sanitizer that is recognized by the  
15 Centers for Disease Control and Prevention (CDC) as effective in combatting COVID-19.  
16 Although the March 31 Order requires governmental agencies to “take appropriate steps to  
17 help ensure compliance with social distancing requirements, including adequate provision of  
18 hand sanitizer,” it does not go so far as to mandate the provision of bathrooms and  
19 handwashing stations. Rather, the March 31 order merely states that government agencies  
20 should provide restroom and hand washing or hand sanitation facilities to persons who are  
21 unsheltered.

22 (d) The March 31 Order references the CDC Interim Guidance: “Responding to  
23 Coronavirus Disease 2019 COVID-19 among People Experiencing Unsheltered Homeless,”  
24 which specifically provides that one method of preventing the spread of COVID-19 among  
25 those who are unsheltered is to “[e]nsure nearby restroom facilities have functional water

1 taps, are stocked with hand hygiene materials (soap, drying materials) and bath tissue, and  
2 remain open to people experiencing homelessness 24 hours per day. If toilets or  
3 handwashing facilities are not available nearby, provide access to portable latrines with  
4 handwashing facilities for encampments of more than 10 people.”

5 (e) The CDC guidance recommending the provision of restrooms is clear. Given the  
6 ever-present spread of COVID-19, individuals without homes should have the opportunity to  
7 comply with social distancing requirements, including as to hand washing, to the greatest  
8 extent possible. But absent a governmental mandate to provide restrooms equipped with  
9 hand washing or hand sanitation facilities, thousands of unsheltered people are unable to  
10 maintain proper personal hygiene and to comply with the social distancing requirements to  
11 wash their hands frequently and thoroughly. The lack of facilities that enable unhoused  
12 people to maintain personal hygiene and to frequently and thoroughly wash their hands,  
13 poses a severe and imminent threat to the health, safety, and well-being of themselves and  
14 others.

15 (f) This emergency ordinance is necessary to reduce the spread of COVID-19 by  
16 enhancing the ability of people experiencing homelessness to comply with social distancing  
17 protocols, particularly the ability to maintain personal hygiene and to frequently and thoroughly  
18 wash their hands as recommended by the CDC.

19

### 20 Section 3. Findings and Purpose.

21 (a) The occurrence of COVID-19 is rapidly increasing within the City and County of  
22 San Francisco (“City”) and throughout the Bay Area. According to the County Health Officer,  
23 there is also “a significant and increasing number of suspected cases of community  
24 transmission and likely further significant increases in transmission.” Even if there is a  
25 “flattening of the curve” and some stabilization or even decline in the occurrence of COVID-19

1 in the City and/or Bay Area, COVID-19 will remain an extremely serious public health risk  
2 locally for the duration of this emergency ordinance.

3 (b) The County Health Officer’s Orders, together with directives from public health  
4 experts at the local, state, and national level, recognize that limiting interactions among  
5 people as much as possible slows transmission of COVID-19. The CDC has found that “[t]he  
6 potential for presymptomatic transmission underscores the importance of social distancing,”  
7 including frequently washing hands with soap and water for at least 20 seconds, or using  
8 hand sanitizer that is recognized by the CDC as effective in combatting COVID-19, to reduce  
9 COVID-19 spread.

10 (c) The approximately 5,180 San Francisco unsheltered residents experiencing  
11 homelessness have no realistic way to comply with social distancing and personal hygiene  
12 protocols when living in encampments or on the street. Communicable diseases, such as  
13 COVID-19, have the potential to spread quickly through the homeless community due in part  
14 to the close proximity of people in these settings and the lack of adequate sanitation. Many  
15 public restrooms that were accessible to the unsheltered are now closed, making it difficult, if  
16 not impossible, for unhoused residents to comply with social distancing guidelines, including  
17 frequently and thoroughly washing their hands.

18 (d) The prevalence of underlying health conditions among people experiencing  
19 homelessness increases their vulnerability to COVID-19 infection, and therefore increases the  
20 likelihood that COVID-19 will spread rapidly through the homeless community. This makes it  
21 especially important that unsheltered individuals have access to free, public restrooms with  
22 hand washing facilities.

23 (e) In Order No. C19-07b, the County Health Officer requires government agencies  
24 and other entities operating shelters and other congregate facilities for the homeless to “take  
25 appropriate steps to help ensure compliance with Social Distancing Requirements, including

1 adequate provision of hand sanitizer.” Additionally the Order states that government agencies  
2 should provide restroom and handwashing or hand sanitation facilities to persons who are  
3 unsheltered.

4 (f) Notwithstanding these requirements, according to the San Francisco Public Works  
5 website there are currently only thirty-nine Pit Stop combined toilet and hand washing units in  
6 all of San Francisco. This number does not meet the need for restroom and hand washing  
7 facilities for San Francisco’s unsheltered residents. The United Nations High Commissioner  
8 for Refugees Emergency Handbook establishes standards for the ratio of toilets to individuals  
9 at one toilet for 50 people in an emergency. This ratio corresponds to the standards set by  
10 Sphere, an international humanitarian organization that provides disaster relief response  
11 guidance. To meet the needs of San Francisco’s approximately 5,180 unsheltered individuals  
12 at a ratio one restroom for 50 unsheltered persons, the City needs approximately 65 additional  
13 restrooms.

14 (g) Having a sufficient number of restrooms equipped with hand washing facilities will  
15 allow people experiencing homelessness to maintain proper personal hygiene and to  
16 frequently and thoroughly wash their hands, and will help slow community spread of COVID-  
17 19.

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19 Section 4. City Procurement of Restrooms and Hand Washing Facilities to Slow  
20 Community Spread of COVID-19.

21 (a) Subject to the budgetary and fiscal provisions of the Charter, by no later than three  
22 weeks after the effective date of this ordinance, the City shall procure, through service  
23 agreements, restroom units equipped with both a toilet and a hand washing facility, at a ratio  
24 of one restroom unit per 50 unsheltered individuals.

1 (b) If an adequate supply of such units is not available to meet the required 1:50 ratio,  
2 the City shall procure alternative toilet units sufficient to meet the required ratio, and must  
3 accompany them with a corresponding hand washing station.

4 (c) As unsheltered individuals are placed in hotels or other housing, the total number  
5 of required restrooms under subsection (a) or, if necessary, toilet units/hand washing stations  
6 under subsection (b), may be reduced, consistent with maintaining the required 1:50 ratio.

7 (d) Notwithstanding the requirements of Charter Section 9.118, the service  
8 agreements authorized by this emergency ordinance shall not be subject to approval by the  
9 Board of Supervisors.

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11 Section 5. Maintenance and Cleaning of the Restrooms and Hand Washing Facilities.

12 (a) The City shall also procure, through service agreements, adequate staffing,  
13 maintenance and cleaning services for each restroom and hand washing facility procured  
14 under this ordinance.

15 (b) The maintenance and cleaning of restrooms and hand washing facilities procured  
16 under this ordinance shall, at a minimum, conform to the Minimum Environmental Cleaning  
17 Standards for Businesses, Schools and SRO Settings ("Minimum Standards") published by  
18 the Department of Public Health on March 9, 2020, and attached to the Order of the Health  
19 Officer No. C19-04, on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.  
20 Should the Minimum Standards be revised, the maintenance and cleaning of restrooms and  
21 handwashing facilities procured under this ordinance shall, at a minimum, conform to the  
22 Minimum Standards as revised.

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24 Section 6. Implementation.

1           The Mayor, as the City’s Chief Executive Officer, is authorized to designate one or  
2 more City agencies to develop rules, regulations, guidance, forms, and procedures as  
3 necessary and appropriate to effectuate the purposes of this emergency ordinance.  
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5           Section 7. Undertaking for the General Welfare.

6           In enacting and implementing this emergency ordinance, the City is assuming an  
7 undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its  
8 officers and employees, an obligation for breach of which it is liable in money damages to any  
9 person who claims that such breach proximately caused injury. This emergency ordinance  
10 does not create a legally enforceable right by any member of the public against the City.  
11

12           Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word  
13 of this emergency ordinance, or any application thereof to any person or circumstance, is held  
14 to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such  
15 decision shall not affect the validity of the remaining portions or applications of the ordinance.  
16 The Board of Supervisors hereby declares that it would have passed this ordinance and each  
17 and every section, subsection, sentence, clause, phrase, and word not declared invalid or  
18 unconstitutional without regard to whether any other portion of this ordinance or application  
19 thereof would be subsequently declared invalid or unconstitutional.  
20

21           Section 9. Effective Date; Expiration.

22           Consistent with Charter Section 2.107, this emergency ordinance shall become  
23 effective immediately upon enactment. Enactment occurs when the Mayor signs the  
24 ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within  
25 ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the

1 ordinance. Once enacted, it shall remain in effect for 60 days, unless reenacted as provided  
2 by Section 2.107. If not reenacted, it shall expire on the 61st day after enactment.

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4 Section 10. Supermajority Vote Required. In accordance with Charter Section 2.107,  
5 passage of this emergency ordinance by the Board of Supervisors requires an affirmative vote  
6 of two-thirds of the Board of Supervisors.

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8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By: /s/ Virginia Dario Elizondo  
11 VIRGINIA DARIO ELIZONDO

12 Deputy City Attorney

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