

1 [Emergency Ordinance - Limiting COVID-19 Impacts by Continuing to Make Shelter-in-Place
2 Hotel Rooms Available to People Experiencing Homelessness]

3 **Emergency ordinance to prohibit the City from requiring people experiencing**
4 **homelessness currently housed sheltered in approximately 2,000 Shelter-in-Place**
5 **(“SIP”) Hotel rooms to move from those rooms until those individuals obtain a stable**
6 **housing placement; to require the City to make a total of 2,200 Shelter-in-Place (“SIP”)**
7 **Hotel rooms available, and to fill those rooms, as they are vacated, for people**
8 **experiencing homelessness; and to require the Department of Homelessness and**
9 **Supportive Housing to prepare publicly available reports on the progress of**
10 **placements from SIP Hotels into stable housing.**

11
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. Declaration of Emergency under Charter Section 2.107.

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

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

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

11 (d) On March 16, 2020, the County Health Officer issued Order No. C19-07, replaced
12 by Order No. C19-07b on March 31, 2020, directing San Franciscans to stay in their homes
13 and follow social distancing requirements when outside their residence (“Stay Safer At Home
14 Order”). This Order has been revised and updated during the intervening months to address
15 changing conditions. The current Order No. 19-07s, issued January 27, 2021, continues to
16 exempt individuals experiencing homelessness from these requirements, and urges such
17 individuals to obtain shelter. The Order strongly urges, but does not require, governmental
18 entities to make shelter available and provide handwashing or hand sanitation facilities to
19 persons who continue experiencing homelessness.

20 (e) On January 21, 2021, U.S. President Joseph R. Biden directed the Federal
21 Emergency Management Agency (FEMA) to make assistance available to local governments
22 to fund non-congregate sheltering at 100% of federal cost share until September 30, 2021, in
23 contrast to the previous policy of making FEMA assistance available at 75% of the federal
24 cost share. The City had not planned for the availability of this increased funding.

1 (f) From January 1, 2021, to January 30, 2021, COVID-19 cases among people
2 experiencing homelessness in San Francisco increased by 23%.

3 (g) This emergency ordinance is necessary to immediately take advantage of these
4 additional FEMA funds and to revise the City’s plan for non-congregate sheltering to reduce
5 the spread of COVID-19 by enhancing the ability of people experiencing homelessness to
6 comply with social distancing 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, with its devastating human toll, continues to be unacceptably high in
12 the City and throughout the Bay Area.

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

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

1 appropriate housing matches. In Resolution No. 330-20, the Board also urged the
2 Department of Homelessness and Supportive Housing (HSH) to release a comprehensive
3 plan that outlines anticipated steps to prevent people in SIP hotels or other COVID-19
4 Response System housing options from being discharged to the streets.

5 (d) In July 2020, HSH announced that the SIP Hotels would be discontinued in June
6 2021. No details were released in conjunction with the timeline.

7 (e) In August 2020, the Board of Supervisors approved a \$178 million budget to
8 expand and maintain the Shelter-In-Place Program for Fiscal Year 2020-2021, 98% of which
9 was assumed would be reimbursed by FEMA revenue and various state emergency and
10 homeless prevention funds. As COVID-19 rates continue to be unacceptably high across
11 California, the federal and state governments continue to make additional funds available for
12 non-congregate shelter operations.

13 (f) During the last week of October 2020, HSH released a timeline for all clients in SIP
14 Hotels to be “rehoused” and for the hotels to be shut down beginning in December 2020,
15 through June 2021. In response, the City enacted an emergency ordinance, Ordinance No.
16 273-20, on December 23, 2020, to prohibit the City from requiring people experiencing
17 homelessness and at that time housed in approximately 2,000 SIP Hotel rooms to move from
18 those rooms until those individuals obtained a stable housing placement. The ordinance also
19 required the City to make six SIP hotel rooms available for every ten SIP Hotel rooms
20 vacated, and to prepare specific reports.

21 (g) As of January 25, 2021, despite a commitment from HSH to provide every SIP
22 Hotel client with stable housing, only 325 permanent housing options had been identified for
23 the single adults, families, and youth staying in approximately 2,000 rooms in the SIP Hotels.
24 Further, since November 2020, only 91 SIP Hotel clients have been successfully “rehoused”
25 in permanent housing.

1 (h) Despite the rehousing plan and requirements set forth in Ordinance No. 273-20
2 specifying the reasons SIP Hotel clients can be moved from a SIP Hotel room, from January
3 1-29, 2021, only 20 of the 94 exits from SIP Hotels were for housing. There is a continued and
4 urgent need to set rules governing when clients can be exited from SIP Hotel rooms and to
5 require reporting on the rate at which the City is housing people experiencing homelessness.

6 (i) On January 25, 2021, the Mayor announced an intent to continue filling SIP hotel
7 rooms consistent with Ordinance No. 273-20 and to potentially expand hotel intakes; however,
8 despite the increase in FEMA funding and the severe storm hitting the Bay Area at the end of
9 January, as of January 26, 2021, the City had not increased its intake of vulnerable people
10 experiencing homelessness into SIP Hotel rooms.

11 (j) Ordinance No. 273-20 will expire February 23, 2021, and there is an urgent need for
12 the uninterrupted operation of the SIP Hotel program for people experiencing homelessness.

13 (k) There is, therefore, a compelling and immediate need to maintain SIP Hotel
14 operations in order to avoid COVID-19 exposure for these vulnerable clients of the SIP Hotels
15 and for COVID-19-vulnerable individuals who are currently unsheltered.

16
17 Section 3. Definitions.

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

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

21 "City" means the City and County of San Francisco.

22 "Client" means any individual or family staying in a SIP Hotel at any point during the
23 Stay Safer At Home Order, including subsequent revisions and updates, issued by the Health
24 Officer.

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

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

8 “Homeward Bound” means the Department’s program designed to help reunite people
9 experiencing homelessness in San Francisco with family and friends elsewhere who are
10 willing and able to offer ongoing support to end the cycle of homelessness. Through the
11 Homeward Bound Program, the Department can provide Clients with a bus ticket home if
12 they: 1) are homeless/low income and living in San Francisco; and 2) have family or friends at
13 the destination, that Homeward Bound staff can verify are willing and able to provide a place
14 to stay and ongoing support; and 3) are medically stable enough to travel unassisted to the
15 destination; and 4) are sober and able to abstain from alcohol or using other substances en
16 route.

17 “Housing Referral Status” means that according to the Department’s Coordinated Entry
18 Assessment, Clients are matched and referred to housing resources according to a priority
19 designation. Housing Referral Status Clients are eligible to be offered Rapid Rehousing,
20 transitional housing, or Permanent Supportive Housing. Criteria used to determine a Client’s
21 priority status include length of time in which the Client has stayed in a place not meant for
22 human habitation, a safe haven, or an emergency shelter, as well as the severity of the
23 Client’s service needs.

1 “Pandemic Prioritization Status” means people who may not be Housing Referral
2 Status but are a priority for housing because they are COVID-19-vulnerable due to age or a
3 medical condition.

4 “Permanent Supporting Housing” means housing units for Clients that include onsite
5 supportive services, including, without limitation, intake and assessment of Clients' needs,
6 outreach to Clients to assist them with health or social needs, management of the health or
7 social needs of Clients, mediation of disputes with the property management, and referrals for
8 services to the Clients, as defined in Administrative Code Section 20.54.2. "Permanent
9 Supportive Housing" shall not include any shelter or site that offers temporary overnight
10 sleeping space on a short-term basis provided by the City on City-owned or City-leased
11 property or through a contractual arrangement.

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

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

22 “Rapid Rehousing” means a housing program subsidy that assists Clients to move
23 quickly into permanent housing, usually in the private market, by offering housing search
24 assistance, time-limited and targeted services, and short-term rental assistance. Rapid
25

1 Rehousing may be used for permanent housing in San Francisco or in another community, if
2 the Client chooses.

3 “Short-Term Rental Assistance” means grants for Clients to pay current rent, back rent,
4 or make a security deposit. Short-Term Rental Assistance stays with the Client, and if the
5 Client no longer wishes to rent a particular unit, the Client may move to another rental
6 property with this rent payment.

7 “Stay Safer At Home Order” means the series of County Health Officer Orders,
8 beginning with No. C19-07, issued On March 16, 2020, directing San Franciscans to stay in
9 their homes and follow social distancing requirements when outside their residence, which
10 have been revised and updated during subsequent months to address changing conditions.
11 Order No. 19-07s, issued January 27, 2021, continues to exempt individuals experiencing
12 homelessness from these requirements, and urges such individuals to obtain shelter.

13

14 Section 4. Restriction on Moving People Experiencing Homelessness Out of Their SIP
15 Hotel Rooms; Provision of Temporary Shelter in Hotels to Other People Experiencing
16 Homelessness.

17 (a) Subject to the budgetary and fiscal provisions of the Charter, the City shall not
18 move the Clients who, as of November 15, 2020, were housed sheltered in the approximately
19 2,000 SIP Hotel rooms occupied and under service agreements as of November 15, 2020,
20 until:

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

23 (2) the Client obtains, and moves into, an appropriate stable housing placement
24 consistent with their Coordinated Entry Assessment Status; or

25 (3) the Client chooses to move; or

1 (4) the Client is placed in an alternative SIP Hotel room due to health needs or
2 habitability conditions; or

3 (5) after the conclusion of the appeal process for rule violations in the “COVID-
4 19 Shelter-in-Place Hotel Program: Manual and Guidance for Site Operators,” a copy of which
5 is on file with the Clerk of the Board of Supervisors in File No. 210139, as may be amended
6 from time to time.

7 (b) Subject to the budgetary and fiscal provisions of the Charter, during the period this
8 emergency ordinance is operative, the City shall make a total of 2,200 hotel rooms available,
9 and shall fill those rooms, as they are vacated, as temporary shelter for people experiencing
10 homelessness at risk of COVID-19 infection, including: (1) people residing in a City shelter or
11 navigation center; (2) people who are unsheltered; (3) unhoused people released from jails;
12 and (4) unhoused people released from hospitals or isolation and quarantine rooms. The
13 provision of rooms shall prioritize, but not be limited to members of groups who are
14 considered “high-risk” by FEMA’s reimbursement standards, which are people over 65 or who
15 have certain underlying health conditions, such as compromised immune systems, and
16 respiratory and other chronic diseases, as set forth in the March 27, 2020, letter from the
17 Region IX FEMA Administrator to the California Governor’s Office of Emergency Services
18 approving the reimbursement of Non-Congregate Sheltering, on file with the Clerk of the
19 Board of Supervisors in File No. 210139. The SIP Hotel rooms provided under this
20 subsection (b) need not be in the hotels under service agreements with the City as of
21 November 15, 2020.

22
23 Section 5. Reporting and Transparency.

24 (a) The Department shall prepare a public report that is updated at least once per
25 week, and includes, but is not limited to, the following information (“Dashboard”):

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

- 3 (A) Clients on the By-Name List
- 4 (B) Clients who received a Problem-Solving Screening
- 5 (C) Clients deemed Problem Solving Status
- 6 (D) Clients who received a Coordinated Entry Assessment
- 7 (E) Clients deemed Housing Referral Status
- 8 (F) Clients deemed Pandemic Prioritization Status

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

- 11 (A) Long-Term
 - 12 (i) Permanent Supporting Housing - Site-Based
 - 13 (ii) Permanent Supportive Housing - Flexible Housing Pool
- 14 (B) Medium-Term
 - 15 (i) Skilled Nursing Facility/Board and Care/Residential Care
16 Facility/Treatment
 - 17 (ii) Rapid Rehousing
- 18 (C) Short-Term
 - 19 (i) Short-Term Rental Assistance
 - 20 (ii) Homeward Bound
 - 21 (iii) Relocated to another SIP Hotel
 - 22 (iv) Other

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

- 25 (A) Long-Term

- 1 (i) Permanent Supporting Housing - Site-Based
- 2 (ii) Permanent Supportive Housing - Flexible Housing Pool
- 3 (B) Medium-Term
 - 4 (i) Skilled Nursing Facility/Board and Care/Residential Care
 - 5 Facility/Treatment
 - 6 (ii) Rapid Rehousing
- 7 (C) Short-Term
 - 8 (i) Short-Term Rental Assistance
 - 9 (ii) Homeward Bound
 - 10 (iii) Other

11 (4) Intake Report. The number of new clients entering the SIP Hotel program
12 and the referral source as designated in Section 4(b) of this ordinance.

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

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

17 (d) If the Department is unable to produce a public Dashboard with all required data
18 one week after the effective date of this ordinance, the Department shall submit a weekly
19 written report no later than one week after the effective date of this ordinance to the Board of
20 Supervisors, and every week thereafter, that shall also be in Board File No. 210139, until a
21 public Dashboard is produced.

22
23 Section 6. Coordinated Entry Status.

24 Consistent with Administrative Code Sec. 20.16-2, people experiencing homelessness
25 with the greatest barriers to housing, the longest histories of homelessness, and/or the

1 highest level of vulnerability shall continue to be prioritized for housing or other appropriate
2 placements. Nothing in this ordinance shall be construed as prioritizing homeless households
3 who are currently SIP Clients over non-SIP households. Non-SIP households shall continue to
4 be matched with housing resources consistent with their Coordinated Entry Assessment
5 Status during the period this ordinance is operative.

6
7 Section 7. Implementation.

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

11
12 Section 8. Undertaking for the General Welfare.

13 In enacting and implementing this emergency ordinance, the City is assuming an
14 undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its
15 officers and employees, an obligation for breach of which it is liable in money damages to any
16 person who claims that such breach proximately caused injury.

17
18 Section 9. Severability.

19 If any section, subsection, sentence, clause, phrase, or word of this emergency
20 ordinance, or any application thereof to any person or circumstance, is held to be invalid or
21 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
22 affect the validity of the remaining portions or applications of the ordinance. The Board of
23 Supervisors hereby declares that it would have passed this ordinance and each and every
24 section, subsection, sentence, clause, phrase, and word not declared invalid or
25

1 unconstitutional without regard to whether any other portion of this ordinance or application
2 thereof would be subsequently declared invalid or unconstitutional.

3
4 Section 10. Effective Date; Expiration.

5 (a) If enacted prior to the expiration of Ordinance No. 273-20 this emergency ordinance
6 shall become effective immediately upon the date of expiration of Ordinance No. 273-20, and
7 shall itself expire on the 61st day following its effective date unless reenacted as provided by
8 Charter Section 2.107.

9 (b) If enacted after the expiration of Ordinance No. 273-20, this emergency ordinance
10 shall become effective immediately upon enactment, shall be operative retroactively to the
11 date that Ordinance No. 273-20 expired, and shall expire on the 61st day following its
12 effective date unless reenacted as provided by Charter Section 2.107.

13
14 Section 11. Supermajority Vote Required. In accordance with Charter Section 2.107,
15 passage of this emergency ordinance by the Board of Supervisors requires an affirmative vote
16 of two-thirds of the Board of Supervisors.

17
18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By: /s/ Virginia Dario Elizondo
21 VIRGINIA DARIO ELIZONDO
22 Deputy City Attorney

23
24
25
n:\legana\as2020\2100197\01515571.docx