

1 [Health, Administrative Codes - Housing Conservatorships]

2

3 **Ordinance amending the Health Code to authorize procedures for the appointment of a**
4 **conservator for a person incapable of caring for the person’s own health and well-**
5 **being due to a serious mental illness and substance use disorder, and designating the**
6 **City Attorney to institute judicial proceedings to establish housing conservatorships;**
7 **and amending the Administrative Code to establish the Housing Conservatorship**
8 **Working Group to conduct an evaluation of the City’s implementation of the housing**
9 **conservatorship program.**

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

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

18

19 Section 1. Article 41 of the Health Code is hereby amended by adding Division IV,
20 consisting of Sections 4131 to 4135~~6~~, to read as follows:

21

DIVISION IV: HOUSING CONSERVATORSHIPS

22

SEC. 4131. FINDINGS.

23 (a) State law establishes a procedure for the appointment of a conservator for a person who is
24 determined to be gravely disabled as a result of a mental health disorder or an impairment by chronic
25 alcoholism. Chapter 3 of Part 1 of Division 5 of the California Welfare and Institutions Code. State

1 law also establishes a procedure for the appointment of a conservator for individuals who are unable
2 to properly provide for their needs for physical health, food, clothing and shelter, and for individuals
3 who are substantially unable to manage their finances or resist fraud or undue influence. Division 4 of
4 the California Probate Code.

5 (b) Notwithstanding State and City laws and programs designed to provide care for persons
6 who are unable to care for themselves, some people fall through the cracks. For example,
7 conservatorships under the Lanterman-Petris-Short Act, Chapter 3 of Part 1 of Division 5 of the
8 California Welfare and Institutions Code (“LPS conservatorships”), do not take into consideration
9 substance use disorders other than alcoholism. Therefore, individuals with a serious mental illness and
10 co-occurring substance use disorder other than alcohol can be ineligible for LPS conservatorships,
11 notwithstanding their mental health disorder and resulting needs.

12 (c) Individuals grappling with severe mental illness and a debilitating substance use disorder
13 are often difficult to treat under existing short-term psychiatric programs and outpatient drug
14 treatments available outside of conservatorship; these individuals often cycle in and out of treatment
15 and have difficulty maintaining stable housing. As of the adoption of this Division IV, there is no
16 avenue to conserve individuals in a supportive housing environment that provides wraparound services
17 to those individuals.

18 (d) S.B. 1045 (Housing Conservatorship for Persons with Serious Mental Illness and Substance
19 Use Disorders), codified at Chapter 5 of Part 1 of Division 5 of the California Welfare and Institutions
20 Code, authorizes the counties of San Francisco, San Diego, and Los Angeles, to establish procedures
21 for the appointment of a conservator for a person who is incapable of caring for the person’s own
22 health and well-being due to a serious mental illness and substance use disorder, for the purpose of
23 providing the least restrictive and most clinically appropriate alternative needed for the protection of
24 the person.

1 (e) The Department of Public Health (“DPH”), the Human Services Agency (“HSA”), and the
2 Department of Homelessness and Supportive Housing (“HSH”) developed a plan (“the Housing
3 Conservatorship Plan”) to implement Chapter 5 of Part 1 of Division 5 of the California Welfare and
4 Institutions Code, in consultation with representatives of disability rights advocacy groups, a provider
5 of permanent supportive housing services, the county health department, law enforcement, labor
6 unions, and staff from hospitals located in San Francisco. The Housing Conservatorship Plan is
7 available in Board of Supervisors File No. 181042.

8 (f) As required by S.B. 1045, as codified in subsection (b)(2) of Section 5450 of the California
9 Welfare and Institutions Code, the Board of Supervisors held public hearings on May 13, 2019, and
10 May 20, 2019, where staff from DPH, HSA, and HSH presented the Housing Conservatorship Plan to
11 the Board of Supervisors, and provided testimony concerning the available resources for the
12 implementation of Chapter 5 of Part 1 of Division 5 of the California Welfare and Institutions Code.
13 Based on materials and testimony presented at the hearing, the Board of Supervisors finds that the
14 services set forth in subsection (b)(2) of Section 5450 of the California Welfare and Institutions Code
15 are available in, at a minimum, sufficient quantity, resources, and funding levels to serve the identified
16 population that the Board of Supervisors intends to serve in connection with the implementation of the
17 Housing Conservatorship Program.

18 (g) The City finds that no voluntary mental health program serving adults, no children’s mental
19 health program, and no services or supports provided in conservatorships established pursuant to
20 Division 4 (commencing with Section 1400) of the California Probate Code or conservatorships
21 established pursuant to Chapter 3 (commencing with Section 5350) of the California Welfare and
22 Institutions Code), including availability of conservators, will be reduced as a result of implementation
23 of the Housing Conservatorship Program.

24
25 **SEC. 4132. DEFINITIONS.**

1 Terms not defined in this Division IV shall have the meaning attributed to them in Section 5452
2 of the California Welfare and Institutions Code, as may be amended from time to time.

3 “Care Team” has the meaning set forth in Section 4113 of the Health Code, as may be
4 amended from time to time.

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

6
7 **SEC. 4133. AUTHORIZATION OF THE HOUSING CONSERVATORSHIP PROGRAM.**

8 (a) The City authorizes the implementation of Chapter 5 (commencing with Section 5450) of
9 Part 1 of Division 5 of the Welfare and Institutions Code through the establishment of the Housing
10 Conservatorship Program, as provided in this Division IV.

11 (b) The purpose of the Housing Conservatorship Program is to provide the least restrictive and
12 most clinically appropriate alternative needed for the protection of a person who is incapable of caring
13 for the person’s own health and well-being due to a serious mental illness and substance use disorder,
14 as evidenced by frequent detention for evaluation and treatment pursuant to Section 5150 of the
15 California Welfare and Institutions Code (“Section 5150”). If the court determines that the person
16 needs to be moved from the person’s current residence, the placement shall be in supportive community
17 housing that provides wraparound services, such as onsite physical and behavioral health services,
18 unless the court, with good cause, determines that such a placement is not sufficient for the protection
19 of that person.

20 (c) The procedures for establishing, administering, and terminating a conservatorship under
21 this Division IV shall be as set forth in Chapter 5 of Part 1 of Division 5 of the California Welfare and
22 Institutions Code.

23 (d) The San Francisco Public Conservator is designated to provide conservatorship
24 investigations as set forth in this Division IV, and those investigations shall comply with the
25 requirements of Chapter 5 of Part 1 of Division 5 of the California Welfare and Institutions Code.

1 (e) The San Francisco Public Conservator may appoint a conservator of the person for a San
2 Francisco resident who is incapable of caring for the person’s own health and well-being due to a
3 serious mental illness and substance use disorder, as evidenced by frequent detention for evaluation
4 and treatment pursuant to Section 5150.

5 (f) A Housing Conservatorship pursuant to this Division IV shall not be established if a
6 conservatorship or guardianship for the person exists under Division 4 (commencing with Section
7 1400) of the California Probate Code or under Chapter 3 (commencing with Section 5350) of the
8 California Welfare and Institutions Code.

9 (g) The following professionals may recommend an evaluation for Housing Conservatorship to
10 the Public Conservator or the Care Team upon a determination that a person in the professional’s
11 care is incapable of caring for the person’s own health and well-being due to a serious mental illness
12 and substance use disorder, as evidenced by frequent detention for evaluation and treatment pursuant
13 to Section 5150:

14 (1) The Sheriff, or the Sheriff’s designee;

15 (2) The Director of the Department of Public Health, or the Director’s designee;

16 (3) The Director of the Human Services Agency, or the Director’s designee; or

17 (4) The professional person in charge of an agency providing comprehensive evaluation
18 or a facility providing intensive treatment.

19 (h) Before the Public Conservator conducts an evaluation of eligibility for a Housing
20 Conservatorship, the Care Team shall work with the individual who has been recommended
21 for evaluation to maximize engagement in voluntary treatment, as set forth in Section 4134, as
22 a preferred alternative to a Housing Conservatorship, and the City shall make a documented
23 offer of intensive case management, mental health services, substance use treatment,
24 placement in a clinically appropriate treatment program, and upon discharge from such
25

1 program, placement in permanent housing that is clinically appropriate for the individual, as
2 determined upon placement.

3 (hi) If the Public Conservator, upon conducting an evaluation for Housing Conservatorship,
4 finds that the person meets the criteria for Housing Conservatorship, that the City has made a
5 documented offer of intensive case management, mental health services, substance use
6 treatment, placement in a clinically appropriate treatment program, and upon discharge from
7 such program, placement in permanent housing that is clinically appropriate for the individual,
8 as determined upon placement, and that the Housing Conservatorship is the least restrictive
9 alternative, the officer shall petition the Superior Court of San Francisco to establish a Housing
10 Conservatorship.

11
12 **SEC. 4134. MAXIMIZING ENGAGEMENT IN VOLUNTARY TREATMENT.**

13 (a) Referral of an individual to the Public Conservator for evaluation of eligibility for a
14 Housing Conservatorship provides three key opportunities to engage the individual in
15 voluntary treatment:

16 (1) Immediately after the referral and before evaluation begins;

17 (2) Immediately after the Public Conservator confirms the individual's eligibility
18 for a Housing Conservatorship, but before the filing of a petition; and

19 (3) After the filing of a petition, but before the hearing on the petition.

20 (b) At each of the opportunities listed in subsections (a)(1)-(3) of this Section 4134,
21 the Care Team shall make every attempt to engage the referred individual in voluntary
22 treatment.

23 (c) The Care Team also shall ensure that individuals who are determined to not meet
24 the eligibility criteria for a housing conservatorship are evaluated for, and invited to engage in,
25 voluntary mental health services and substance use treatment.

1
2 **SEC. 41345. UNDERTAKING FOR THE GENERAL WELFARE.**

3 *In enacting and implementing this Division IV, the City is assuming an undertaking only to*
4 *promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an*
5 *obligation for breach of which it is liable in money damages to any person who claims that such breach*
6 *proximately caused injury.*

7
8 **SEC. 41356. SUNSET DATE.**

9 *This Division IV shall expire by operation of law on December 31, 2023, unless the Legislature*
10 *has amended Chapter 5 of Part 1 of Division 5 of the Welfare and Institutions Code to extend the*
11 *authorization of local housing conservatorship programs beyond that date. If Chapter 5 is amended to*
12 *extend beyond December 31, 2023, but to remain in effect only until a later date certain, on which date*
13 *it is repealed, this Division IV shall expire by operation of law on that later date certain. In either*
14 *event, upon expiration of this Division IV by operation of law, the City Attorney shall cause Division IV*
15 *to be removed from the Health Code.*

16
17 Section 2. Division III of Article 41 of the Health Code is hereby amended to revise
18 Section 4121, to read as follows:

19
20 **SEC. 4121. DESIGNATION OF CITY ATTORNEY.**

21 The City Attorney is designated to represent the county in the following proceedings:

22 (a) Judicial proceedings authorized by Article 9 of Chapter 2 of Division 5 of the
23 California Welfare and Institutions Code (“The Assisted Outpatient Treatment Demonstration
24 Project Act of 2002”); *and*

1 (b) ~~Beginning January 1, 2019, j~~Judicial proceedings authorized by Chapter 3 of Division
2 5 of the California Welfare and Institutions Code (“Conservatorship for Gravely Disabled
3 Persons”); provided, however, that the City Attorney is not designated to represent the county
4 in such proceedings where they concern a person who meets the definition of “gravely
5 disabled” as set forth in subsection (h)(1)(B) of Section 5008 of the California Welfare and
6 Institutions Code.; and

7 (c) Judicial proceedings authorized by Chapter 5 of Part 1 of Division 5 of the California
8 Welfare and Institutions Code (“Housing Conservatorship for Persons with Serious Mental Illness and
9 Substance Use Disorders”).

10
11 Section 3. Chapter 5 of the Administrative Code is hereby amended by adding Article
12 XXXVII, consisting of Sections 5.37-1 to 5.37-5, to read as follows:

13
14 **ARTICLE XXXVII: HOUSING CONSERVATORSHIP WORKING GROUP**

15
16 **SEC. 5.37-1. ESTABLISHMENT OF WORKING GROUP.**

17 There is hereby established the Housing Conservatorship Working Group (the “Working
18 Group”) of the City and County of San Francisco.

19
20 **SEC. 5.37-2. MEMBERSHIP.**

21 The Working Group shall be comprised of 12 members, appointed as follows:

22 (a) Seats 1 and 2 shall be held by representatives of disability rights advocacy groups,
23 appointed by the Mayor and the Board of Supervisors, respectively.

24 (b) Seats 3 and 4 shall be held by representatives of labor unions, appointed by the Mayor and
25 the Board of Supervisors, respectively.

1 (c) Seats 5 and 6 shall be held by representatives of organizations providing direct services to
2 homeless individuals or families, appointed by the Mayor and the Board of Supervisors, respectively.

3 (d) Seat 7 shall be held by an employee of a hospital located in San Francisco with experience
4 in mental health and substance use disorders, appointed by the Director of Health.

5 (e) Seat 8 shall be held by an employee of the Behavioral Health Services program of the
6 Department of Public Health, appointed by the Director of Health.

7 (f) Seat 9 shall be held by an employee of the Department of Public Health, appointed by the
8 Director of Health.

9 (g) Seat 10 shall be held by an employee of the Human Services Agency, appointed by the
10 Director of the Human Services Agency.

11 (h) Seat 11 shall be held by an employee of the Department of Homelessness and Supportive
12 Housing, appointed by the Director of the Department of Homelessness and Supportive Housing.

13 (i) Seat 12 shall be held by an employee of the San Francisco Police Department, appointed by
14 the Chief of Police.

15
16 **SEC. 5.37-3. ORGANIZATION AND TERMS OF OFFICE.**

17 (a) Members of the Working Group shall serve at the pleasure of their respective appointing
18 authorities, and may be removed by the appointing authority at any time.

19 (b) Appointing authorities shall make initial appointments to the Working Group by no later
20 than 90 days after the effective date of this Article XXXVII.

21 (c) The Working Group shall hold its inaugural meeting not more than 30 days after a quorum
22 of the Working Group, defined as a majority of seats, has been appointed. Thereafter, the Working
23 Group shall meet at least once every four months until the sunset date in Section 5.37-5.

1 (d) Members of the Working Group shall receive no compensation from the City, except that
2 the members in Seats 8, 9, 10, 11, and 12 who are City employees may receive their respective City
3 salaries for time spent working on the Working Group.

4 (e) Any member who misses three regular meetings of the Working Group within any 12-month
5 period without the express approval of the Working Group at or before each missed meeting shall be
6 deemed to have resigned from the Working Group 10 days after the third unapproved absence. The
7 Working Group shall inform the appointing authority of any such resignation.

8 (f) The Department of Public Health shall provide administrative and clerical support for the
9 Working Group, and the Controller’s Office shall provide technical support and policy analysis for the
10 Working Group upon request. All City officials and agencies shall cooperate with the Working Group
11 in the performance of its functions.

12
13 **SEC. 5.37-4. DUTIES.**

14 (a) The Working Group shall conduct an evaluation of the effectiveness of the implementation
15 of Chapter 5 (commencing with Section 5450) of the California Welfare and Institutions Code
16 (“Chapter 5”) in addressing the needs of persons with serious mental illness and substance use
17 disorders in the City. The evaluation shall include: 1) an assessment of the number and status of
18 persons who have been recommended for a Housing Conservatorship, evaluated for eligibility for
19 a Housing Conservatorship, and/or conserved under Chapter 5; 2) the effectiveness of these
20 conservatorships in addressing the short- and long-term needs of those persons, including a
21 description of the services they received; 3) and the impact of conservatorships established
22 pursuant to Chapter 5 on existing conservatorships established pursuant to Division 4 (commencing
23 with Section 1400) of the California Probate Code or Chapter 3 (commencing with Section 5350) of the
24 California Welfare and Institutions Code, and on mental health programs provided by the City; 4) the
25 number of detentions for evaluation and treatment under Section 5150 of the California

1 Welfare and Institutions Code that occurred in San Francisco during the evaluation period,
2 broken down by the type of authorized person who performed the detention (e.g., peace
3 officer or designated member of a mobile crisis team); and 5) where a detention for evaluation
4 and treatment under Section 5150 was performed by a peace officer, an explanation as to
5 why the peace officer was the appropriate person to perform the detention.

6 *(b) The Working Group shall prepare and submit a preliminary report and a final*
7 *report reports to the Mayor, the Board of Supervisors, and the Legislature on its findings and*
8 *recommendations regarding the implementation of Chapter 5.*

9 (1) Reports to the Mayor and Board of Supervisors. The Working Group shall
10 submit its first report to the Mayor and the Board of Supervisors by no later than six months
11 after the effective date of the ordinance in Board File No. 181042 establishing Division IV of
12 Article 41 of the Health Code, and annually thereafter.

13 (2) Reports to the Legislature. ~~The~~ A preliminary report shall be submitted to the
14 ~~Mayor and the Board of Supervisors by no later than November 1, 2020, and to the Legislature by no~~
15 ~~later than January 1, 2021, in compliance with Section 9795 of the California Government Code.~~
16 ~~The~~ A final report shall be submitted to the Mayor and the Board of Supervisors by no later than
17 ~~November 1, 2022, and to the Legislature by no later than January 1, 2023, in compliance with Section~~
18 ~~9795 of the California Government Code.~~

19
20 **SEC. 5.37-5. SUNSET.**

21 Unless the Board of Supervisors by ordinance extends the term of the Working Group, this
22 Article XXXVII shall expire by operation of law, and the Working Group shall terminate, on December
23 31, 2023. In that event, after that date, the City Attorney shall cause this Article XXXVII to be removed
24 from the Administrative Code.

1 Section 4. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: _____
9 ANNE PEARSON
Deputy City Attorney

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