

1 [Emergency Ordinance - Limiting COVID-19 Impacts by Not Moving People Experiencing
2 Homelessness Currently Placed in Shelter-in-Place Hotel Rooms]

3 **Emergency ordinance to prohibit the City from requiring people experiencing**
4 **homelessness currently housed in approximately ~~2,300~~ 2,000 Shelter-in-Place (“SIP”)**
5 **Hotel rooms to move from those rooms until the Federal Emergency Management**
6 **Agency (“FEMA”) provides written notification that FEMA funding available for SIP**
7 **Hotel rooms is terminated or not extended or modified in a way that no longer**
8 **reimburses any costs of these rooms, or people experiencing homelessness housed in**
9 **SIP Hotel rooms obtain a stable housing placement; ~~2,300~~ 2,000 for every ten SIP Hotel**
10 **rooms vacated, six SIP Hotel rooms shall continue to be available as they are vacated**
11 **to shelter people experiencing homelessness at risk of COVID-19 infection, until the**
12 **County Health Officer’s Stay Safer At Home Order is rescinded or expires; and**
13 **requiring the Department of Homelessness and Supportive Housing to prepare publicly**
14 **available reports on the progress of placements from SIP Hotels into stable housing.**

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.

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

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

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

1 City or County department or office required to comply with time limitations established by
2 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 25th Proclamation and in the actions taken by the Mayor to meet the
7 emergency.

8 (c) On March 13, 2020, the Mayor issued a Second Supplement to the February 25th
9 Proclamation, making findings that “it is in the public interest to take steps to ensure that
10 people remain housed during this public health emergency” and that “there is a severe
11 shortage of affordable rental housing in the City, people who are evicted are at a risk of
12 homelessness, and homeless individuals are less equipped to mitigate risks related to
13 COVID-19.”

14 (d) On March 16, 2020, the County Health Officer issued Order No. C19-07, replaced
15 by Order No. C19-07b on March 31, 2020, directing San Franciscans to stay in their homes
16 and follow social distancing requirements when outside their residence (“Stay Safer At Home
17 Order”). This Order has been revised and updated during the intervening months to address
18 changing conditions, and the current Order No. 19-07o, issued November 28, 2020, continues
19 to exempt individuals experiencing homelessness from these requirements, and urges such
20 individuals to obtain shelter. The Order strongly urges, but does not require, governmental
21 entities to make shelter available and provide handwashing or hand sanitation facilities to
22 persons who continue experiencing homelessness.

23 (e) Due to the economic pressures related to COVID-19 and uncertainty of Federal
24 Emergency Management Agency (“FEMA”) reimbursements for emergency housing,
25 hundreds of rooms made available by the City to unsheltered individuals 24 hours a day are at

1 risk of closing, which would leave a growing number of San Franciscans experiencing
2 homelessness at imminent risk of returning to congregate shelters or to sleeping unsheltered
3 on the streets, and thereby facing a greater risk of contracting COVID-19.

4 (f) This emergency ordinance is necessary to reduce the spread of COVID-19 by
5 enhancing the ability of people experiencing homelessness to comply with social distancing
6 protocols.

7
8 Section 2. Background and Findings.

9 (a) Despite relatively low rates of COVID-19 prevalence in the City and County of San
10 Francisco, as compared to many other areas in California and across the country, the
11 occurrence of the virus is rapidly increasing in the City and throughout the Bay Area.

12 (b) Following the first wave of the coronavirus and a major outbreak at a congregate
13 shelter, on April 24, 2020, following unanimous passage by the Board of Supervisors, the City
14 enacted Ordinance No. 69-20, “Emergency Ordinance - Limiting COVID-19 Impacts through
15 Safe Shelter Options.” This ordinance required the City to secure 8,250 private rooms
16 through service agreements with hotels and motels for use as temporary quarantine facilities
17 for people currently experiencing homelessness. As a result, the City entered into leases with
18 29 hotels, and as of November 15, 2020, was providing temporary housing in approximately
19 2,359 rooms to individuals or families in Shelter-In-Place (“SIP”) Hotels.

20 (c) In Resolution No. 330-20 adopted in July 2020, the Board of Supervisors
21 expressed its intent that no person experiencing homelessness who has been brought into the
22 COVID-19 Response System, which includes City or privately-funded hotel rooms,
23 congregate shelters, or Recreational Vehicles, be discharged to the streets, and that all
24 people in the COVID-19 Response System receive a “Coordinated Entry Assessment” for
25 appropriate housing matches. In Resolution No. 330-20, the Board also urged the

1 Department of Homelessness and Supportive Housing (HSH) to release a comprehensive
2 plan that outlines anticipated steps to prevent people in SIP hotels or other COVID-19
3 Response System housing options from being discharged to the streets.

4 (d) In July 2020, HSH announced that the SIP Hotels would be discontinued in June
5 2021. No details were released in conjunction with the timeline.

6 (e) In August 2020, the Board of Supervisors approved a \$178 million budget to
7 expand and maintain the Shelter-In-Place Program for Fiscal Year 2020-2021, 98% of which
8 is to be reimbursed by assumed FEMA (Federal Emergency Management Agency) revenue
9 and various state emergency and homeless prevention funds. As COVID-19 rates increase
10 across California, the state government continues to make additional funds available for non-
11 congregate shelter operations.

12 (f) During the last week of October 2020, HSH released a new timeline for all clients in
13 SIP Hotels to be “rehoused” and for the hotels to be shut down, beginning in December 2020,
14 through June 2021.

15 (g) Despite a stated commitment from HSH to provide every SIP Hotel client with
16 stable housing, as of December 1, 2020, fewer than 320 permanent housing options have
17 been identified for the single adults, families, and youth staying in ~~more than 2,300~~
18 approximately 2,000 rooms in the SIP Hotels.

19 (h) Due to the current surge in COVID-19 cases, on November 28, 2020, the Health
20 Officer suspended or restricted many indoor businesses and activities, such as dining, movie
21 theaters, museums, gyms, and services at houses of worship, and required most retail stores
22 and shopping centers, except stand-alone grocery stores, to reduce their capacity from 50%
23 to 25%. However, the HSH plan to close SIP Hotels remains in place on a rapid timeline. This
24 places those persons experiencing homeless who are housed in SIP hotels at a much greater
25 risk of being exposed to the coronavirus and contracting COVID-19.

1 (i) There is, therefore, a compelling and immediate need to maintain SIP Hotel
2 operations in order to avoid COVID-19 exposure for these vulnerable Clients of the SIP Hotels
3 and for COVID-19-vulnerable individuals who are currently unsheltered.

4 (j) In enacting this emergency ordinance, it is the intention of the Board of Supervisors
5 that the housing resources made available to clients in SIP Hotels not reduce the housing
6 resources made available to individuals experiencing homelessness who are not currently
7 placed in a SIP Hotel.

8
9 Section 3. Definitions.

10 As used in this ordinance, the following terms shall have the following meanings:

11 “By-Name List” means the list of all people temporarily residing in the SIP Hotels. It
12 provides a single source of data that can be shared across agencies.

13 “City” means the City and County of San Francisco.

14 “Client” means any individual or family staying in a SIP Hotel at any point during the
15 Stay Safer At Home Order, and subsequent revisions and updates, issued by the Health
16 Officer.

17 “Coordinated Entry Assessment” means the Department’s mechanism to organize the
18 homelessness response system and a tool for matching people experiencing homelessness
19 to the most appropriate housing resource. A Coordinated Entry Assessment helps determine
20 for which services a household is eligible, based on length of time in which an individual or
21 family has resided in a place not meant for human habitation, a safe haven, or an emergency
22 shelter, and the severity of the individual’s or family’s service needs.

23 “Department” means the Department of Homelessness and Supportive Housing.

24 “Homeward Bound” means the Department’s program designed to help reunite people
25 experiencing homelessness in San Francisco with family and friends elsewhere who are

1 willing and able to offer ongoing support to end the cycle of homelessness. Through the
2 Homeward Bound Program, the Department can provide Clients with a bus ticket home if
3 they: 1) are homeless/low income and living in San Francisco; and 2) have family or friends at
4 the destination that Homeward Bound staff can verify as willing and able to provide a place to
5 stay and ongoing support; and 3) are medically stable enough to travel unassisted to the
6 destination; and 4) are sober and able to abstain from alcohol or using other substances en
7 route.

8 "Housing Referral Status" means that according to the Department's Coordinated Entry
9 Assessment, Clients are matched and referred to housing resources according to a priority
10 designation. Housing Referral Status Clients are eligible to be offered Rapid Rehousing,
11 transitional housing or Permanent Supportive Housing. Criteria used to determine a Client's
12 priority status include length of time in which the Client has stayed in a place not meant for
13 human habitation, a safe haven, or an emergency shelter, as well as the severity of the
14 Client's service needs.

15 "Pandemic Prioritization Status" means people who may not be Housing Referral
16 Status but are a priority for housing because they are COVID-19-vulnerable due to age or due
17 to a medical condition.

18 "Permanent Supporting Housing" means housing units for Clients that include onsite
19 supportive services, including, without limitation, intake and assessment of Clients' needs,
20 outreach to Clients to assist them with health or social needs, management of the health or
21 social needs of Clients, mediation of disputes with the property management, and referrals for
22 services to the Clients, as defined in Administrative Code Section 20.54.2. "Permanent
23 Supportive Housing" shall not include any shelter or site that offers temporary overnight
24 sleeping space on a short-term basis provided by the City on City-owned or City-leased
25 property or through a contractual arrangement.

1 “Problem Solving” means the Department’s approach to identify possible indoor
2 solutions to a Client’s homelessness apart from the City’s homelessness response system.
3 Those solutions include, but are not limited to, connection to Homeward Bound, housing
4 location assistance, mediation and conflict resolution, or short-term financial assistance to
5 cover specific costs that will assist the Client to stay in a safe, indoor place. A Problem
6 Solving resolution may not include a lease or written agreement.

7 “Problem Solving Screening” means a conversation between the Department and the
8 Client to explore and identify flexible, cost-effective real-time solutions to a Client’s housing
9 crisis outside of the City’s homelessness response system, even if only temporarily, with
10 limited or no financial support from the City.

11 “Rapid Rehousing” means a housing program subsidy that assists Clients to move
12 quickly into permanent housing, usually in the private market, by offering housing search
13 assistance, time-limited and targeted services, and short-term rental assistance. Rapid
14 Rehousing may be used for permanent housing in San Francisco or in another community, if
15 the Client chooses.

16 “Short-Term Rental Assistance” means grants for Clients to pay current rent, back rent,
17 or make a security deposit ~~rent payments to individual Client households, rather than~~
18 ~~subsidizing particular rental projects.~~ Short-Term Rental Assistance ~~The rent payment stays~~
19 with the Client, and if the Client no longer wishes to rent a particular unit, the Client may move
20 to another rental property with this rent payment.

21 “Stay Safer At Home Order” means the series of County Health Officer Orders,
22 beginning with No. C19-07, issued On March 16, 2020, directing San Franciscans to stay in
23 their homes and follow social distancing requirements when outside their residence, which
24 have been revised and updated during the intervening months to address changing
25 conditions. Order No. 19-07o, issued November 28, 2020, continues to exempt individuals

1 experiencing homelessness from these requirements, and urges such individuals to obtain
2 shelter.

3
4 Section 4. Restriction on Moving People Experiencing Homelessness Out of Their SIP
5 Hotel Rooms and Provision of Temporary Shelter in Hotels to Other People Experiencing
6 Homelessness.

7 (a) Subject to the budgetary and fiscal provisions of the Charter, the City shall not
8 move the Clients who, as of November 15, 2020, ~~or thereafter for new Clients,~~ are housed in
9 the approximately ~~2,300~~ 2,000 SIP Hotel rooms ~~currently occupied and~~ under service
10 agreements as of November 15, 2020, until ~~FEMA provides the City with written notification~~
11 ~~that FEMA funding available for the SIP Hotel rooms is terminated, or is modified in a way that~~
12 ~~no longer reimburses any costs of these rooms.~~

13 ~~_____ (b) The Clients housed in the approximately 2300 2,000 SIP Hotel rooms as of~~
14 ~~November 15, 2020, or thereafter for new Clients, shall not be moved from their placements~~
15 ~~by the City until:~~

16 1) the Client obtains, and moves into, a stable permanent housing placement
17 consistent with their Housing Referral Status; or

18 2) the Client obtains, and moves into, an appropriate stable housing placement
19 consistent with their Coordinated Entry Assessment Status, ~~as the City determines in writing,~~
20 ~~and with which the Client concurs is appropriate;~~ or. ~~Clients shall not be required to move~~
21 ~~from their SIP Hotel placement for any other purpose, unless: 1)~~

22 3) the Client chooses to move; or

23 24) the Client is placed in an alternative SIP Hotel room due to health needs or
24 habitability conditions; or

1 35) after the conclusion of the appeal process for violation of a rule covered in
2 the San Francisco Shelter Grievance Policy, adopted by the Human Services Commission on
3 April 23, 1992, as revised August 25, 2016, administered by the Department, a copy of which
4 is on file with the Clerk of the Board of Supervisors in File No. 201328, as may be amended
5 from time to time; or

6 6) FEMA provides the City with written notification that FEMA funding available
7 for the SIP Hotel rooms is terminated, or is modified in a way that no longer reimburses any
8 costs of these rooms. Failure of FEMA to provide written notice extending funding for this
9 program for the upcoming month by the last day of the current month shall constitute
10 notification of termination.

11 (eb) Subject to the budgetary and fiscal provisions of the Charter, during the effective
12 period of this emergency ordinance or until FEMA provides the City with written notification
13 that FEMA funding available for SIP Hotel rooms is terminated, or is modified in a way that no
14 longer reimburses any costs of these rooms, or FEMA fails to provide written notice extending
15 funding for the upcoming month, for every ten SIP Hotel rooms that are vacated by an
16 individual under the terms of subsection (a), the City shall make six hotel rooms available as
17 temporary shelter ~~Until the Stay Safer At Home Order is rescinded or expires, the City shall~~
18 ~~continue to keep these approximately 2,300 2,000 SIP Hotel rooms available as they are~~
19 ~~vacated, for temporary use to meet the needs of people in San Francisco experiencing~~
20 homelessness at risk of COVID-19 infection, including: (1) people residing in a City shelter or
21 navigation center; (2) people who are unsheltered; (3) unhoused people released from jails;
22 and (4) unhoused people released from hospitals or isolation and quarantine rooms. Priority
23 within this vulnerable population of people experiencing homelessness shall be given to
24 members of ~~especially vulnerable~~ groups that are especially vulnerable to COVID-19, as
25 defined by the Centers for Disease Control and Prevention (“CDC”), which are, as of

1 December 1, 2020, older adults, and people of all ages with certain underlying medical
2 conditions, but which shall change if CDC’s definition of especially vulnerable groups is
3 modified from time to time. The hotel rooms provided under this subsection (c) need not be in
4 the hotels under service agreements with the City as of November 15, 2020.

5
6 Section 5. Reporting and Transparency.

7 (a) No later than one week after the effective date of this ordinance, the Department
8 shall prepare a public report that is updated at least once per week, and includes, but is not
9 limited to, the following information (“Dashboard”):

10 (1) Client Status. The number of clients in each of the following categories in
11 total and disaggregated by race in de-identified summary form:

- 12 (A) Clients on the By-Name List
- 13 (B) Clients who received a Problem Solving Screening
- 14 (C) Clients ~~who matched with a~~ deemed Problem Solving Status
15 ~~resolution~~
- 16 (D) Clients who received a Coordinated Entry Assessment
- 17 (E) Clients deemed Housing Referral Status
- 18 (F) Clients deemed Pandemic Prioritization Status

19 (2) Exit Report. The number of clients exited to each of the following categories
20 in total and disaggregated by month and race in de-identified summary form:

- 21 (A) Long-Term
 - 22 (i) Permanent Supporting Housing - ~~City Subsidized Housing Site-~~
23 Based
 - 24 (ii) Permanent Supportive Housing - Flexible Housing Pool
 - 25 ~~(iii) Permanent Supportive Housing - Other~~

- 1 (B) Medium-Term
- 2 (i) Skilled Nursing Facility/Board and Care/Residential Care
- 3 Facility/ Treatment
- 4 (ii) Rapid Rehousing

- 5 (C) Short-Term
- 6 (i) Short-Term Rental Assistance
- 7 (ii) Homeward Bound
- 8 (iii) Relocated to another SIP Hotel
- 9 ~~(iii)~~ (iv) Other

10 (3) Available Exits. The number of available exit resources that are currently
11 available and planned shall be listed:

- 12 (A) Long-Term
- 13 (i) Permanent Supporting Housing - ~~City Subsidized Housing Site-~~
- 14 Based
- 15 (ii) Permanent Supportive Housing - Flexible Housing Pool
- 16 ~~(iii) Permanent Supportive Housing - Other~~

- 17 (B) Medium-Term
- 18 (i) Skilled Nursing Facility/Board and Care/Residential Care
- 19 Facility/ Treatment
- 20 (ii) Rapid Rehousing

- 21 (C) Short-Term
- 22 (i) Short-Term Rental Assistance
- 23 (ii) Homeward Bound
- 24 (iii) Other

25

1 (b) The report shall include a glossary of the terms used above or other terms the
2 Department chooses to employ.

3 (c) The report shall contain distinct data sets for Adults, Veterans, Transitional
4 Aged Youth, and Families.

5 (d) If the Department is unable to produce a public Dashboard one week after the
6 effective date of this ordinance, the Department shall submit a weekly written report no later
7 than one week after the effective date of this Ordinance No. 273-20, to the Board of
8 Supervisors and every week thereafter, that shall also be incorporated in this Board File No.
9 201328, until a public Dashboard is produced.

10 (e) Within 30 days of the effective date of this emergency ordinance, the Department
11 shall submit to the Board of Supervisors a report designed to inform planning for a possible
12 expansion of the SIP Program consistent with the City's COVID-19 public health response
13 and FEMA guidelines for non-congregate sheltering, along with a proposed resolution to
14 accept the report. The report shall include, at a minimum:

15 _____ (1) an estimate of the number of unhoused individuals and households who are
16 vulnerable to COVID-19, as such vulnerability is defined by the CDC, and who are not
17 temporarily housed in a SIP Hotel;

18 _____ (2) the number of Housing Referral Status households in the Adult, Transitional
19 Age Youth, and Family shelter systems who are not temporarily residing in a SIP Hotel;

20 _____ (3) a detailed update on available exits from SIP Hotels, including the timeframe
21 in which each type of exit is expected to be made available and the current and planned
22 sources of funding for each; and

23 _____ (4) proposals for ways in which the costs of SIP Hotels may be reduced.

24
25 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.
4

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.
10

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

20 Section 9. Effective Date; Expiration.

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

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.

3
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.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

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

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