

1 [Administrative Code - Cooperative Living Opportunities for Mental Health Loan Fund and
2 Program]

3 **Ordinance amending the Administrative Code to establish the Cooperative Living**
4 **Opportunities for Mental Health Loan Fund and the Cooperative Living Opportunities**
5 **for Mental Health Program to finance the acquisition of residential properties to be**
6 **operated as communal housing for people with chronic mental illness and/or**
7 **substance use disorders; requiring the Mayor’s Office of Housing and Community**
8 **Development and the Department of Public Health (“DPH”) to establish policies and**
9 **procedures to issue loans from the Fund; and authorizing DPH to place eligible clients**
10 **in properties financed by the Fund, and to provide oversight and monitoring of such**
11 **properties.**

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.

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

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20 Section 1. Article XIII of Chapter 10 of the Administrative Code is hereby amended by
21 adding Section 10.100-49.5, to read as follows:

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23 **SEC. 10.100-49.5. COOPERATIVE LIVING OPPORTUNITIES FOR MENTAL HEALTH**
24 **LOAN FUND.**

1 (a) **Establishment of Fund.** The Cooperative Living Opportunities for Mental Health Loan
2 Fund (the “Fund”) is established as a category eight fund to receive any monies appropriated or
3 donated for the purpose of expanding opportunities for people with chronic mental illness and/or
4 substance use disorders to live in communal, non-institutional, neighborhood-based, household settings
5 with 24-7 on call individual and household case management services (“Cooperative Living”).

6 (b) **Use of Fund.** The Fund shall be used exclusively for the purpose of providing long-term
7 loans to nonprofit organizations to acquire, rehabilitate, and maintain residential housing under the
8 Cooperative Living Opportunities for Mental Health Program (“Program”), as set forth in Chapter
9 117 of the Administrative Code.

10 (c) **Exceptions to Fund Category.** The Director of the Mayor’s Office on Housing and
11 Community Development (“MOHCD”) shall approve all expenditures from the Fund.

12 (d) **Administration of Fund.** MOHCD shall administer a loan program under the Fund, and
13 in such capacity shall: (1) service loan agreements; (2) receive payments for, and maintain current
14 accounts of, principal, interest, and fees relating to the loan agreements, and redeposit them into the
15 Fund; and, (3) allocate funds for administration associated with the operation of the Fund, such funds
16 being limited to interest earnings generated by loans, collection of fees, and the proceeds of
17 investments of unexpended cash balances from the fund. MOHCD shall report annually to the
18 Board of Supervisors on the current status of the Fund, the amounts approved for disbursement, and
19 the number and types of new Cooperative Living units established during the preceding fiscal
20 year and maintained.

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22 Section 2. The Administrative Code is hereby amended by adding Chapter 117,
23 consisting of Sections 117.1, 117.2, 117.3, and 117.4, to read as follows:

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1 “Loan” means a loan of funds made under the Program, including the modification,
2 refinancing, or restructuring of a loan, with a term of 10 years or longer.

3 “MOHCD” means the Mayor’s Office of Housing and Community Development, or any
4 successor agency.

5 “MOHCD Director” means the Director of MOHCD, or the MOHCD Director’s designee.

6 “Program” means the Cooperative Living Opportunities for Mental Health Program for the
7 acquisition and ~~rehabilitation~~ operation of single-family homes, multi-family residential buildings,
8 and/or residential units for Cooperative Living.

9 “Program Regulations” means policies, procedures, rules, guidelines, manuals or regulations
10 published by the Directors and designed to implement the Program.

11 “Property” means any real property used and restricted for Cooperative Living and used to
12 secure a Loan.

13
14 **SEC. 117.1. ESTABLISHMENT OF THE PROGRAM.**

15 (a) MOHCD and DPH shall establish and operate a Cooperative Living Opportunities for
16 Mental Health Program designed to provide financing in the form of long-term loans to and contracts
17 with nonprofit organizations for the purpose of acquiring, retaining, and operating an economical and
18 stable stock of multi-family buildings and/or single-family homes to create cooperative living
19 opportunities for people with chronic mental illness and/or substance abuse disorders.

20 (b) DPH shall determine client eligibility and authorize client placement in Cooperative Living
21 units. Subject to the requirements of Article 21 of the Administrative Code, or any competitive
22 procurement requirements applicable to grant agreements, DPH shall enter into new contracts
23 or grants, or expand existing contracts or grants, with nonprofit housing providers provide
24 funding to support the operation of Cooperative Living opportunities, and associated services, through
25 state programs, City funding, and/or other sources, as available.

1 (c) MOHCD shall provide loan administration and portfolio asset management for the
2
3 Program.

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5 **SEC. 117.2. ELIGIBLE SITES, PROGRAM MANAGEMENT, AND REGULATIONS.**

6 (a) **Eligible Sites.** MOHCD shall make Loans to qualified nonprofit organizations for the
7 purpose of acquiring residential units or buildings as Cooperative Living consistent with the Program
8 Regulations. Eligible properties for acquisition may include any single-family home, multifamily
9 residential building, or other residential unit suitable for Cooperative Living; provided, however, that
10 such property shall not be occupied by renters or be the subject of evictions under Administrative Code
11 37.9(a)(8) or 37.9(a)(10), except for acquisition of units currently master leased by nonprofit
12 organizations where the acquisition would preserve current occupancy by Eligible Persons. MOHCD
13 and DPH shall establish minimum requirements for site eligibility to ensure that sites are suitable
14 for operation as Cooperative Living and financially feasible, including, but not limited to: (1)
15 minimum number of units or bedrooms per site, (2) bathroom ratio per Eligible Person; (3)
16 conformity with Planning Code requirements applicable to the site; (4) readiness for
17 occupancy after a specific period of time if rehabilitation is needed, and (5) minimum
18 standards for any rehabilitation.

19 (b) **Program Management.** The MOHCD Director shall be responsible for the operation and
20 management of the loans provided under the Program. The MOHCD Director may appoint agents and
21 consultants to assist with the administration of loans under the Program, provided that any such
22 appointment is consistent with the civil service provisions of the Charter.

23 (c) **Program Regulations.** The MOHCD Director and DPH Director shall jointly publish
24 from time to time Program Regulations as appropriate to implement the Program, consistent with
25 applicable law and this Chapter 117. The MOHCD Director and DPH Director shall publish all

1 Program Regulations on MOHCD's DPH's website and in such additional places as the DPH Director
2 deems appropriate, and shall provide copies or electronic links on request. The Program Regulations
3 shall address matters such as Program and Fund administration, public and competitive processes to
4 apply for Loans, compliance with applicable laws and regulations, appraisal of the Property,
5 affordability restrictions for the longest possible term, eligible uses of Funds, underwriting criteria,
6 transaction processing, documentation, compliance monitoring, and enforcement. At a minimum, the
7 Program Regulations shall include, but are not limited to: (1) experienced property management to
8 provide operating and maintenance, rent collection, lease enforcement, financial management and
9 reporting; (2) a harm reduction policy specifying that participation in substance abuse treatment
10 is not a requirement of placement or residence in the housing; (3) procedures for lease violation
11 and termination; and (4) limits on rent, which shall not exceed 30% of an Eligible Person's income.

12
13 **SEC. 117.3. LOAN TERMS.**

14 (a) Loan Term and Repayment. The MOHCD Director shall prepare Loan documents
15 consistent with the Program Regulations. So long as the applicable Property continues to be used for
16 Cooperative Living, the Loan documents may allow payment from net cash flow, defer some or all
17 payments during the term, and allow for debt forgiveness at the end of the term, all as determined by
18 the MOHCD Director.

19 (b) Security for Loans. The MOHCD Director may require Loans made under this Chapter
20 117 to be secured by a deed of trust and other security instruments for the benefit of the City consistent
21 with Program Regulations. The MOHCD Director may record and subordinate deeds of trust and
22 other security instruments as needed or appropriate to achieve and preserve Cooperative Living.

23 (c) Declaration of Restrictions. Any Loan shall be subject to a Declaration of Restrictions
24 with the longest possible term as determined by the MOHCD Director, including, but not limited to
25 terms of 55 years or longer or for the life of the applicable building or unit. MOHCD shall not

1 subordinate a Declaration of Restrictions to any third party financing instrument, except to the extent
2 required by federal or state funding sources or financing for the acquisition of Cooperative Living.

3 (d) **Combining Loans.** Subject to any applicable requirements of a funding source, MOHCD
4 may issue one or more Loans, in any combination, that the MOHCD Director deems appropriate to
5 fund acquisitions for Cooperative Living. A Borrower shall comply with the requirements of each
6 applicable funding source, which shall be included in the Loan documents.

7 (e) **Purchase Option.** To ensure long-term affordability, MOHCD may require Borrowers to
8 execute and record against the Property an agreement that provides the City an option to purchase the
9 Property at a restricted value.

10 (f) **Compliance with Transaction Documents and Applicable Laws.** Each Loan agreement
11 shall require Borrowers to comply with applicable laws and regulations, including federal, state, and
12 City regulations and Program Regulations. In addition, MOHCD shall work with the Controller, the
13 City Attorney, and non-City funding sources to monitor compliance with all Loan agreements, Program
14 Regulations, and applicable laws.

15
16 **SEC. 117.4. ADMINISTRATION OF LOANS AND GRANTS.**

17 (a) **Agreements.** MOHCD shall prepare standard form Loan agreements, which will be
18 subject to negotiation as deemed appropriate by the MOHCD Director.

19 (b) **Funding Disbursement.** MOHCD shall be responsible for approving the disbursement of
20 Loan proceeds and monitoring the performance of Borrowers under this Chapter 117 and enforcing the
21 applicable agreements. MOHCD shall establish commercially reasonable protocols to oversee the use
22 and expenditure of Loan proceeds.

23 (c) **Loan Servicing.** MOHCD shall collect revenues due and owing under Loans, maintain
24 records of all such revenues, and maintain annual statements of such accounts. Loan repayments shall
25 be deposited into the applicable Fund in accordance with Program Regulations, and the Director

1 shall work with the Controller to apply revenues toward repayment of bonds as and when
2 required.

3 (d) Fees for Services. MOHCD may charge reasonable fees, including Loan origination and
4 monitoring fees, and such other necessary fees of consultants and agents retained to administer the
5 Program. MOHCD shall include a statement of the fees in the Program Regulations for the Program.

6 (e) Refinance and Loan Workouts. To preserve and maintain any Cooperative Housing, the
7 Director is authorized to refinance, restructure, modify, or extend the term of any Loan and any related
8 agreements, provided that a new Declaration of Restrictions is recorded against the Property.

9 (f) Monitoring and Enforcement.

10 (1) DPH shall monitor Contractor compliance with Program Regulations related
11 to delivery of services and enrollment of tenants who meet eligibility criteria. DPH shall
12 establish annual reporting requirements for Contractors and shall report annually to the Board
13 of Supervisors on the number and types of Cooperative Living units established and
14 maintained under the Program. DPH may take such actions as may be reasonably necessary
15 to enforce the terms of any contracts or grants entered into with Contractors for the delivery of
16 services to Eligible Persons as part of the Program.

17 (2) MOHCD may take such actions as may be reasonably necessary to enforce
18 Loan requirements and collect on any security, including the foreclosure of any deed of trust,
19 possession of rents and other revenues, or the demand and collection under any guaranty or
20 other security instrument.

21 ~~MOHCD shall monitor compliance with Loan agreements, Declarations of Restrictions,~~
22 ~~and any other related documents. DPH shall monitor compliance with Program Regulations~~
23 ~~related to Eligible Persons. A Borrower shall submit to MOHCD and DPH an annual~~
24 ~~monitoring report that includes, but is not limited to, an evaluation of the outcomes of the~~
25 ~~Borrower's tenants, including but not limited to the tenants' length of residency in a Program~~

1 site and the rate of tenant hospitalization. MOHCD or DPH, as applicable, may take such
2 actions as are reasonably necessary to enforce such agreements and documents and collect
3 on any security, including the foreclosure of any deed of trust, possession of rents and other
4 revenues, or the demand and collection under any guaranty or other security instrument.

5 (3) MOHCD may also take action to protect its security or its interest in a Property,
6 including curing a default under a senior loan or acquiring property at a tax sale, foreclosure, through
7 a deed in lieu of foreclosure, or through a judicial process. The Board authorizes and delegates to the
8 MOHCD Director, following consultation by the MOHCD Director with the DPH Director, the
9 Director of Property, and the City Attorney, the right to accept a deed or other security or interest in
10 property as part of any remedy or as may be needed to preserve any Cooperative Housing.

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12 Section 3. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor’s veto of the ordinance.

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

19
20 By: _____
21 KEITH NAGAYAMA
22 Deputy City Attorney
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