

1 [Initiative Ordinance - Business and Tax Regulations and Administrative Codes - Hotel Tax to
2 Fund Housing Services for Homeless Families]

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3 **Motion ordering submitted to the voters an ordinance amending the Business and Tax**
4 **Regulations Code and Administrative Code to impose an additional 1% tax on the**
5 **transient occupancy of hotel rooms to fund housing programs and services to end**
6 **family homelessness, at an election to be held on June 7, 2016.**

7

8 MOVED, That the Board of Supervisors hereby submits the following ordinance to the
9 voters of the City and County of San Francisco, at an election to be held on June 7, 2016.

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11 **Ordinance amending the Business and Tax Regulations Code and Administrative Code**
12 **to impose an additional 1% tax on the transient occupancy of hotel rooms to fund**
13 **housing programs and services to end family homelessness.**

14 NOTE: **Unchanged Code text and uncodified text** are in plain font.
15 **Additions to Codes** are in *single-underline italics Times New Roman font*.
16 **Deletions to Codes** are in ~~italics Times New Roman font~~.
17 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or
18 parts of tables.

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

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20 Section 1. Pursuant to Article XIIC of the Constitution of the State of California, this
21 ordinance shall be submitted to the qualified electors of the City and County of San Francisco
22 at the June 7, 2016 consolidated presidential primary election.

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1 Section 2. The voters of the City and County of San Francisco find as follows:

2 (a) The City and County of San Francisco recognizes as homeless those families who
3 lack a fixed, regular, and adequate nighttime residence, and whose primary nighttime
4 residence is one or more of the following: a shelter; on the sidewalk or street; outdoors; in a
5 vehicle; in a structure not certified or fit for human residence, such as an abandoned building;
6 on a couch or floor used for sleeping in accommodations that are inadequate or overly
7 crowded; in a Single Room Occupancy (SRO) hotel room; in a transitional housing program;
8 or in such other location that is unsafe or unstable.

9 (b) Although it is difficult to quantify the scope of homelessness, a 2015 report by the
10 Coalition on Homelessness, a local nonprofit organization committed to expanding access to
11 housing, on file with the Clerk of the Board of Supervisors in File No. 160035, estimates that
12 there are nearly 2,000 homeless families in San Francisco, including more than 3,200
13 homeless infants, children, and adolescents.

14 (c) Homelessness among families with children is increasing rapidly. Between 2007
15 and 2013, the number of families seeking shelter rose 179%, resulting in longer waits for
16 shelter and more competition for housing units. During that same time period, according to
17 San Francisco Unified School District data, the number of homeless public school students in
18 San Francisco increased by at least 70%.

19 (d) According to Compass Family Services, a nonprofit organization that operates San
20 Francisco's crisis hotline for homeless families, in 2015, 150 homeless families were on the
21 City's waitlist for shelter, representing an increase of 115% since 2013. In 2015, the average
22 wait time for shelter was 7 months.

23 (e) According to the Coalition on Homelessness, the overwhelming majority of families
24 seeking shelter in the City have a strong connection to the City, for example, having grown up
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1 in San Francisco, having worked in San Francisco prior to losing their housing, or having
2 children in the San Francisco Unified School District.

3 (f) The impact of homelessness on children is dramatic and lasting. A 2007 review of
4 academic literature conducted by the U.S. Department of Health and Human Services cited
5 evidence that: homeless children have high rates of both acute and chronic health problems
6 and are more likely than permanently housed children to be hospitalized, to have delayed
7 immunizations, and to have elevated blood lead levels; trauma and violence are endemic in
8 the lives of homeless families, with the majority of children either witnessing violence or being
9 directly victimized; and homelessness is highly linked to family separations, including foster
10 care and involvement with child welfare services.

11 (g) Homelessness also has a profound negative impact on the education of children
12 who are homeless. Nationally, over 50% of homeless children are held back for one grade,
13 and 22% for multiple grades. Homeless children have an 87% increased chance of dropping
14 out of school; indeed, the single highest known risk factor for dropping out of school is being
15 homeless.

16 (h) Prior financial investments in expanding housing opportunities for homeless
17 families have been shown to significantly reduce the waitlist for shelter, suggesting that
18 strategic, sustained investments can achieve an end to family homelessness.

19 (i) Ending family homelessness in San Francisco would end the suffering of thousands
20 of children, and would also save valuable public resources in medical, social service, and
21 behavioral health costs.

22 (j) The purpose of this ordinance is to end family homelessness in San Francisco.
23 This additional tax will achieve that goal by generating funding that will supplement San
24 Francisco's existing investments in housing and services for homeless families. All funds
25 generated by the additional tax will augment – and not supplant – existing appropriations, and

1 will be earmarked to expand programs that will prevent families from becoming homeless in
2 the first instance, and establish sufficient exits from homelessness for those families who lack
3 housing. San Francisco, with its robust economy, industry, and proud tradition of caring for its
4 most vulnerable residents, can be the first city in the country to end family homelessness.

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6 Section 3. The Business and Tax Regulations Code is hereby amended by adding
7 Section 502.9, to read as follows:

8 **SEC. 502.9. IMPOSITION OF ADDITIONAL 1% SURCHARGE.**

9 *(a) Definitions. For purposes of this Section 502.9:*

10 *“Base Amount” means the Controller’s calculation of the amount of City appropriations (not*
11 *including appropriations from the Fund and exclusive of expenditures funded by private funding or*
12 *funded or mandated by state or federal law) for Eligible Programs for the Baseline Year, as adjusted in*
13 *the manner provided in subsection (f) and (g) of this Section 502.9.*

14 *“Baseline Year” means the fiscal year July 1, 2015 through June 30, 2016, as described in*
15 *subsection (f) of this Section 502.9.*

16 *“Diversion” means assisting Homeless Families as they apply for entry into shelter to prevent*
17 *homelessness by helping such Families identify immediate alternate housing arrangements and, if*
18 *necessary, connecting them with services and financial assistance to help them return to permanent*
19 *housing. Services include, but are not limited to, services similar to those described in the definition of*
20 *“Prevention,” below.*

21 *“Eligible Programs” means: (1) Rapid Rehousing; (2) Prevention and Diversion; and*
22 *(3) Capital and operating costs for the development of new housing for Homeless Families. However,*
23 *“Eligible Programs” shall not include any programs or services that only incidentally benefit*
24 *Homeless Families or Families at risk of becoming homeless, or that benefit such Families as part of a*
25 *larger group.*

1 “Family” means a natural, adoptive, or foster family, which may include a married, unmarried,
2 or domestic partner, with at least one child in the Family below the age of 18, or with a woman who is
3 at least seven months pregnant or who is at least five months pregnant with a documented high-risk
4 pregnancy.

5 “Fund” means the Ending Family Homelessness Fund, described in subsection (d) of this
6 Section 502.9.

7 “Homeless Family” means a Family that lacks a fixed, regular, and adequate nighttime
8 residence, and whose primary nighttime residence is one or more of the following: a shelter; on the
9 sidewalk or street; outdoors; in a vehicle; in a structure not certified or fit for human residence, such
10 as an abandoned building; on a couch or floor used for sleeping in accommodations that are
11 inadequate or overly crowded; in a Single Room Occupancy (SRO) hotel room; in a transitional
12 housing program; or in such other location that is unsafe or unstable.

13 “Prevention” means assisting low-income housed Families at risk of becoming homeless.
14 Services include, but are not limited to, the provision of financial, utility, and/or rental assistance,
15 flexible funding (e.g., security deposit, expenses necessary to maintain housing), short-term case
16 management, conflict mediation, connection to mainstream services (e.g., services from agencies
17 outside of the homeless assistance system, such as public benefit agencies), and housing search
18 assistance.

19 “Rapid Rehousing” means short or medium-term rental subsidies and case management
20 programs that help Homeless Families find housing and stabilize in private housing in which they are
21 the leaseholders.

22 “Surcharge” means the surcharge imposed under this Section 502.9.

23 (b) Imposition of Surcharge. Effective January 1, 2017, there shall be a Surcharge of 1%, in
24 addition to all other taxes imposed under Article 7 of the Business and Tax Regulations Code, on the
25 rent for every occupancy of a guest room in a hotel in the City and County of San Francisco. The

1 provisions of this Section 502.9 shall not be subject to Section 502.7, including the temporary
2 suspension provided therein.

3 (c) Apportionment of Surcharge. When rent is paid, charged, billed, or falls due on either a
4 weekly, monthly, or other term basis, the rent so paid, charged, billed, or falling due shall only be
5 subject to the Surcharge to the extent that it covers any portion of the period on and after January 1,
6 2017, and such payment, charge, bill, or rent due shall be apportioned on the basis of the ratio of the
7 number of days falling on or after January 1, 2017 to the total number of days the rent covers. Where
8 any Surcharge has been paid hereunder upon any rent without any right of occupancy therefor, the Tax
9 Collector may by regulation provide for credit or refund of the amount of such Surcharge upon
10 application therefor as provided in this Code.

11 (d) Deposit of Monies Collected. All monies collected pursuant to the Surcharge shall be
12 deposited to the credit of the Ending Family Homelessness Fund, established in Administrative Code
13 Section 10.100-68, which shall be a category four fund under Section 10.100-1. The Fund shall be
14 maintained separate and apart from all other City funds and shall be subject to appropriation. Any
15 balance remaining in the Fund at the close of any fiscal year shall be deemed to have been provided for
16 a special purpose within the meaning of Charter Section 9.113(a) and shall be carried forward and
17 accumulated in the Fund for the purposes described in this Section 502.9. Any repayment of loans,
18 grants, or contract amounts made with monies from the Fund to further the purposes stated in
19 subsection (e) of this Section 502.9 shall be deposited back into the Fund to be appropriated and
20 expended as set forth in this Section 502.9.

21 (e) Expenditures. Subject to the budgetary and fiscal provisions of the Charter, monies in the
22 Fund shall be used exclusively for the following purposes:

23 (1) In fiscal year 2016-2017 only, the Tax Collector and other City Departments may
24 use up to 1% of the proceeds of the Surcharge for the set-up costs of administering the Surcharge.

25 (2) Refunds of any overpayments of the Surcharge.

1 (3) Funding, including administrative costs, of Eligible Programs. The intent of this
2 Section 502.9 is to provide dedicated revenues to increase funding for Eligible Programs. It is not
3 intended to supplant existing funding. Therefore, except as otherwise specified in this Section 502.9,
4 revenues in the Fund may only be expended in years when the Controller certifies that appropriations
5 contained in the adopted budget from other funding sources exceed those in a given year, as measured
6 and adjusted by the Controller pursuant to subsections (f) and (g) of this Section 502.9.

7 (f) Expenditures After Baseline Year. No monies in the Fund shall be expended pursuant to
8 subsection (e)(3) of this Section 502.9 in any fiscal year in which the amount appropriated for Eligible
9 Programs (not including appropriations from the Fund and exclusive of expenditures funded by private
10 funding or funded or mandated by state or federal law) is below the Base Amount. All funds
11 unexpended in accordance with the preceding sentence shall be held in the Fund and may be expended
12 in any future fiscal year in which other expenditures from the Fund may be made. The Controller shall
13 adjust the Base Amount for each fiscal year after the Baseline Year based on calculations consistent
14 from fiscal year to fiscal year by the percentage increase or decrease in aggregate City discretionary
15 revenues. In determining aggregate City discretionary revenues, the Controller shall only include
16 revenues received by the City that are unrestricted and may be used at the option of the Mayor and the
17 Board of Supervisors for any lawful City purpose. The method used by the Controller to determine
18 discretionary revenues shall be consistent with the method used by the Controller to determine the
19 Library and Children’s Fund Baseline calculations, as provided in Charter Section 16.108(h). The
20 change in aggregate discretionary revenues will be adjusted following the end of the fiscal year when
21 final revenues are known.

22 (g) Suspension of Growth in Base Amount. The City may suspend growth in the Base Amount
23 pursuant to subsection (f) of this Section 502.9 in fiscal year 2016-2017 if the City’s projected budget
24 deficit for that year at the time of the Joint Report or Update to the Five Year Financial Plan as
25 prepared jointly by the Controller, the Mayor’s Budget Director, and the Board of Supervisors’ Budget

1 Analyst under Chapter 3, Section 3.6 of the Administrative Code exceeds \$200 million. For fiscal year
2 2017-2018 and thereafter, the City may suspend growth in the Base Amount pursuant to subsection (f)
3 of this Section 502.9 in any year that the City's projected budget deficit for that year at the time of the
4 Joint Report or Update to the Five Year Financial Plan as prepared jointly by the Controller, the
5 Mayor's Budget Director, and the Board of Supervisors' Budget Analyst under Chapter 3, Section 3.6
6 of the Administrative Code exceeds \$200 million adjusted annually by changes in aggregate City
7 discretionary revenues as defined in subsection (f) of this Section 502.9.

8 (h) Annual Reports. Commencing with a report filed no later than January 1, 2018, covering
9 the fiscal year ending on June 30, 2017, the Controller shall file annually with the Board of
10 Supervisors, by January 1 of each year, a report containing the amount of monies collected in and
11 expended from the Fund during the prior fiscal year, and such other information as the Controller, in
12 the Controller's sole discretion, shall deem relevant to the operation of this Section 502.9.

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14 Section 4. The Administrative Code is hereby amended by adding Section 10.100-68,
15 to read as follows:

16 **SEC. 10.100-68. ENDING FAMILY HOMELESSNESS FUND.**

17 (a) Establishment of Fund. The Ending Family Homelessness Fund ("Fund") is established as
18 a category four fund as defined in Section 10.100-1 of the Administrative Code, and shall receive all
19 taxes, penalties, interest, and fees collected from the surcharge imposed under Section 502.9 of
20 Article 7 of the Business and Tax Regulations Code.

21 (b) Use of Fund. Subject to the budgetary and fiscal provisions of the Charter, monies in the
22 Fund shall be used exclusively for the purposes described in Section 502.9 of Article 7 of the Business
23 and Tax Regulations Code.

24 (c) Administration of Fund. As stated in Section 502.9 of Article 7 of the Business and Tax
25 Regulations Code, commencing with a report filed no later than January 1, 2018, covering the fiscal

1 year ending June 30, 2017, the Controller shall file annually with the Board of Supervisors, by
2 January 1 of each year, a report containing the amount of monies collected in and expended from the
3 Fund during the prior fiscal year, and such other information as the Controller, in the Controller's sole
4 discretion, shall deem relevant to the operation of Section 502.9.

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6 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
7 of this ordinance, or any application thereof to any person or circumstance, is held to be
8 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
9 shall not affect the validity of the remaining portions or applications of the ordinance. The
10 People of the City and County of San Francisco hereby declare that they would have passed
11 this ordinance and each and every section, subsection, sentence, clause, phrase, and word
12 not declared invalid or unconstitutional without regard to whether any other portion of this
13 ordinance or application thereof would be subsequently declared invalid or unconstitutional.

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15 Section 6. No Conflict with Federal or State Law. Nothing in this ordinance shall be
16 interpreted or applied so as to create any requirement, power, or duty in conflict with any
17 federal or state law.

18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20
21 By: _____
22 SCOTT M. REIBER
23 Deputy City Attorney

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