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

Emergency ordinance to limit the spread of COVID-19 by requiring the City, through service agreements with third parties, to provide, staff, and maintain restrooms equipped with toilets and hand washing facilities, at a ratio of one restroom per 50 unsheltered people, concentrated in areas with the greatest need, located within 1,000 feet of any encampment, and for select "pit stop" restrooms, open 24 hours per day, within three weeks of the effective date of this ordinance; waive the requirement under Charter, Section 9.118, that the Board of Supervisors approve the service agreements for restrooms equipped with toilets and hand washing facilities; and affirming the Planning Department's determination under the California Environmental Quality Act.

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

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

Section 1. CEQA Findings.

The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 200373 and is incorporated herein by reference. The Board affirms this determination.

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

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

(c) On March 16, 2020, the County Health Officer issued Order No. C19-07, replaced by Order No. C19-07b on March 31, 2020 (March 31 Order), extended and replaced by Order No. C19-07c on April 29, 2020 (April 29 Order), directing San Franciscans to stay in their homes and follow social distancing requirements when outside their residence. The social distancing requirements include a requirement that people frequently wash hands with soap and water for at least 20 seconds, or use hand sanitizer that is recognized by the Centers for Disease Control and Prevention (CDC) as effective in combatting COVID-19. Although the March 31 April 29 Order requires governmental agencies to "take appropriate steps to help ensure compliance with social distancing requirements, including adequate provision of hand sanitizer," it does not go so far as to mandate the provision of bathrooms and handwashing stations. Rather, the March 31 April 29 Order merely states that government agencies should provide restroom and hand washing or hand sanitation facilities to persons who are unsheltered.

(d) The March 31 April 29 Order references the CDC Interim Guidance: "Responding to Coronavirus Disease 2019 COVID-19 among People Experiencing Unsheltered Homeless,"
which specifically provides that one method of preventing the spread of COVID-19 among
those who are unsheltered is to “[e]nsure nearby restroom facilities have functional water
taps, are stocked with hand hygiene materials (soap, drying materials) and bath tissue, and
remain open to people experiencing homelessness 24 hours per day. If toilets or
handwashing facilities are not available nearby, provide access to portable latrines with
handwashing facilities for encampments of more than 10 people.”

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

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

Section 3. Findings and Purpose.

(a) The occurrence of COVID-19 is rapidly increasing within the City and County of
San Francisco (“City”) and throughout the Bay Area. According to the County Health Officer,
there is also “a significant and increasing number of suspected cases of community
transmission and likely further significant increases in transmission.” Even if there is a
“flattening of the curve” and some stabilization or even decline in the occurrence of COVID-19
in the City and/or Bay Area, COVID-19 will remain an extremely serious public health risk
locally for the duration of this emergency ordinance.

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

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

(d) The prevalence of underlying health conditions among people experiencing
homelessness increases their vulnerability to COVID-19 infection, and therefore increases the
likelihood that COVID-19 will spread rapidly through the homeless community. This makes it
especially important that unsheltered individuals have access to free, public restrooms with
hand washing facilities.
(e) In the April 29 Order No. C19-07be, the County Health Officer requires government agencies and other entities operating shelters and other congregate facilities for the homeless to "take appropriate steps to help ensure compliance with Social Distancing Requirements, including adequate provision of hand sanitizer." Additionally the Order states that government agencies should provide restroom and handwashing or hand sanitation facilities to persons who are unsheltered.

(f) Notwithstanding these requirements, according to the San Francisco Public Works website there are currently only thirty-nine 39 Pit Stop combined toilet and hand washing units in all of San Francisco. This number does not meet the need for restroom and hand washing facilities for San Francisco's unsheltered residents. The United Nations High Commissioner for Refugees Emergency Handbook establishes standards for the ratio of toilets to individuals at one toilet for 50 people in an emergency. This ratio corresponds to the standards set by Sphere, an international humanitarian organization that provides disaster relief response guidance. To meet the needs of San Francisco's approximately 5,180 unsheltered individuals at a ratio one restroom for 50 unsheltered persons, the City needs approximately 65 additional restrooms.

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


(a) Subject to the budgetary and fiscal provisions of the Charter, by no later than three weeks after the effective date of this ordinance, the City shall procure, through service...
agreements, restroom units equipped with both a toilet and a hand washing facility, at a ratio of one restroom unit per 50 unsheltered individuals. Such restroom units shall be concentrated in areas with the greatest need, and located within 1,000 feet of any encampment. The hours of operation for all existing and new “pit stop” restrooms shall be 24 hours per day seven days per week, except at the following locations: corner of Market Street and Church Street; corner of Haight Street and Buena Vista Avenue; corner of 16th Street and Capp Street; corner of 18th Street and Mission Street; Washington Square Park on Union Street near Stockton Street; and adjacent to the Great Highway near the Beach Chalet.

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

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

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

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

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

(b) The maintenance and cleaning of restrooms and hand washing facilities procured under this ordinance shall, at a minimum, conform to the Minimum Environmental Cleaning Standards for Businesses, Schools and SRO Settings (“Minimum Standards”) published by Supervisors Haney; Walton, Preston, Mar BOARD OF SUPERVISORS
the Department of Public Health on March 9, 2020, and attached to the Order of the Health Officer No. C19-04, on file with the Clerk of the Board of Supervisors in File No. 200373.

Should the Minimum Standards be revised, the maintenance and cleaning of restrooms and handwashing facilities procured under this ordinance shall, at a minimum, conform to the Minimum Standards as revised.

Section 6. Implementation.

The Mayor, as the City’s Chief Executive Officer, Department of Public Works is authorized to designate one or more City agencies to develop rules, regulations, guidance, forms, and procedures as necessary and appropriate to effectuate the purposes of this emergency ordinance.

Section 7. Undertaking for the General Welfare.

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

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

Section 9. Effective Date; Expiration.
Consistent with Charter Section 2.107, this emergency ordinance shall become effective immediately upon enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance. Once enacted, it shall remain in effect for 60 days, unless reenacted as provided by Section 2.107. If not reenacted, it shall expire on the 61st day after enactment.

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

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

By: /s/ Virginia Dario Elizondo

VIRGINIA DARIO ELIZONDO
Deputy City Attorney
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May 01, 2020 Budget and Finance Committee - RECOMMENDED AS COMMITTEE REPORT

May 05, 2020 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

May 05, 2020 Board of Supervisors - FINALLY PASSED AS AMENDED
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 200373

I hereby certify that the foregoing Ordinance was FINALLY PASSED AS AMENDED on 5/5/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved
5·15·20