

1 [Standards of Care for City Shelters.]

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3 **Ordinance amending the San Francisco Administrative Code by adding a new Article**
4 **13 to Chapter 20 to require the City to: 1) include in all contracts for City-funded shelter**
5 **services provisions relating to the standards of operation of the shelters and the**
6 **contractual remedies for shelter operators' failure to comply with those standards, and**
7 **2) take corrective enforcement measures including seeking remedies for breach of**
8 **contract against City-funded shelter operators that fail to comply with contractual**
9 **provisions that this Article requires.**

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

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

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

16 Article 13 - Standards of Care for City Shelters

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

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

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

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1 (c) In order to ensure that all City-funded shelter operators meet minimum standards of
2 care in the shelter system, and that all shelter clients are treated with dignity and respect and are
3 provided with a clean, healthy, and safe shelter stay, the Board of Supervisors hereby adopts the
4 following contractual requirements that apply to all shelter operators in San Francisco.

5 SEC. 20.401. DEFINITIONS. For the purposes of this Article, the following definitions shall
6 apply to the terms used herein.

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

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

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

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

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

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

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

22 (a) Ensure 24-hour client access to a shelter in order to make shelter reservations;
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1 (b) Provide at least one 24-hour emergency drop-in center that provides shelter
2 reservations, mental health services, medical services, and transportation to available off-site services
3 and program; and

4 (c) Deploy a roving maintenance person to provide maintenance support to all shelters.

5 SEC. 20.404. CONTRACT REQUIREMENTS.

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

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

9 (2) provide shelter services in an environment that is safe and free of physical violence;

10 (3) provide soap and hand dryers or towels to shelter clients and staff in each bathroom,
11 provide toilet paper in each bathroom stall, and hire janitorial staff to clean the shelters on a daily
12 basis;

13 (4) provide feminine hygiene upon request;

14 (5) comply with current City policy set forth in the San Francisco Environment Code,
15 including the requirements set forth in Chapter 2 (the Integrated Pest Management Code) and Chapter
16 3 (the Environmentally Preferable Purchasing Ordinance) to ensure that shelter operators use
17 products that are least harmful to shelter clients, staff, and the environment;

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

21 (7) supply shelter clients with fresh drinking water at all times during normal working
22 hours;

23 (8) provide shelter services in compliance with the Americans with Disabilities Act (ADA),
24 including but not limited to:

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- 1 (i) appropriate storage of medication, and
2 (ii) reasonable accommodations for meals.
3 (9) engage a nutritionist, who shall develop all meal plans, including meal plans for
4 children and pregnant women,
5 (10) make dietary modifications to accommodate requests from clients based on religious
6 beliefs and practices;
7 (11) prohibit all smoking in shelters, and within 20 feet of a shelter entrance and children's
8 play area;
9 (12) provide shelter clients with one clean blanket, two clean sheets, and one pillow enclosed
10 in a plastic or vinyl sleeve with a clean pillowcase;
11 (13) make the shelter facility available to shelter clients for sleeping at least 8 hours per
12 night;
13 (14) provide daytime access to beds in all 24-hour shelters;
14 (15) provide shelter clients with secure property storage inside each shelter. If storage
15 inside a shelter is unavailable, the shelter operator may provide free storage off-site as long as the off-
16 site storage is available to the shelter client up until the time of evening bed check;
17 (16) provide shelter clients with access to electricity for charging their cell phones;
18 (17) note in writing and post in a common area in the shelter when a maintenance problem
19 will be repaired, note the status of the repair and ensure that all repairs are completed in one business
20 day;
21 (18) provide access to free local calls during non-sleeping hours;
22 (19) provide a minimum of three feet distance between sleeping units;
23 (20) provide all printed materials produced by the City and shelters in English and Spanish;

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- 1 (21) communicate with each client in the client's primary language or provide professional
2 translation services; however, children or other clients may be asked to translate in emergency
3 situations;
- 4 (22) provide at least one front line staff at each site that is bilingual in English and Spanish;
- 5 (23) ensure that each shelter has an emergency disaster plan that accommodates people with
6 disabilities and requires drills on a monthly basis;
- 7 (24) locate an alternative sleeping unit for a client who has been denied shelter services after
8 5:00 p.m., unless the denial of service was for acts or threats 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 transportation services, through bus tokens or other
12 services, to attend medical appointments and other essential services including but not limited to
13 permanent housing appointments and mental health services;
- 14 (27) provide public notification at least 24 hours in advance of on-site, community meetings;
15 and
- 16 (28) provide clients with access to free laundry services with hot water and a dryer, on or off
17 site.
- 18 (b) In addition, every contract covered by this Article shall contain a provision in which the
19 shelter operator agrees:
- 20 (1) to be liable to the City for liquidated damages as provided in this Article;
- 21 (2) to be subject to the procedures governing enforcement of breaches of contracts based on
22 violations of contract provisions required by this Article as set forth in this section;
- 23 (3) that the contractor's commitment to comply with contractual obligations that this Article
24 imposes is a material element of the City's consideration for this contract; that the failure of the
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1 contractor to comply with such obligations will cause harm to the City and the public that is significant
2 and substantial but extremely difficult to quantify; and that the assessment of liquidated damages of up
3 to \$2,500.00 made pursuant to the liquidated damages schedule referred to in section 20.406(b)(1)
4 below for every unmitigated failure to comply with such obligations is a reasonable amount of damages
5 to redress the harm to the City caused by the contractor's failure to comply with such obligations;

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

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

12 SEC.20.405. COMPLAINT PROCESS AND INVESTIGATION

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

22 (b) Each Director shall promulgate appropriate guidelines or rules for the enforcement of
23 the shelter operator's contractual obligations imposed pursuant to this Article. Such guidelines or
24 rules may establish procedures for ensuring fair, efficient, and cost-effective implementation of these

1 obligations, including mechanisms to monitor contractor compliance and to determine whether a
2 contractor has failed to comply with its contract obligations set forth in section 20.404, above.

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

4 (a) Where the City, after providing the contractor with the opportunity to respond to the
5 alleged violation, determines that a contractor failed to comply with the provisions of this Article, the
6 City shall provide written notice to the contractor as follows:

7 (1) the factual basis for the determination;

8 (2) the corrective action plan that the contractor must take to remedy the violation;

9 (3) the amount of liquidated damages that the City department has assessed for the
10 contractor's violation of this Article;

11 (4) notice that the contractor has 15 days to either follow the required corrective action
12 plan, including payment of liquidated damages, or to file an appeal consistent with subsection (5),
13 below;

14 (5) that the contractor has the right to appeal the City's final determination to the
15 Director, including the assessment of liquidated damages and the amount assessed, but that the
16 contractor must file any such appeal in writing with the Director within 15 days of the date of the
17 issuance of the City's determination and that a contractor's failure to exhaust this administrative
18 remedy will bar subsequent judicial action challenging the City's determination;

19 (6) that if the contractor fails to follow the corrective action plan or file an appeal in
20 writing with the Director within 15 days as set forth above, the City's determination shall be the City's
21 final and binding decision which the City may enforce in a court of law, and

22 (7) that the contractor must comply with the decision within 5 business days of the City's
23 decision becoming final, including payment of liquidated damages, if any, together with simple annual
24 interest of 10% from the date that payment should have been made.

1 (b)(1) While liquidated damages in the maximum amount set forth in this section are a
2 reasonable estimate of harm to the City caused by the contractor's non-compliance with contract
3 provisions required by this Article, the City may determine that less than the full amount is warranted
4 depending on the circumstances of each case. The Director shall adopt a schedule for liquidated
5 damages based on the degree of harm that the violation causes, the number of days the violation
6 occurs, and the number of shelter clients affected by the violation. In addition, the City shall consider
7 the following factors in determining the amount of liquidated damages, if any, to impose against a
8 contractor who fails to comply with contract provisions required by this Article:

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

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

12 (C) the gravity of the violation;

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

15 (E) whether the contractor has failed to comply with record keeping requirements
16 imposed by contract provisions under this Article; and

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

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

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

4 (3) The City shall have the burden of producing evidence demonstrating the
5 contractor's violation of contract provisions required by this Article and warranting the imposition of
6 liquidated damages. The contractor shall have the right to present evidence on its behalf in response to
7 any alleged violation of contract provisions required by this Article.

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

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

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

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

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

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

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

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

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

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

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18 By: _____
18 JENNIFER K. WILLIAMS
19 Deputy City Attorney