

1 [Standards of Care for City Shelters.]

2
3 **Ordinance amending the San Francisco Administrative Code by adding a new Article**
4 **13 to Chapter 20 to: 1) mandate certain provisions in all contracts for City funded**
5 **shelters, 2) require the City to take corrective enforcement measures against City-**
6 **funded shelter contractors who fail to comply with contractual provisions that this**
7 **Article requires; and 3) require the City to impose liquidated damages against shelters**
8 **who fail to comply with a corrective action plan.**

9 Note: Additions are single-underline italics Times New Roman;
10 deletions are ~~strikethrough italics Times New Roman~~.
11 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. The San Francisco Administrative Code is hereby amended by adding a
14 new Article 13 to Chapter 20 to read as follows:

15 Chapter 30 – Standard of Care for City Shelters

16 SEC.20.400. FINDINGS. The Board of Supervisors finds and declares the following:

17 (a) In 2004, the Board of Supervisors created the Shelter Monitoring Committee that is
18 required to provide the Mayor, the Board of Supervisors, and others with accurate and comprehensive
19 information about the conditions in and operations of shelters funded by the City.

20 (b) After conducting numerous site visits of City-funded shelters and after investigating
21 many complaints it received from shelter clients, the Shelter Monitoring Committee found that the
22 City's shelter system lacks comprehensive standards of care to be provided to clients utilizing shelter
23 services.

24 (c) In order to ensure that all City-funded shelter operators meet minimum standards of
25 care in the shelter system, and that all shelter clients are treated with dignity and respect and are

1 provided with a clean, healthy, and safe shelter stay, the Board of Supervisors hereby adopts the
2 following contractual requirements that apply to all shelter operators in San Francisco.

3 SEC. 20.401. DEFINITIONS. For the purposes of this Chapter, the following definitions shall
4 apply to the terms used herein.

5 (a) "City" means the City and County of San Francisco, department that contracts for
6 services at a particular shelter.

7 (b) "Contract monitor" means the City employee who monitors the shelter operator's
8 compliance with the contract for shelter services.

9 (c) "Director" means the Director of the City department that oversees the contract for
10 City-funded shelter services.

11 (d) "Shelter" means a facility, including a resource center, operating under a contract with
12 the City, to provide temporary emergency shelter services for homeless single adults or families.

13 (e) "Shelter operator" means the operator of a shelter.

14 SEC. 20.402. PURPOSE. The purpose of this Chapter is to establish standards of care
15 ("shelter operating standards") that the City must include in contracts with shelters and to ensure that
16 the City takes corrective enforcement measures against shelter operators who fail to comply with
17 shelter operating standards.

18 SEC.20.403. CITY REQUIREMENTS. The City shall provide the following shelter services,
19 consistent with this Article:

20 (a) Ensure 24-hour client access to a shelter in order to make shelter reservations; and
21 provide on-site shelter reservations for current shelter clients, and

22 (b) Provide at least one 24-hour emergency drop-in center, that provides shelter
23 reservations, mental health services, medical services, and transportation to available off-site
24 services and program; and

1 ~~_____ (c) _____ Deploy a roving maintenance person to provide maintenance support to all~~
2 ~~shelters.~~

3 SEC. 20.404. CONTRACT REQUIREMENTS.

4 (a) All contracts between the City and shelter operators shall include provisions that
5 require shelter operators to:

6 (1) treat all shelter clients equally, with respect and dignity;

7 (2) provide shelter services in an environment that is safe and free of physical violence; by
8 ensuring that safety protocols are in place that include training to shelter staff regarding de-
9 escalation techniques;

10 (3) provide soap, and hand dryers or towels to shelter clients and staff in each
11 bathroom, provide toilet paper in each bathroom stall, paper towels or hand towels, hand
12 sanitizers, and at least one bath-size (24"x48") towel to shelter clients and staff in each
13 bathroom; if hand dryers are currently installed they shall be maintained in proper working
14 condition; in addition, shelters shall provide toilet paper in each bathroom stall and hire
15 janitorial staff to clean the shelters on a daily basis;

16 (4) provide feminine hygiene and incontinence supplies upon request;

17 (5) comply with current City policy set forth in the San Francisco Environment Code,
18 including the requirements set forth in Chapter 23 (the Integrated Pest Management Code) and
19 Chapter 32 (the Environmentally Preferable Purchasing Ordinance) to ensure that shelter operators
20 use products that are least harmful to shelter clients, staff, and the environment;

21 (6) ensure that first aid kits, CPR masks, and disposable gloves are available to staff at all
22 times and make Automatic External Defibrillators (AED) available to staff in compliance with all
23 regulatory requirements of state and local law relating to the use and maintenance of AEDs;

- 1 (7) supply shelter clients with fresh cold or room temperature drinking water at all times
2 during normal workingoperating hours;
- 3 (8) provide shelter services in compliance with the Americans with Disabilities Act (ADA),
4 including but not limited to:
- 5 (i) appropriate and secure storage of medication, and;
6 (ii) reasonable accommodations for meals, the provision of accessible
7 sleeping, bathing and toileting facilities in previously designated ADA compliant shelters.
8 Sleeping areas designated as accessible shall comply with federal and state law requiring a
9 minimum of 36 inches between sleeping units and a sleeping surface height between 17-19
10 inches above the finished floor. In consultation with the contracting City department, and
11 based on a history of previous usage, shelter operators shall designate an adequate number
12 of accessible sleeping units to meet the needs of shelter clients requiring such facilities due to
13 a mobility disability; and
- 14 (iii) reasonable modifications to shelter policies, practices, and procedures.
- 15 (9) engage a nutritionist, who shall develop all meal plans, including meal plans for
16 children and pregnant women, and post menus on a daily basis;
- 17 (10) make dietary modifications to accommodate requests from clients based on religious
18 beliefs and practices, health, or disability reasons;
- 19 (11) prohibit all smoking in shelters, and within 20 feet of a shelter entrance and children's
20 play area;
- 21 (12) provide shelter clients with one clean blanket, two clean sheets, and one pillow enclosed
22 in a plastic or vinyl sleeve with a clean pillowcase; sheets shall be cleaned at least once per week
23 and upon client turnover;

24
25

- 1 (13) make the shelter facility available to shelter clients for sleeping at least 8 hours per
2 night;
- 3 (14) provide daytime access to beds in all 24-hour shelters;
- 4 (15) provide shelter clients with ~~pest-free~~, secure property storage inside each shelter.
5 Shelter staff shall provide closable plastic bags to clients for storage purposes. If storage
6 inside a shelter is unavailable, the shelter operator may provide free, ~~pest-free~~ storage off-site as long
7 as the off-site storage is available to the shelter client up until the time of evening bed check;
- 8 (16) provide shelter clients with access to electricity for charging their cell phones; ~~and~~
9 other durable medical equipment for clients with disabilities;
- 10 (17) note in writing and post in a common area in the shelter when a maintenance problem
11 will be repaired; ~~and note the status of the repair and ensure that all repairs are completed in one~~
12 business day;
- 13 (18) provide access to free local calls during non-sleeping hours; ~~including TTY access~~
14 and amplified phones for clients who are deaf or hearing-impaired;
- 15 (19) provide a minimum of ~~three foot distance between sleeping units; 22 inches~~
16 between the sides of sleeping units, excluding designated ADA-accessible sleeping units and
17 sleeping units separated by a wall;
- 18 (20) provide all printed materials produced by the City and shelters in English and Spanish;
19 and other languages upon request and ensure that all written communications are provided to
20 clients with sensory disabilities in alternate formats such as large print, Braille, etc. upon
21 request;
- 22 (21) communicate with each client in the client's primary language or provide professional
23 translation services; ~~including but not limited to American Sign Language interpretation;~~
24 however, children or other clients may be asked to translate in emergency situations;
- 25

- 1 (22) provide at least one front line staff at each site that is bilingual in English and Spanish;
- 2 (23) ensure that each shelter has an emergency disaster plan that accommodates people
3 with disabilities and requires drills on a monthly basis and that, in consultation with the Mayor's
4 Office on Disability, includes specific evacuation devices and procedures for people with
5 disabilities;
- 6 (24) locate an alternative sleeping unit for a client who has been immediately denied shelter
7 services after 5:00 p.m., unless safety concerns exist the denial of service was for acts or threats
8 of violence;
- 9 (25) require all shelter staff to wear a badge that identifies the staff person by name and
10 position;
- 11 (26) ensure that all clients receive appropriate and ADA-compliant transportation
12 services, through bus tokens or other services, to attend medical appointments and other essential
13 services including but not limited to permanent housing appointments, substance abuse
14 treatment, job-search appointments and job interviews, and mental health services; and shelter
15 services;
- 16 (27) provide public notification at least 24 hours in advance of on-site, community meetings;
- 17 (28) provide clients with access to free laundry services with hot water and a dryer, that
18 reaches a temperature between 120-130 degrees Fahrenheit, on or off site;
- 19 (29) to the extent not inconsistent with Proposition N, passed by the voters on
20 November 5, 2002, ensure that all single adult shelter reservations be for a minimum of 7
21 nights;
- 22 (30) agree to comply with the California Department of Industrial Relations, Division
23 of Occupational Safety and Health (Cal-OSHA) General Industry Safety Orders regarding
24 Bloodborne Pathogens (8 CCR 5193) and its Injury and Illness Prevention Program (8 CCR
25

1 3203), including but not limited to applicable requirements regarding personal protective
2 equipment, universal precautions, and the development of an exposure control plan, as
3 defined therein, and
4 (31) in consultation with the San Francisco Department of Public Health, provide
5 annual all-staff mandatory trainings, appropriate for each shelter position, that address Cal-
6 OSHA regulatory requirements listed in subsection (30), above, as well as the following
7 topics:
8 (i) hand washing requirements and other communicable disease prevention;
9 (ii) proper food handling and storage;
10 (iii) emergency procedures in case of disaster, fire, or other urgent health or
11 safety risk, including but not limited to CPR requirements;
12 (iv) safe and appropriate intervention with violent or aggressive shelter
13 clients, including training on the harm reduction model in dealing with substance abuse;
14 (v) safe and appropriate interaction with shelter clients who suffer from
15 mental illness or substance abuse;
16 (vi) on-the-job burn-out prevention;
17 (vii) requirements under the ADA;
18 (viii) policies and procedures explained in shelter training manuals; and
19 (ix) cultural humility, including sensitivity training regarding homelessness,
20 the lesbian, bisexual, gay, and transgender communities, people with visible and invisible
21 disabilities, youth, women, and trauma victims.
22 (b) In addition, every contract covered by this Article shall contain a provision in which the
23 shelter operator agrees:
24 (1) to be liable to the City for liquidated damages as provided in this Article;
25

1 (2) to be subject to the procedures governing enforcement of breaches of contracts based on
2 violations of contract provisions required by this Article as set forth in this section;

3 (3) that the contractor's commitment to comply with contractual obligations that this Article
4 imposes is a material element of the City's consideration for this contract; that the failure of the
5 contractor to comply with such obligations will cause harm to the City and the public that is significant
6 and substantial but extremely difficult to quantify; and that the assessment of liquidated damages of up
7 to \$2,500.00 made pursuant to the liquidated damages schedule referred to in section 20.406(b)(1)
8 below for every unmitigated failure to comply with such obligations is a reasonable amount of damages
9 to redress the harm to the City caused by such obligations;

10 (4) that the failure of contractors to comply with contract provisions that this Article
11 requires may result in debarment and monetary penalties set forth in Sections 6.80 et seq. of the San
12 Francisco Administrative Code, as well as any other remedies available under the contract or at law;
13 and

14 (5) that in the event the City brings a civil action to recover liquidated damages for breach
15 of a contract provision required by this Article, and prevails, the prevailing party contractor will be
16 liable for the other party's City's costs and reasonable attorneys fees.

17 (c) The Board of Supervisors recognizes that these amendments will have a
18 material effect on the existing shelters whose contracts with the City require the City to pay
19 the shelter operators a certain negotiated amount for services offered at each shelter. The
20 City and the shelter operators contemplated that the shelters would operate at or near
21 capacity through most of the year. This legislation may reduce the number of beds available
22 in some shelters. In addition this legislation will impose obligations on shelter operators that
23 exceed their obligations under their existing agreements with the City and therefore increase
24 their operating costs. City officials and shelter operators based their budgetary assumptions

1 and contracting decisions on factors that existed before this legislation existed. Therefore, the
2 Board of Supervisors authorizes each City department overseeing contracts affected by this
3 legislation to negotiate amendments to existing contracts to reflect these changes so long as
4 current contract amounts are not reduced.

5 SEC.20.405. COMPLAINT PROCESS AND INVESTIGATION

6 (a) Each shelter shall provide client complaint forms in common areas of the shelter and
7 shall make a complaint form available to a shelter client upon request. In addition, shelter staff must
8 accept and investigate written client complaints from the Shelter Monitoring Committee. Shelter staff
9 shall review and respond to written client complaints within 2 business days. Shelter staff shall make
10 best efforts to take necessary corrective action in response to all client complaints internally within 5
11 days. If the client is not satisfied with the response, the shelter operator shall refer the complaint to the
12 contract monitor. The Director overseeing the contract shall investigate these complaints within 10
13 days of receipt of the complaint and shall provide the shelter operator with an opportunity to respond
14 to the allegations.

15 (b) Each Director shall promulgate appropriate guidelines or rules for the enforcement of
16 the shelter operator's contractual obligations imposed pursuant to this Article. Such guidelines or
17 rules may establish procedures for ensuring fair, efficient, and cost-effective implementation of these
18 obligations, including mechanisms to monitor contractor compliance and to determine whether a
19 contractor has failed to comply with its contract obligations set forth in section 20.404, above.

20 SEC.20.406. CORRECTIVE ACTION PLAN, IMPOSITION OF LIQUIDATED DAMAGES

21 (a) Where the City, after providing the contractor with the opportunity to respond to the
22 alleged violation, determines that a contractor failed to comply with the provisions of this Article, the
23 City shall provide written notice to the contractor and the contract monitor as follows:

24 (1) the factual basis for the determination;
25

1 (2) the corrective action plan that the contractor must take to remedy the violation;
2 (3) the amount of liquidated damages that the City department has assessed for the
3 contractor's violation of this Article;
4 (4) notice that the contractor has 15 days to either follow the required corrective action
5 plan, including payment of liquidated damages, or to file an appeal consistent with subsection (5),
6 below;
7 (5) that the contractor has the right to appeal the City's final determination to the
8 Director, including the assessment of liquidated damages and the amount assessed, but that the
9 contractor must file any such appeal in writing with the Director within 15 days of the date of the
10 issuance of the City's determination and that a contractor's failure to exhaust this administrative
11 remedy will bar subsequent judicial action challenging the City's determination;
12 (6) that if the contractor fails to follow the corrective action plan or file an appeal in
13 writing with the Director within 15 days as set forth above, the City's determination shall be the City's
14 final and binding decision which the City may enforce in a court of law, and
15 (7) that the contractor must comply with the decision within 5 business days of the City's
16 decision becoming final, including payment of liquidated damages, if any, together with simple annual
17 interest of 10% from the date that payment should have been made.
18 (b)(1) While liquidated damages in the maximum amount set forth in this section are a
19 reasonable estimate of harm to the City caused by the contractor's non-compliance with contract
20 provisions required by this Article, the City may determine that less than the full amount is warranted
21 depending on the circumstances of each case. The Director shall adopt a schedule for liquidated
22 damages based on the degree of harm that the violation causes, the number of days the violation
23 occurs, and the number of shelter clients affected by the violation. In addition, the City shall consider
24
25

1 the following factors in determining the amount of liquidated damages, if any, to impose against a
2 contractor who fails to comply with contract provisions required by this Article:

3 (A) the size of the contractor's business;

4 (B) the contractor's good faith efforts to comply with contract provisions required by
5 this Article;

6 (C) the gravity of the violation;

7 (D) whether the contractor has a history of violations of contract provisions required
8 by this Article;

9 (E) whether the contractor has failed to comply with recordkeeping requirements
10 imposed by contract provisions under this Article; and

11 (F) whether the imposition of liquidated damages would undermine the purpose of
12 this Article by imposing unreasonable financial burdens on the contractor, thereby imperiling the
13 contractor's ability to continue complying with contract provisions required by this Article.

14 (c)(1) Within 15 days of receiving an appeal from the City's final determination, the Director
15 shall appoint a hearing officer and shall so inform the contract monitor, the shelter operator, and/or
16 their respective counsel or authorized representative.

17 (2) The hearing officer shall promptly set a date for a hearing. The hearing must
18 commence within 45 days of the notification of the appointment of the hearing officer and conclude
19 within 75 days of such notification, not including the issuance of a decision, unless all parties agree to
20 an extended period. If a contractor appeals the City's initial determination but fails to attend a hearing
21 set under this subsection, the City's initial determination shall become final.

22 (3) The City shall have the burden of producing evidence demonstrating the
23 contractor's violation of contract provisions required by this Article and warranting imposition of

1 liquidated damages. The contractor shall have the right to present evidence on its behalf in response to
2 any alleged violation of contract provisions required by this Article.

3 (4) Within 30 days of the conclusion of the hearing, the hearing officer shall issue a
4 written decision affirming, modifying, or vacating the City's determination relating to the violation of
5 the contract obligations that this Article imposes, the corrective action that the contractor must take to
6 remedy any violation, and the amount of liquidated damages to be assessed, if any. The hearing
7 officer's decision shall consist of findings and a determination, which shall be the City's final decision.

8 (5) The contractor shall comply with the hearing officer's decision, including the
9 payment of liquidated damages, within 5 business days of service of the decision. Service shall be
10 made by first class mail to the contractor's address of record. Failure to pay liquidated damages within
11 the time specified in this ordinance shall result in interest on the unpaid damages at the simple annual
12 interest rate of 10% from the day that such damages were due.

13 (6) The contractor may seek review of the hearing officer's decision only by filing in the
14 San Francisco Superior Court a petition for a writ of mandate under California Code of Civil
15 Procedure, section 1094.5, as may be amended from time to time.

16 (7) When a contractor fails to take corrective action or pay damages within the time
17 required by the provisions of this section, the City may immediately pursue all available remedies
18 against the contractor for breach of contract, including debarment proceedings where applicable and
19 filing a civil action to recover liquidated damages due under this Article.

20 (8) The failure of the City to comply with the time requirements of this section shall not
21 cause the City or the hearing officer to lose jurisdiction over an appeal from the City's determination
22 filed under this section.

23 (d) Liquidated damages obtained pursuant to contract provisions required by this Article shall
24 be deposited in the City's general fund.

1 SEC. 20.407. SEVERABILITY. If any section, subsection, clause, phrase or portion of this
2 Article is for any reason held invalid or unconstitutional by any court or federal or State agency of
3 competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision
4 and such holding shall not affect the validity of the remaining portions thereof.

5 SEC.20.408. LIMITED TO PROMOTION OF GENERAL WELFARE.

6 In undertaking the adoption and enforcement of this Article, the City and County of San
7 Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it
8 imposing on its commissions, departments, officers and employees, an obligation for breach of which it
9 is liable in money damages to any person who claims that such breach proximately caused injury.

10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 JENNIFER K. WILLIAMS
14 Deputy City Attorney

15
16
17
18
19
20
21
22
23
24
25