


BOARD of SUPERVISORS



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MEMORANDUM

TO: Ben Rosenfield, City Controller, Office of the Controller
Kate Hartley, Director, Mayor's Office of Housing and Community
Development (MOHCD)
Helynna Brooke, Mental Health Board
Dr. Grant Colfax, Director, Department of Public Health

FROM: Victor Young, Assistant Clerk 
Rules Committee

DATE: May 28, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation on May 21, 2019:

File No. 190573

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

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

c: Todd Rydstrom, Office of the Controller
Eugene Flannery, MOHCD
Amy Chan, MOHCD
Greg Wagner, Department of Public Health
Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health

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.

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

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:

22 **SEC. 10.100-49.5. COOPERATIVE LIVING OPPORTUNITIES FOR MENTAL HEALTH**

23 **LOAN FUND.**

24 **(a) Establishment of Fund. The Cooperative Living Opportunities for Mental Health Loan**
25 **Fund (the “Fund”) is established as a category eight fund to receive any monies appropriated or**

1 donated for the purpose of expanding opportunities for people with chronic mental illness and/or
2 substance use disorders to live in communal, non-institutional, neighborhood-based, household settings
3 with 24-7 on call individual and household case management services (“Cooperative Living”).

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

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

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

18
19 Section 2. The Administrative Code is hereby amended by adding Chapter 117,
20 consisting of Sections 117.1, 117.2, 117.3, and 117.4, to read as follows:

21
22 **CHAPTER 117: COOPERATIVE LIVING OPPORTUNITIES**

23 **FOR MENTAL HEALTH PROGRAM**

24
25 **SEC 117.1. DEFINITIONS.**

1 For purposes of this Chapter 117, the following terms shall have the following meanings:

2 “Board” means the Board of Supervisors.

3 “Borrower” means a recipient of a Loan.

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

5 “Cooperative Living” means communal, non-institutional, neighborhood-based, household
6 settings with 24-7 on call individual and household case management services for Eligible Persons.

7 “Declaration of Restrictions” means an agreement to be executed by the Borrower and
8 recorded against Property as a condition to the receipt of a Loan that restricts the use of the Property.

9 “DPH” means the Department of Public Health.

10 “DPH Director” means the Director of Health, or the Director’s designee.

11 “Eligible Person” means a person with chronic mental illness and/or a substance use disorder,
12 as determined by DPH, who is exiting or has exited a transitional residential treatment program or an
13 acute diversion unit.

14 “Fund” means the Cooperative Living Opportunities for Mental Health Loan Fund
15 administered by MOHCD under Administrative Code Chapter 10.100-49.5.

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

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

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

21 “Program” means the Cooperative Living Opportunities for Mental Health Program for the
22 acquisition and rehabilitation of single-family homes, multi-family residential buildings, and/or
23 residential units for Cooperative Living.

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

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

3
4 **SEC. 117.1. ESTABLISHMENT OF THE PROGRAM.**

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

10 (b) DPH shall determine client eligibility and authorize client placement in Cooperative Living
11 units. DPH shall provide funding to support the operation of Cooperative Living opportunities, and
12 associated services, through state programs, City funding, and/or other sources, as available.

13 (c) MOHCD shall provide loan administration and portfolio asset management for the
14 Program.

15
16 **SEC. 117.2. ELIGIBLE SITES, PROGRAM MANAGEMENT, AND REGULATIONS.**

17 (a) **Eligible Sites.** MOHCD shall make Loans to qualified nonprofit organizations for the
18 purpose of acquiring residential units or buildings as Cooperative Living consistent with the Program
19 Regulations. Eligible properties for acquisition may include any single-family home, multifamily
20 residential building, or other residential unit suitable for Cooperative Living; provided, however, that
21 such property shall not be occupied by renters or be the subject of evictions under Administrative Code
22 37.9(a)(8) or 37.9(a)(10), except for acquisition of units currently master leased by nonprofit
23 organizations where the acquisition would preserve current occupancy by Eligible Persons. MOHCD
24 and DPH shall establish minimum requirements for site eligibility, including, but not limited to: (1)
25 minimum number of units or bedrooms per site, (2) bathroom ratio per Eligible Person; (3) conformity

1 with Planning Code requirements applicable to the site; (4) readiness for occupancy after a specific
2 period of time if rehabilitation is needed, and (5) minimum standards for any rehabilitation.

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

7 (c) **Program Regulations.** The MOHCD Director and DPH Director shall jointly publish
8 from time to time Program Regulations as appropriate to implement the Program, consistent with
9 applicable law and this Chapter 117. The MOHCD Director and DPH Director shall publish all
10 Program Regulations on MOHCD's website and in such additional places as the DPH Director deems
11 appropriate, and shall provide copies or electronic links on request. The Program Regulations shall
12 address matters such as Program and Fund administration, public and competitive processes to apply
13 for Loans, compliance with applicable laws and regulations, affordability restrictions for the longest
14 possible term, eligible uses of Funds, underwriting criteria, transaction processing, documentation,
15 compliance monitoring, and enforcement. At a minimum, the Program Regulations shall include, but
16 are not limited to: (1) experienced property management to provide operating and maintenance, rent
17 collection, lease enforcement, financial management and reporting; (2) a harm reduction policy
18 specifying that participation in substance abuse treatment is not a requirement of placement or
19 residence in the housing; (3) procedures for lease violation and termination; and (4) limits on rent,
20 which shall not exceed 30% of an Eligible Person's income.

21
22 **SEC. 117.3. LOAN TERMS.**

23 (a) **Loan Term and Repayment.** The MOHCD Director shall prepare Loan documents
24 consistent with the Program Regulations. So long as the applicable Property continues to be used for
25 Cooperative Living, the Loan documents may allow payment from net cash flow, defer some or all

1 payments during the term, and allow for debt forgiveness at the end of the term, all as determined by
2 the MOHCD Director.

3 (b) **Security for Loans.** The MOHCD Director may require Loans made under this Chapter
4 117 to be secured by a deed of trust and other security instruments for the benefit of the City consistent
5 with Program Regulations. The MOHCD Director may record and subordinate deeds of trust and
6 other security instruments as needed or appropriate to achieve and preserve Cooperative Living.

7 (c) **Declaration of Restrictions.** Any Loan shall be subject to a Declaration of Restrictions
8 with the longest possible term as determined by the MOHCD Director, including, but not limited to
9 terms of 55 years or longer or for the life of the applicable building. MOHCD shall not subordinate a
10 Declaration of Restrictions to any third party financing instrument, except to the extent required by
11 federal or state funding sources or financing for the acquisition of Cooperative Living.

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

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

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

24
25 **SEC. 117.4. ADMINISTRATION OF LOANS AND GRANTS.**

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

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

7 (c) **Loan Servicing.** MOHCD shall collect revenues due and owing under Loans, maintain
8 records of all such revenues, and maintain annual statements of such accounts. Loan repayments shall
9 be deposited into the applicable Fund in accordance with Program Regulations, and the Director shall
10 work with the Controller to apply revenues toward repayment of bonds as and when required.

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

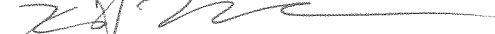
14 (e) **Refinance and Loan Workouts.** To preserve and maintain any Cooperative Housing, the
15 Director is authorized to refinance, restructure, modify, or extend the term of any Loan and any related
16 agreements, provided that a new Declaration of Restrictions is recorded against the Property.

17 (f) **Monitoring and Enforcement.** MOHCD shall monitor compliance with Loan agreements,
18 Declarations of Restrictions, and any other related documents. DPH shall monitor compliance with
19 Program Regulations related to Eligible Persons. A Borrower shall submit to MOHCD and DPH an
20 annual monitoring report that includes, but is not limited to, an evaluation of the outcomes of the
21 Borrower's tenants, including but not limited to the tenants' length of residency in a Program site and
22 the rate of tenant hospitalization. MOHCD or DPH, as applicable, may take such actions as are
23 reasonably necessary to enforce such agreements and documents and collect on any security, including
24 the foreclosure of any deed of trust, possession of rents and other revenues, or the demand and
25 collection under any guaranty or other security instrument. MOHCD may also take action to protect

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

7
8 Section 3. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15
16 By: 
17 KEITH NAGAYAMA
18 Deputy City Attorney
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