

1 [Emergency Ordinance - Limiting COVID-19 Impacts through Safe Shelter Options]

2

3 **Emergency ordinance to require the City to secure 8,250 private rooms by April 26,**
4 **2020, through service agreements with hotels and motels for use as temporary**
5 **quarantine facilities for people currently experiencing homelessness, people released**
6 **from local hospitals with COVID-19 exposure or infection, and front-line workers in the**
7 **COVID-19 crisis; waive the requirement under Charter Section 9.118 that the Board of**
8 **Supervisors approve the service agreements for private rooms; require daily reporting**
9 **to the Board of Supervisors on the City’s progress in procuring and providing the**
10 **needed rooms; require congregate care facilities for the homeless to comply with**
11 **social distancing practices and implement COVID-19 screening protocols; and direct**
12 **the City to use best efforts to enable people leaving congregate care facilities for**
13 **temporary rooms provided by the City to subsequently return to congregate care**
14 **facilities.**

15

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

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

22

23 Section 1. Declaration of Emergency under Charter Section 2.107.

24 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
25 cases of public emergency affecting life, health, or property, or for the uninterrupted operation

1 of any City or County department or office required to comply with time limitations established
2 by law. The Board of Supervisors hereby finds and declares that an actual emergency exists
3 that requires the passage of this emergency ordinance.

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

8 (c) On March 16, 2020, the County Health Officer issued Order No. C19-07, replaced
9 by Order No. C19-07b on March 31, 2020, directing San Franciscans to stay in their homes
10 and follow social distancing requirements when outside their residence. This Order exempts
11 individuals experiencing homelessness from these requirements, and urges such individuals
12 to obtain shelter. The Order strongly urges – but does not require – governmental entities to
13 make shelter available and provide handwashing or hand sanitation facilities to persons who
14 continue experiencing homelessness.

15 (d) In the absence of a governmental mandate to provide shelter, thousands of people
16 are living in close proximity to one another in San Francisco’s streets, in conditions that pose
17 a severe and imminent threat to the health, safety, and well-being of themselves and others.

18 (e) This emergency ordinance is necessary to reduce the spread of COVID-19 by
19 enhancing the ability of people experiencing homelessness to comply with social distancing
20 protocols, and enabling front-line workers and people recently discharged from hospitals with
21 known or likely COVID-19 infection to self-quarantine effectively.

22
23 Section 2. Findings and Purpose.

24 (a) The occurrence of COVID-19 is rapidly increasing within the City and County of
25 San Francisco (“City”) and throughout the Bay Area. According to the County Health Officer,

1 there is also “a significant and increasing number of suspected cases of community
2 transmission and likely further significant increases in transmission.” Hospital resource use in
3 California for COVID-19 response is expected to peak on April 26, 2020, according to recent
4 calculations by the Institute for Health Metrics and Evaluation.

5 (b) The County Health Officer’s Orders, together with directives from public health
6 experts at the local, state, and national level, recognize that limiting interactions among
7 people as much as possible is proven to slow transmission of COVID-19. The United States
8 Centers for Disease Control and Prevention (“CDC”) has found that “[t]he potential for
9 presymptomatic transmission underscores the importance of social distancing, including the
10 avoidance of congregate settings, to reduce COVID-19 spread.”

11 (c) The approximately 8,035 San Francisco residents experiencing homelessness
12 have no realistic way to comply with social distancing and personal hygiene protocols when
13 living in encampments and congregate facilities such as shelters, navigation centers, and
14 single room occupancies (“SROs”). Communicable diseases, such as COVID-19, have the
15 potential to spread quickly through homeless encampments and congregate facilities, due in
16 part to the close proximity of people in these settings and the lack of adequate sanitation.
17 Many City shelters house more than 100 people, with a current minimum distance between
18 beds of only 22 inches, making it difficult, if not impossible, for residents to comply with social
19 distancing guidelines.

20 (d) The prevalence of underlying health conditions among people experiencing
21 homelessness increases their vulnerability to COVID-19 infection, and therefore increases the
22 likelihood that COVID-19 will spread rapidly through homeless encampments and congregate
23 facilities.

24 (e) In Order No. C19-07b, the County Health Officer urged government agencies and
25 other entities operating shelters and other congregate facilities for the homeless to “take

1 appropriate steps to help ensure compliance with Social Distancing Requirements, including
2 adequate provision of hand sanitizer.” But the County Health Officer has not mandated
3 minimum spacing requirements for congregate living facilities.

4 (f) There is a need for quarantine facilities for San Francisco residents who test
5 positive for or who have been exposed to COVID-19, but who do not require hospitalization,
6 because self-quarantine at home may risk further spread of COVID-19 infection to other
7 members of the household. The U.S. Department of Homeland Security’s Federal
8 Emergency Management Agency (“FEMA”) has noted that “non-congregate sheltering may be
9 necessary in this Public Health Emergency to protect public health and save lives.” FEMA
10 has therefore authorized reimbursement for local provision of “hotels, motels, dormitories, or
11 other forms of non-congregate sheltering,” to target populations, including “those who test
12 positive for COVID-19 who do not require hospitalization but need isolation (including those
13 exiting from hospitals); those who have been exposed to COVID-19 who do not require
14 hospitalization; and asymptomatic high-risk individuals needing social distancing as a
15 precautionary measure, such as people over 65 or with certain underlying health conditions
16 (respiratory, compromised immunities, chronic disease).”

17 (g) There is also a need for quarantine facilities for front-line responders to this crisis,
18 including but not limited to health care workers and workers in the homeless response system
19 providing services directly to people experiencing homelessness, who are at risk of exposure
20 to COVID-19. San Francisco anticipates that the pace and volume of health care services
21 needed to address the expected rise in COVID-19 infections will put significant strain on the
22 City’s front-line responders to this crisis.

23 (h) Having a sufficient number of hotel rooms available to allow health care workers
24 and others with COVID-19 exposure or infection to quarantine, and to allow people
25

1 experiencing homelessness to engage in social distancing, will help slow community spread
2 of COVID-19.

3 (i) Requiring congregate facilities for the homeless to impose social distancing and
4 COVID-19 infection protocols will reduce the risk of COVID-19 spread through congregate
5 facilities.

6
7 Section 3. City Procurement of Private Rooms to Protect Vulnerable Populations and
8 Slow Community Spread of COVID-19.

9 (a) Subject to the budgetary and fiscal provisions of the Charter, by no later than April
10 26, 2020, the City shall procure through services agreements private hotel or motel rooms to
11 be made available without charge to and for temporary use by the following populations
12 (collectively, "Vulnerable Populations") in the specified numbers, except that the numbers in
13 each category shall be reduced by the number of rooms that the City procures under its
14 authority to lease, buy or otherwise procure property:

15 (1) 7,000 rooms shall be made available for temporary use to meet the needs of
16 people in San Francisco presently experiencing homelessness, including: (A) people
17 currently residing in a City shelter, navigation center, or SRO; (B) people who are currently
18 unsheltered; and (C) unhoused people being released from jails. Priority within this
19 vulnerable population of people experiencing homelessness shall be given to members of
20 especially vulnerable groups, as defined by the County Health Officer, which are people 60
21 years old and older, people with health conditions such as heart disease, lung disease,
22 diabetes, kidney disease, and weakened immune systems, and people who are pregnant or
23 were pregnant in the prior two weeks.

24 (2) 500 rooms shall be made available for temporary use to meet the needs of
25 people recently discharged or diverted from San Francisco hospitals, both public and private,

1 who: (A) have tested positive for COVID-19 or are under evaluation for exposure to COVID-
2 19, but (B) do not have a present need to be hospitalized, and (C) do not have an appropriate
3 place where they can self-quarantine because they reside in an SRO or a congregate facility
4 where there are shared bathrooms and kitchens, or reside in an encampment, or because
5 there is a present risk of COVID-19 transmission to other people residing in their homes.
6 Existence of a present risk of COVID-19 transmission shall be determined on the basis of the
7 most current CDC guidance, which as of April 3, 2020 indicates that a risk of transmission
8 exists when a person has recently tested positive for COVID-19, exhibits symptoms
9 suggestive of COVID-19 such as fever, cough, or shortness of breath, or has had close
10 contact with an individual suspected of or confirmed as having COVID-19.

11 (3) 750 rooms shall be made available for temporary use to meet the needs of
12 front-line responders to the crisis, including but not limited to health care workers and workers
13 in the homeless response system providing services directly to people experiencing
14 homelessness, who need the use of a private room for quarantine due to potential exposure
15 to or infection with COVID-19.

16 (b) This ordinance does not require or authorize any City department to enter into or
17 modify any lease for real property, or buy or sell real property.

18 (c) The following City entities are authorized to enter into services agreements to
19 procure private hotel rooms as set forth in subsection (a), either singly or jointly in any
20 combination: the Human Services Agency, the Department of Homelessness and Supportive
21 Housing, the Department of Public Health, and the Real Estate Division.

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

1 (e) If the City is unable to procure the 8,250 rooms as set forth in subsection (a) by
2 April 26, 2020, despite exhausting reasonable options for securing these rooms through
3 agreements, the Mayor is urged to acquire any additional private rooms needed to reach a
4 total of 8,250 through prompt exercise of the Mayor's authority to commandeer property under
5 Charter Section 3.100(14).

6 (f) No later than one day after this ordinance is effective, and every day thereafter, as
7 long as this emergency ordinance is in effect, the Department of Emergency Management
8 shall submit to the Board of Supervisors a report that:

9 (1) Identifies the total number of hotel rooms procured in accordance with this
10 ordinance, and the number of hotel rooms made available to and occupied by each of the
11 three Vulnerable Populations identified in subsection (a);

12 (2) Identifies the unmet need, if any, for hotel rooms for temporary use by each
13 of the three Vulnerable Populations;

14 (3) Describes barriers to the City's ability to procure needed hotel rooms to
15 meet the needs of each of the three Vulnerable Populations;

16 (4) Describes the steps the City has taken, if any, to commandeer hotel rooms
17 for temporary use by each of the three Vulnerable Populations; and

18 (5) Provides, in de-identified summary form, age, race, gender identity, and
19 category of previous residence (i.e., hospital, navigation center, jail, encampment), to the
20 extent such data is available to the City, for all members of the three Vulnerable Populations
21 that are currently occupying City-provided rooms.

22
23 Section 4. Standards of Care at Shelters, Navigation Centers, and other Congregate
24 Care Facilities for People Experiencing Homelessness.

1 The following standards of care shall apply to shelters, navigation centers, and any
2 other congregate care facilities funded by the City for people experiencing homelessness
3 (collectively, “Congregate Care Facilities for the Homeless”). These standards shall
4 supplement the provisions in Chapter 20 of Article XIII of the Administrative Code that govern
5 the standards of care for city shelters. To the extent any provision in Chapter 20 conflicts with
6 any provision of this ordinance, this ordinance shall apply.

7 (a) Each Congregate Care Facility for the Homeless shall implement the social
8 distancing guidelines ordered by the County Health Officer by, among other things, ensuring
9 that beds and mats are located at least six feet apart, unless located in a private room
10 occupied only by members of the same family, and requiring that guests and staff, to the
11 greatest extent possible, maintain a distance of at least six feet from one another at all times.

12 (b) The Department of Public Health and Department of Homelessness and
13 Supportive Housing (“DHS”) shall, within 72 hours of the effective date of this ordinance,
14 develop a written plan for Congregate Care Facilities for the Homeless to use in screening
15 guests and staff for signs of COVID-19 or other illness (“COVID-19 Plan”). The plan must
16 comply with applicable guidance regarding screenings from CDC (including guidance
17 available online at www.cdc.gov) and the California Department of Public Health (“CDPH”)
18 (including guidance available online at www.cdph.ca.gov).

19 (c) DHS shall publish the COVID-19 Plan on its website, and distribute the COVID-19
20 Plan to each Congregate Care Facility for the Homeless. Each Congregate Care Facility for
21 the Homeless shall implement the COVID-19 Plan within 24 hours of its publication by DHS.

22 (d) If a Congregate Care Facility for the Homeless learns that any current guest or staff
23 member, former guest who recently lived at the facility, or former staff member who recently
24 worked at the facility, tests positive for COVID-19, the facility must immediately, and no later
25 than within one hour, notify the Department of Public Health and meet any other applicable

1 notification requirements. As to former guests and former staff members, “recently” shall be
2 defined in the COVID-19 Plan. If it is not defined there, guidance provided by the CDC and/or
3 CDPH shall provide the definition.
4

5 Section 5. City’s Exercise of Best Efforts to Enable Return to Congregate Care
6 Facilities for the Homeless.

7 The City shall use its best efforts to ensure that individuals who move from Congregate
8 Care Facilities for the Homeless to temporary rooms secured by the City in accordance with
9 this ordinance are able to return to Congregate Care Facilities for the Homeless after they are
10 required to vacate rooms provided by the City.
11

12 Section 6. Implementation.

13 The Mayor, as the City’s Chief Executive Officer, is authorized to designate one or
14 more City agencies to develop rules, regulations, guidance, forms, and procedures as
15 necessary and appropriate to effectuate the purposes of this emergency ordinance.
16

17 Section 7. Undertaking for the General Welfare.

18 In enacting and implementing this emergency ordinance, the City is assuming an
19 undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its
20 officers and employees, an obligation for breach of which it is liable in money damages to any
21 person who claims that such breach proximately caused injury. This emergency ordinance
22 does not create a legally enforceable right by any member of the public against the City.
23

24 Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word
25 of this emergency ordinance, or any application thereof to any person or circumstance, is held

1 to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such
2 decision shall not affect the validity of the remaining portions or applications of the ordinance.
3 The Board of Supervisors hereby declares that it would have passed this ordinance and each
4 and every section, subsection, sentence, clause, phrase, and word not declared invalid or
5 unconstitutional without regard to whether any other portion of this ordinance or application
6 thereof would be subsequently declared invalid or unconstitutional.

7
8 Section 9. Effective Date; Expiration.

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

15
16 Section 10. Supermajority Vote Required. In accordance with Charter Section 2.107,
17 passage of this emergency ordinance by the Board of Supervisors requires an affirmative vote
18 of two-thirds of the Board of Supervisors.

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

22 By: /s/ Sarah A. Crowley
23 SARAH A. CROWLEY
24 Deputy City Attorney

25
n:\legana\as2020\2000426\01441302.docx