

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, rehabilitate, and maintain residential housing under the
6 Cooperative Living Opportunities for Mental Health Program (“Program”), as set forth in Chapter
7 117 of the 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
16 Board of Supervisors on the current status of the Fund, the amounts approved for disbursement, and
17 the number and types of new Cooperative Living units established during the preceding fiscal
18 year and maintained.

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

22
23 **CHAPTER 117: COOPERATIVE LIVING OPPORTUNITIES**
24 **FOR MENTAL HEALTH PROGRAM**
25

1 **SEC 117.1. DEFINITIONS.**

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

3 “Board” means the Board of Supervisors.

4 “Borrower” means a recipient of a Loan.

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

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

8 “Contractor” means a nonprofit organization that enters into a contract or grant
9 agreement with the Department of Public Health to provide services to Eligible Persons in
10 housing operated under the Cooperative Living Opportunities for Mental Health Program.

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

13 “DPH” means the Department of Public Health.

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

15 “Eligible Person” means a person with chronic mental illness and/or a substance use disorder
16 who has been assessed and determined by DPH to be able to live independently and safely in
17 Cooperative Living and to be able to participate in maintaining a cooperative household, as
18 determined by DPH, who is exiting or has exited a transitional residential treatment program
19 or an acute diversion unit.

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

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

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

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

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

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

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

9
10 **SEC. 117.1. ESTABLISHMENT OF THE PROGRAM.**

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

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

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

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

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

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

19 (c) **Program Regulations.** The MOHCD Director and DPH Director shall jointly publish
20 from time to time Program Regulations as appropriate to implement the Program, consistent with
21 applicable law and this Chapter 117. The MOHCD Director and DPH Director shall publish all
22 Program Regulations on MOHCD's DPH's website and in such additional places as the DPH Director
23 deems appropriate, and shall provide copies or electronic links on request. The Program Regulations
24 shall address matters such as Program and Fund administration, public and competitive processes to
25 apply for Loans, compliance with applicable laws and regulations, affordability restrictions for the

1 longest possible term, eligible uses of Funds, underwriting criteria, transaction processing,
2 documentation, compliance monitoring, and enforcement. At a minimum, the Program Regulations
3 shall include, but are not limited to: (1) experienced property management to provide operating and
4 maintenance, rent collection, lease enforcement, financial management and reporting; (2) a harm
5 reduction policy specifying that participation in substance abuse treatment is not a requirement
6 of placement or residence in the housing; (3) procedures for lease violation and termination; and
7 (4) limits on rent, which shall not exceed 30% of an Eligible Person's income.

8
9 **SEC. 117.3. LOAN TERMS.**

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

15 (b) **Security for Loans.** The MOHCD Director may require Loans made under this Chapter
16 117 to be secured by a deed of trust and other security instruments for the benefit of the City consistent
17 with Program Regulations. The MOHCD Director may record and subordinate deeds of trust and
18 other security instruments as needed or appropriate to achieve and preserve Cooperative Living.

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

24 (d) **Combining Loans.** Subject to any applicable requirements of a funding source, MOHCD
25 may issue one or more Loans, in any combination, that the MOHCD Director deems appropriate to

1 fund acquisitions for Cooperative Living. A Borrower shall comply with the requirements of each
2 applicable funding source, which shall be included in the Loan documents.

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

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

11
12 **SEC. 117.4. ADMINISTRATION OF LOANS AND GRANTS.**

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

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

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

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

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

7 (f) Monitoring and Enforcement.

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

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

19 MOHCD shall monitor compliance with Loan agreements, Declarations of Restrictions,
20 and any other related documents. DPH shall monitor compliance with Program Regulations
21 related to Eligible Persons. A Borrower shall submit to MOHCD and DPH an annual
22 monitoring report that includes, but is not limited to, an evaluation of the outcomes of the
23 Borrower's tenants, including but not limited to the tenants' length of residency in a Program
24 site and the rate of tenant hospitalization. MOHCD or DPH, as applicable, may take such
25 actions as are reasonably necessary to enforce such agreements and documents and collect

1 on any security, including the foreclosure of any deed of trust, possession of rents and other
2 revenues, or the demand and collection under any guaranty or other security instrument.

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

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

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

17
18 By: _____
19 KEITH NAGAYAMA
20 Deputy City Attorney
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