

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Dr. Grant Colfax, Director, Department of Public Health
Micki Callahan, Director, Department of Human Resources

FROM: John Carroll, Assistant Clerk, Government Audit and Oversight
Committee, Board of Supervisors

DATE: September 18, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Mandelman on September 10, 2019:

File No. 190925

Ordinance amending the Health Code to require the Department of Public Health to maintain and operate at full capacity a 55-bed adult residential facility located at 887 Potrero Avenue as soon as possible, but by no later than July 1, 2021, recognizing that before then 41 of the 55 beds may be used as emergency shelter for people experiencing homelessness.

If you have any 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.

c: Greg Wagner, Department of Public Health
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Susan Gard, Department of Human Resources

1 [Health Code - City-Operated Adult Residential Facility - 887 Potrero Avenue]

2
3 **Ordinance amending the Health Code to require the Department of Public Health to**
4 **maintain and operate at full capacity a 55-bed adult residential facility located at 887**
5 **Potrero Avenue as soon as possible, but by no later than July 1, 2021, recognizing that**
6 **before then 41 of the 55 beds may be used as emergency shelter for people**
7 **experiencing homelessness.**

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

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

16 Section 1. The Health Code is hereby amended by adding Article 44, consisting of
17 Sections 4401, 4402, and 4403, to read as follows:

18 **ARTICLE 44: CITY-OPERATED ADULT RESIDENTIAL FACILITY**

19
20 **SEC. 4401. BACKGROUND AND FINDINGS.**

21 *(a) Adult residential facilities ("ARFs") are group care facilities that provide 24-hour*
22 *nonmedical care to individuals aged 18-59 who need personal services, supervision, or assistance to*
23 *support their activities of daily living. ARFs provide rooms, meals, housekeeping, supervision, storage*
24 *and distribution of medications, and personal care assistance with basic activities like hygiene.*
25

1 dressing, eating, and bathing. ARFs are licensed by the Community Care Licensing Division of the
2 State Department of Social Services ("CCL").

3 (b) ARFs play an important role in a locality's continuum of care by providing people with
4 mental illness an opportunity to live in community-based housing, rather than in institutional care.

5 (c) A 2018 report by the California Behavioral Health Planning Council observed that due
6 to ARF closures and a lack of new ARFs, many individuals with mental illness are not able to find
7 sustainable community housing options with the appropriate level of care following stays in acute in-
8 patient treatment programs, hospitals, or correctional institutions. The report concludes that the
9 absence of community-based housing options can result in a "revolving door scenario" where people
10 are discharged or released from an institution only to be unable to find appropriate residential care or
11 housing. When another mental health crisis ensues, the absence of community-based housing
12 opportunities can result in a return to high-level crisis programs, facilities, hospitals, jails/prisons, or
13 homelessness.

14 (d) Since 2005, the Department of Public Health ("DPH") has operated an ARF at 887
15 Potrero Ave. This ARF has been licensed by CCL to include 55 beds.

16 (e) For the past several years, DPH has been unable to maintain staffing at a level
17 sufficient to operate the ARF at 887 Potrero Avenue at full capacity. In addition, in October 2018,
18 CCL concluded that on a number of occasions between 2015 and 2018, DPH had failed to comply with
19 applicable laws and regulations in its administration of the ARF at 887 Potrero Avenue. In light of the
20 staffing shortages, and the conduct that led to findings of noncompliance, DPH determined that new
21 residents should not be placed in vacant ARF beds until staffing issues were addressed, which would
22 take time.

23 (f) In recognition of the acute need for emergency shelter beds, and to put the vacant beds
24 to use, DPH asked CCL for permission to temporarily suspend from licensure a total of 41 ARF beds at
25 887 Potrero Avenue so that they could be used instead as emergency shelter beds for people

1 experiencing homelessness. CCL granted DPH's request, thereby temporarily reducing the total
2 number of beds at this ARF from 55 to 11. CCL's approval extends through June 30, 2021, although
3 DPH may seek CCL approval to restore the beds for use as ARF beds prior to that date subject to
4 CCL's finding that DPH can meet the licensing standards required to operate the ARF at full capacity.

5
6 **SEC. 4402. MAINTENANCE AND OPERATION OF ADULT RESIDENTIAL FACILITY.**

7 As soon as possible, but by no later than July 1, 2021, and from that date forward, DPH shall
8 maintain and operate at full capacity a licensed 55-bed adult residential facility located at 887 Potrero
9 Avenue, and shall take all steps necessary to ensure that all 55 beds are occupied by persons who meet
10 the eligibility criteria for residence in an adult residential facility set forth in State law and in the
11 facility's license. Notwithstanding the previous sentence, DPH may permit temporary vacancies as
12 may occur after a resident moves out and before a new resident moves in, or as may be necessary to
13 allow for facility repairs or corrective action required by the California Department of Social Services'
14 Community Care Licensing Division.

15
16 **SEC. 4403. REPORTING.**

17 (a) Within three months of the effective date of this Article 44, DPH shall submit to the
18 Board of Supervisors a plan describing the steps DPH will take to ensure that it will be able to operate
19 the 55-bed adult residential facility located at 887 Potrero Avenue at full capacity as soon as possible,
20 but not later than July 1, 2021, including but not limited to any necessary steps related to budgeting,
21 staffing, and licensing. In addition, at the time of submitting the plan, DPH shall also submit a
22 proposed resolution for the City to accept the plan.

23 (b) Within three months of submission of the plan required by subsection (a), and every
24 three months thereafter until July 1, 2021, DPH shall submit to the Board of Supervisors a report
25

1 describing its progress in taking the steps identified in the plan, and any modifications to the plan DPH
2 deems necessary.

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

8
9 Section 3. Undertaking for the General Welfare. In enacting and implementing this
10 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
11 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
12 is liable in money damages to any person who claims that such breach proximately caused
13 injury.

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By:


18 ANNE PEARSON
19 Deputy City Attorney

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LEGISLATIVE DIGEST

[Health Code - City-Operated Adult Residential Facility - 887 Potrero Avenue]

Ordinance amending the Health Code to require the Department of Public Health to maintain and operate at full capacity a 55-bed adult residential facility located at 887 Potrero Avenue as soon as possible, but by no later than July 1, 2021, recognizing that before then 41 of the 55 beds may be used as emergency shelter for people experiencing homelessness.

Existing Law

Adult residential facilities (“ARFs”) are group care facilities that provide 24-hour nonmedical care to individuals aged 18-59 who need personal services, supervision, or assistance to support their activities of daily living. Currently, there is no legal requirement for the City and County of San Francisco to operate an ARF.

Amendments to Current Law

The proposed ordinance would require the Department of Public Health (“DPH”) to maintain and operate at full capacity a 55-bed ARF as soon as possible, but by no later than July 1, 2021, and from that date forward. The ordinance would also require DPH to submit to the Board of Supervisors within three months of its effective date a plan describing the steps DPH will take to ensure that it can comply with the July 1, 2021 deadline, including but not limited to, steps relating to budgeting, staffing, and licensing. Within three months of submission of the plan, and every three months thereafter until July 1, 2021, DPH would also be required to submit a progress report to the Board of Supervisors.

Background Information

ARFs provide rooms, meals, housekeeping, supervision, storage and distribution of medications, and personal care assistance with basic activities like hygiene, dressing, eating, and bathing. ARFs are licensed by the Community Care Licensing Division of the State Department of Social Services (“CCL”).

ARFs play an important role in a locality’s continuum of care by providing people with mental illness an opportunity to live in community-based housing, rather than in institutional care.

A 2018 report by the California Behavioral Health Planning Council observed that due to ARF closures and a lack of new ARFs, many individuals with mental illness are not able to find sustainable community housing options with the appropriate level of care following stays in acute in-patient treatment programs, hospitals, or correctional institutions. The report concludes that the absence of community-based housing options can result in a “revolving

door scenario” where people are discharged or released from an institution only to be unable to find appropriate residential care or housing. When another mental health crisis ensues, the absence of community-based housing opportunities can result in a return to high-level crisis programs, facilities, hospitals, jails/prisons, or homelessness.

Since 2005, the Department of Public Health (“DPH”) has operated an ARF at 887 Potrero Ave. This ARF has been licensed by CCL to include 55 beds.

For the past several years, DPH has been unable to maintain staffing at a level sufficient to operate the ARF at 887 Potrero Avenue at full capacity. In addition, in October 2018, CCL concluded that on a number of occasions between 2015 and 2018, DPH had failed to comply with applicable laws and regulations in its administration of the ARF at 887 Potrero Avenue. In light of the staffing shortages, and the conduct that led to findings of noncompliance, DPH determined that new residents should not be placed in vacant ARF beds until staffing issues were addressed, which would take time.

In recognition of the acute need for emergency shelter beds, and to put the vacant beds to use, DPH asked CCL for permission to temporarily suspend from licensure a total of 41 ARF beds at 887 Potrero Avenue so that they could be used instead as emergency shelter beds for people experiencing homelessness. CCL granted DPH’s request, thereby temporarily reducing the total number of beds at this ARF from 55 to 11. CCL’s approval extends through June 30, 2021, although DPH may seek CCL approval to restore the beds for use as ARF beds prior to that date subject to CCL’s finding that DPH can meet the licensing standards required to operate the ARF at full capacity.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2019 SEP 9 PM 3:48
Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Rafael Mandelman

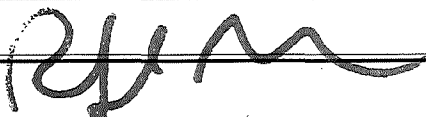
Subject:

Health Code - City-Operated Adult Residential Facility - 887 Potrero Avenue

The text is listed:

Ordinance amending the Health Code to require the Department of Public Health to maintain and operate at full capacity a 55-bed adult residential facility located at 887 Potrero Avenue as soon as possible, but by no later than July 1, 2021, recognizing that before then 41 of the 55 beds may be used as emergency shelter for people experiencing homelessness.

Signature of Sponsoring Supervisor:



For Clerk's Use Only