

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 Shelter-in-Place (SIP) Hotel**
5 **rooms to move from those rooms until Federal Emergency Management Agency**
6 **(FEMA) provides written notification that FEMA funding available for SIP Hotel rooms is**
7 **terminated or modified in a way that no longer reimburses any costs of these rooms, or**
8 **people experiencing homeless housed in SIP Hotel rooms obtain a stable housing**
9 **placement; these 2,300 SIP Hotel rooms shall continue to be available as they are**
10 **vacated to shelter people experiencing homelessness at risk of COVID-19 infection,**
11 **until the County Health Officer's Stay Safer At Home Order is rescinded or expires; and**
12 **requiring the Department of Homelessness and Supportive Housing to prepare publicly**
13 **available reports on the progress of placements from SIP Hotels into stable housing.**

14
15 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
16 **Additions to Codes** are in *single-underline italics Times New Roman font*.
17 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
18 **Board amendment additions** are in double-underlined Arial font.
19 **Board amendment deletions** are in ~~strikethrough Arial font~~.
20 **Asterisks (* * * *)** indicate the omission of unchanged Code
21 subsections or parts of tables.

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

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

24 (a) Charter Section 2.107 authorizes passage of an emergency ordinance in cases of
25 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

1 law. The Board of Supervisors hereby finds and declares that an actual emergency exists
2 that requires the passage of this emergency ordinance.

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

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

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

22 (e) Due to the economic pressures related to COVID-19 and uncertainty of Federal
23 Emergency Management Agency (“FEMA”) reimbursements for emergency housing,
24 hundreds of rooms made available by the City to unsheltered individuals 24 hours a day are at
25 risk of closing, which would leave a growing number of San Franciscans experiencing

1 homelessness at imminent risk of returning to congregate shelters or to sleeping unsheltered
2 on the streets, and thereby facing a greater risk of contracting COVID-19.

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

6
7 Section 2. Background and Findings.

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

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

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

1 plan that outlines anticipated steps to prevent people in SIP hotels or other COVID-19
2 Response System housing options from being discharged to the streets.

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

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

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

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

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

4
5 Section 3. Definitions.

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

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

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

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

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

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

20 “Homeward Bound” means the Department’s program designed to help reunite people
21 experiencing homelessness in San Francisco with family and friends elsewhere who are
22 willing and able to offer ongoing support to end the cycle of homelessness. Through the
23 Homeward Bound Program, the Department can provide Clients with a bus ticket home if
24 they: 1) are homeless/low income and living in San Francisco; and 2) have family or friends at
25 the destination that Homeward Bound staff can verify as willing and able to provide a place to

1 stay and ongoing support; and 3) are medically stable enough to travel unassisted to the
2 destination; and 4) are sober and able to abstain from alcohol or using other substances en
3 route.

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

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

19 "Problem Solving" means the Department's approach to identify possible indoor
20 solutions to a Client's homelessness apart from the City's homelessness response system.
21 Those solutions include, but are not limited to, connection to Homeward Bound, housing
22 location assistance, mediation and conflict resolution, or short-term financial assistance to
23 cover specific costs that will assist the Client to stay in a safe, indoor place. A Problem
24 Solving resolution may not include a lease or written agreement.

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

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

9 “Short-Term Rental Assistance” means rent payments to individual Client households,
10 rather than subsidizing particular rental projects. The rent payment stays with the Client, and if
11 the Client no longer wishes to rent a particular unit, the Client may move to another rental
12 property with this rent payment.

13 “Stay Safer At Home Order” means the series of County Health Officer Orders,
14 beginning with No. C19-07, issued On March 16, 2020, directing San Franciscans to stay in
15 their homes and follow social distancing requirements when outside their residence, which
16 have been revised and updated during the intervening months to address changing
17 conditions. Order No. 19-07o, issued November 28, 2020, continues to exempt individuals
18 experiencing homelessness from these requirements, and urges such individuals to obtain
19 shelter.

20
21 Section 4. Restriction on Moving People Experiencing Homelessness Out of Their SIP
22 Hotel Rooms.

23 (a) Subject to the budgetary and fiscal provisions of the Charter, the City shall not
24 move the Clients who, as of November 15, 2020, or thereafter for new Clients, are housed in
25 the approximately 2,300 SIP Hotel rooms currently under service agreements as of November

1 15, 2020, until FEMA provides the City with written notification that FEMA funding available for
2 the SIP Hotel rooms is terminated, or is modified in a way that no longer reimburses any costs
3 of these rooms.

4 (b) The Clients housed in the approximately 2300 SIP Hotel rooms as of November 15,
5 2020, or thereafter for new Clients, shall not be moved from their placements by the City until:
6 1) the Client obtains, and moves into, a stable permanent housing placement; or 2) the Client
7 obtains, and moves into, an appropriate stable housing placement, as the City determines in
8 writing, and with which the Client concurs is appropriate. Clients shall not be required to
9 move from their SIP Hotel placement for any other purpose, unless: 1) the Client chooses to
10 move; or 2) the Client is placed in an alternative SIP Hotel room due to health needs or
11 habitability conditions; or 3) after the conclusion of the appeal process for violation of a rule
12 covered in the San Francisco Shelter Grievance Policy, adopted by the Human Services
13 Commission on April 23, 1992, as revised August 25, 2016, administered by the Department, a
14 copy of which is on file with the Clerk of the Board of Supervisors in File No. 201328, as may
15 be amended from time to time.

16 (c) Until the Stay Safer At Home Order is rescinded or expires, the City shall continue
17 to keep these approximately 2,300 SIP Hotel rooms available as they are vacated, for
18 temporary use to meet the needs of people in San Francisco experiencing homelessness at
19 risk of COVID-19 infection, including: (1) people residing in a City shelter or navigation center;
20 (2) people who are unsheltered; (3) unhoused people released from jails; and (4) unhoused
21 people released from hospitals or isolation and quarantine rooms. Priority within this
22 vulnerable population of people experiencing homelessness shall be given to members of
23 especially vulnerable groups, as defined by the Centers for Disease Control and Prevention
24 (“CDC”), which are, as of December 1, 2020, older adults, and people of all ages with certain
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1 underlying medical conditions, but which shall change if CDC's definition of especially
2 vulnerable groups is modified from time to time.

3

4 Section 5. Reporting and Transparency.

5 (a) No later than one week after the effective date of this ordinance, the Department
6 shall prepare a public report that is updated at least once per week, and includes the following
7 information ("Dashboard"):

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

- 10 (A) Clients on the By-Name List
- 11 (B) Clients who received a Problem Solving Screening
- 12 (C) Clients who matched with a Problem Solving resolution
- 13 (D) Clients who received a Coordinated Entry Assessment
- 14 (E) Clients deemed Housing Referral Status

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

- 17 (A) Long-Term
 - 18 (i) Permanent Supporting Housing - City Subsidized Housing
 - 19 (ii) Permanent Supportive Housing - Flexible Housing Pool
 - 20 (iii) Permanent Supportive Housing - Other
- 21 (B) Medium-Term
 - 22 (i) Skilled Nursing Facility/Board and Care/Residential Care
23 Facility/ Treatment
 - 24 (ii) Rapid Rehousing
- 25 (C) Short-Term

1 (i) Short-Term Rental Assistance

2 (ii) Homeward Bound

3 (iii) Other

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

6 (A) Long-Term

7 (i) Permanent Supporting Housing - City Subsidized Housing

8 (ii) Permanent Supportive Housing - Flexible Housing Pool

9 (iii) Permanent Supportive Housing - Other

10 (B) Medium-Term

11 (i) Skilled Nursing Facility/Board and Care/Residential Care
12 Facility/ Treatment

13 (ii) Rapid Rehousing

14 (C) Short-Term

15 (i) Short-Term Rental Assistance

16 (ii) Homeward Bound

17 (iii) Other

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

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

22 (d) If the Department is unable to produce a public Dashboard one week after the
23 effective date of this ordinance, the Department shall submit a weekly written report no later
24 than one week after the effective date of this Ordinance No._____, to the Board of
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1 Supervisors and every week thereafter, that shall also be incorporated in this Board File No.
2 201328, until a public Dashboard is produced.

3
4 Section 6. Implementation.

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

8
9 Section 7. Undertaking for the General Welfare.

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

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

23
24 Section 9. Effective Date; Expiration.

1 Consistent with Charter Section 2.107, this emergency ordinance shall become
2 effective immediately upon enactment. Enactment occurs when the Mayor signs the
3 ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within
4 ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the
5 ordinance. Once enacted, it shall remain in effect for 60 days, unless reenacted as provided
6 by Section 2.107. If not reenacted, it shall expire on the 61st day after enactment.
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8 Section 10. Supermajority Vote Required. In accordance with Charter Section 2.107,
9 passage of this emergency ordinance by the Board of Supervisors requires an affirmative vote
10 of two-thirds of the Board of Supervisors.
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12 APPROVED AS TO FORM:
13 DENNIS J. HERRERA, City Attorney

14 By: /s/ Virginia Dario Elizondo
15 Virginia Dario Elizondo
16 Deputy City Attorney

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