

1 [Health, Administrative Codes - City-Operated Adult Residential Facility]

2

3 **Ordinance amending the Health Code to require the Department of Public Health to**
4 **maintain and operate at full capacity an 55-bed adult residential facility (“ARF”) with no**
5 **fewer than 41 beds; and amending the Administrative Code to establish the Adult**
6 **Residential Facility Working Group to advise the Board of Supervisors and the Mayor**
7 **regarding resident care, training, workplace conditions, and staffing at the ARF located**
8 **at 887 Potrero Avenue.**

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

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

17 Section 1. The Health Code is hereby amended by adding Article 45, consisting of
18 Sections 4501, 4502, and 4503, to read as follows:

19 **ARTICLE 45: CITY-OPERATED ADULT RESIDENTIAL FACILITY**

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21 **SEC. 4501. BACKGROUND AND FINDINGS.**

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

1 dressings, 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 San Francisco Department of Public Health (“DPH”) has operated an
15 ARF at 887 Potrero Avenue. This ARF has been licensed by CCL to include 55 beds.

16 (e) In recent years, DPH has failed to maintain staffing at a level that was sufficient to
17 operate the ARF at 887 Potrero Avenue at full capacity. In 2018-2019, DPH asked CCL for permission
18 to temporarily suspend from licensure a total of 41 ARF beds at 887 Potrero Avenue so that they could
19 be used instead as emergency shelter beds for people experiencing homelessness. CCL granted DPH’s
20 request, thereby temporarily reducing the total number of beds at this ARF from 55 to ~~44~~14. CCL’s
21 approval extends through June 30, 2024~~0~~, although DPH may seek CCL approval to restore the beds
22 for use as ARF beds prior to that date subject to CCL’s finding that DPH can meet the licensing
23 standards required to operate the ARF at full capacity.

24 (f) In October 2018, CCL concluded that on a number of occasions between 2015 and
25 2018, DPH had failed to comply with applicable laws and regulations in its administration of the ARF

1 at 887 Potrero Avenue. To bring the facility into compliance, CCL required that DPH prepare a
2 corrective action plan, which DPH prepared and submitted to CCL on October 15, 2018 (“Corrective
3 Action Plan”). This plan lays out the steps DPH has taken and will continue to take, including training
4 and monitoring, to ensure that the ARF operates in full compliance with all applicable standards.

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6 **SEC. 4502. MAINTENANCE AND OPERATION OF ADULT RESIDENTIAL FACILITY.**

7 (a) As of the effective date of this Article 45, and until March 31, 2020, DPH shall
8 operate 28 of the beds at the ARF located at 887 Potrero Avenue as emergency shelter beds
9 for people experiencing homelessness.

10 (ab) ~~As of the effective date of this Article 45~~By no later than April 1, 2020, and from
11 that date forward, DPH shall maintain and operate at full capacity a licensed ~~55-bed~~ adult residential
12 facility with no fewer than 41 beds, and shall take all steps necessary to ensure that all ~~55~~ARF beds
13 at that facility are occupied by persons who meet the eligibility criteria for residence in an adult
14 residential facility set forth in State law and in the facility’s license.

15 (bc) To ensure compliance with the deadlines established in subsections (a) and (b), DPH
16 shall take immediate action to:

17 (1) Notify CCL of its intent to operate ~~54~~41 ARF beds, and take all steps necessary
18 to ensure licensure of all ~~55~~41 ARF beds;

19 (2) Identify clinically appropriate alternative placements for five ARF
20 residents, and work with those residents to facilitate their voluntary relocation.

21 ~~Patients~~Residents who are offered clinically appropriate alternative placements shall be given
22 the opportunity to discuss their options with the ombudsman program before being
23 transferred;

24 (23) Hire a sufficient number of qualified City staff to operate the ~~55~~41 ARF beds;
25 and

1 ~~(34)~~ Identify residents who qualify for placement in any available ARF beds on or
2 after April 1, 2020.

3 ~~(ed)~~ Staff from the Department of Human Resources (“DHR”) shall assist DPH to
4 immediately, and with urgency, hire qualified City staff.

5 ~~(e)~~ DPH shall provide trauma-informed care training to all DPH staff who work at
6 DPH’s Behavioral Health Center located at 887 Potrero Ave on the following topics: trauma-
7 informed care, patient safety, evidence-based de-escalation techniques, medication
8 management, risk management, and first aid and cardiopulmonary resuscitation (CPR), and
9 detention for evaluation and treatment under Section 5150 of the California Welfare and
10 Institutions Code. Thisee trainings shall be provided by subject matter experts who do not
11 work at the Behavioral Health Center.

12 ~~(f)~~ DPH shall create a forum in which management and staff of the ARF located at
13 887 Potrero Avenue can discuss issues relating to resident care and workplace conditions,
14 and shall conduct an objective analysis and review of the Behavioral Health Center.

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16 **SEC. 4503. REPORTING.**

17 ~~Within three months of the effective date of this Article 45~~By no later than March 31,
18 2020, DPH and DHR shall jointly submit to the Board of Supervisors a report summarizing the
19 actions it has taken in compliance with this Article 45, and its objective analysis and review of
20 the Behavioral Health Center, as referenced in subsection (f) of Section 4502, report that
21 describes:

22 ~~(a)~~ The number of ARF beds that have been filled and the number that remain
23 vacant;

24 ~~(b)~~ The number of personnel hired to work at the ARF; and
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1 (c) — ~~The steps that DPH has taken to ensure compliance with the Corrective Action~~
2 ~~Plan.~~

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4 Section 2. Chapter 5 of the Administrative Code is hereby amended by adding Article
5 XLII, consisting of Sections 5.42-1 through 5.42-5, to read as follows:

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7 **ARTICLE XLII: ADULT RESIDENTIAL FACILITY WORKING GROUP**

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9 **SEC. 5.42-1. ESTABLISHMENT OF THE ADULT RESIDENTIAL FACILITY**
10 **WORKING GROUP.**

11 The Department of Public Health (“DPH”) shall convene the Adult Residential Facility
12 Working Group (“Working Group”) to advise the Board of Supervisors and the Mayor on
13 issues relating to resident care, training, workplace conditions, and staffing at the Adult
14 Residential Facility (“ARF”) of the Behavioral Health Center (“BHC”) located at 887 Potrero
15 Avenue.

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17 **SEC. 5.42-2. MEMBERSHIP.**

18 (a) The Working Group shall consist of 12 members, as follows:

19 (1) Seats 1, 2, 3, 4, 5, and 6 shall be held by management-level employees
20 of DPH, at least two of whom shall work at the BHC, appointed by the Director of Health;

21 (2) Seats 7, 8, 9, and 10 shall be held by ARF or BHC staff representatives
22 from the Service Employees International Union 1021 (“SEIU 1021”), appointed by SEIU
23 1021;

1 (3) Seats 11 and 12 shall be held by BHC staff representatives from the
2 International Federation of Professional and Technical Engineers, Local 21, AFL-CIO (“Local
3 21”), appointed by Local 21.

4 (b) Appointing authorities shall make appointments to the Working Group within one
5 month of the effective date of this Article XLII. Members of the Working Group shall serve at
6 the pleasure of their respective appointing authorities and may be removed by the member’s
7 appointing authority at any time.

8 (c) Members may receive their regular salaries for time spent on the Working Group
9 during regularly scheduled work hours. Appointees of SEIU 1021 and Local 21 shall serve on
10 released time subject to the applicable Memorandum of Understanding provisions.

11 (d) Meetings of the Working Group shall be open to the public and subject to the
12 provisions of the Ralph M. Brown Act (Government Code Sections 54950, et seq.) and the
13 Sunshine Ordinance (Chapter 67 of the Administrative Code).

14 (e) Any member who misses three regular meetings of the Working Group within a
15 six-month period without the express approval of the Working Group at or before each missed
16 meeting shall be deemed to have resigned from the Working Group 10 days after the third
17 unapproved absence.

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19 **SEC. 5.42-3. MEETINGS.**

20 The Working Group shall hold its inaugural meeting not more than 30 days after at
21 least seven members have been appointed. Following the inaugural meeting, the Working
22 Group shall meet at least monthly.

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24 **SEC. 5.42-4. REPORTING.**

1 The Working Group shall prepare a report every six months on matters within the
2 scope of Section 5.42-1, and shall submit each report to the Mayor and the Board of
3 Supervisors. The first report shall be submitted no later than March 1, 2020, and the final
4 report shall be submitted no later than December 31, 2021.

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6 **SEC. 5.42-5. EXPIRATION.**

7 This Article XLII, and hence the Working Group, shall expire by operation of law on
8 December 31, 2021. After that date, the City Attorney shall cause this Article XLII to be
9 removed from the Administrative Code.

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11 Section 23. Effective Date. This ordinance shall become effective 30 days after
12 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
13 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
14 of Supervisors overrides the Mayor’s veto of the ordinance.

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16 Section 34. Undertaking for the General Welfare. In enacting and implementing this
17 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
18 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it

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1 is liable in money damages to any person who claims that such breach proximately caused
2 injury.

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

6 By: _____
7 ANNE PEARSON
8 Deputy City Attorney

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