

[Planning Code - Amending Definition of Residential Unit and Residential Conversion Requirements]

Ordinance amending the Planning Code to amend the definition of Residential Unit and clarify the requirements for a Residential Conversion of a Residential Hotel Unit regulated under Administrative Code, Chapter 41; making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

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

Section 1. Findings

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. ____ and is incorporated herein by reference.

(b) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code Amendment will serve the public necessity, convenience, and welfare for the reasons

1 set forth in Planning Commission Resolution No. _____ and the Board incorporates such
2 reasons herein by reference.

3 Section 2. The Planning Code is hereby amended by revising Subsections 317(b) and
4 317(f) to read as follows:

5 * * * *

6 (b) Definitions. For the purposes of this Section 317, the terms below shall be defined
7 as follows:

8 (1) "Residential Conversion" shall mean the removal of cooking facilities, ~~in a~~
9 ~~Residential Unit or the~~ change of occupancy (as defined and regulated by the Building Code),
10 ~~or the~~ change of use (as defined and regulated by the Planning Code), of any Residential Use
11 ~~or Live-Work Unit~~ to a non-residential or student housing use. ~~The change of occupancy from a~~
12 ~~dwelling unit, group housing, or SRO to Student Housing is also considered a conversion of a~~
13 ~~Residential Unit. Notwithstanding the foregoing, the change of use or occupancy of a dwelling unit,~~
14 ~~group housing, or SRO to Student Housing is not considered a conversion of a Residential Unit if the~~
15 ~~dwelling unit, group housing or SRO will be Student Housing owned, operated or otherwise controlled~~
16 ~~by a not for profit post-secondary Educational Institution and~~

17 ~~——(A) it was built by the post-secondary Educational Institution;~~

18 ~~——(B) it is in a convent, monastery, or similar religious order facility;~~

19 ~~——(C) it is on an adjoining lot (i.e., sharing the same lot line) to the post-secondary~~
20 ~~Educational Institution, so long as the lot has been owned by the post-secondary Educational~~
21 ~~Institution for at least ten years as of the effective date of Ordinance 188-12; or~~

22 ~~——(D) as of August 10, 2010, it was owned, operated or otherwise controlled by a post-~~
23 ~~secondary Educational Institution that had an Institutional Master Plan on file with the Planning~~
24 ~~Commission, and where the occupancy by those other than students at that date was less than 20% of~~
25 ~~the total occupants. For purposes of determining occupancy, the post-secondary Educational~~

1 ~~Institution shall present to the Planning Department verified information regarding its rental or lease~~
2 ~~of units as of that date.~~

3 (2) "Residential Demolition" shall mean any of the following:

4 (A) Any work on a Residential Building for which the Department of
5 Building Inspection determines that an application for a demolition permit is required, or

6 (B) A major alteration of a Residential Building that proposes the
7 Removal of more than 50% of the sum of the Front Facade and Rear Facade and also
8 proposes the Removal of more than 65% of the sum of all exterior walls, measured in lineal
9 feet at the foundation level, or

10 (C) A major alteration of a Residential Building that proposes the
11 Removal of more than 50% of the Vertical Envelope Elements and more than 50% of the
12 Horizontal Elements of the existing building, as measured in square feet of actual surface
13 area.

14 (D) The Planning Commission may reduce the above numerical
15 elements of the criteria in Subsections (b)(2)(B) and (b)(2)(C), by up to 20% of their values
16 should it deem that adjustment is necessary to implement the intent of this Section 317, to
17 conserve existing sound housing and preserve affordable housing.

18 (3) "Facade" shall mean an entire exterior wall assembly, including but not
19 limited to all finishes and siding, fenestration, doors, recesses, openings, bays, parapets,
20 sheathing and framing.

21 (4) "Front Facade" shall mean the portion of the Facade fronting a right-of-way,
22 or the portion of the Facade most closely complying with that definition, as in the case of a
23 flag lot. Where a lot has more than one frontage on rights-of-way. all such frontages shall be
24 considered Front Facades except where a facade meets the definition of "Rear Facade."
25

1 (5) "Horizontal Elements" shall mean all roof areas and all floor plates, except
2 floor plates at or below grade.

3 (6) "Mandatory Discretionary Review" shall mean a hearing before the Planning
4 Commission that is required by this Section 317 at which the Commission will determine
5 whether to approve, modify or disapprove a permit application.

6 (7) "Residential Merger" shall mean the combining of two or more legal
7 Residential Units, resulting in a decrease in the number of Residential Units within a building,
8 or the enlargement of one or more existing units while substantially reducing the size of others
9 by more than 25% of their original floor area, even if the number of units is not reduced. The
10 Planning Commission may reduce the numerical element of this criterion by up to 20% of its
11 value should it deem that adjustment is necessary to implement the intent of this Section 317,
12 to conserve existing housing and preserve affordable housing.

13 (8) "Rear Facade" shall mean that portion of the Facade facing the part of a lot
14 that most closely complies with the applicable Planning Code rear yard requirements.

15 (9) "Removal" shall mean, with reference to a wall, roof or floor structure, its
16 dismantling, its relocation or its alteration of the exterior function by construction of a new
17 building element exterior to it. Where a portion of an exterior wall is removed, any remaining
18 wall with a height less than the Building Code requirement for legal head room shall be
19 considered demolished. Where exterior elements of a building are removed and replaced for
20 repair or maintenance, in like materials, with no increase in the extent of the element or
21 volume of the building, such replacement shall not be considered Removal for the purposes of
22 this Section. The foregoing does not supersede any requirements for or restrictions on
23 noncomplying structures and their reconstruction as governed by Article 1.7 of this Code.

24 (10) "Removal" shall mean, with reference to a Residential Unit, its Conversion,
25 Demolition, or Merger.

1 (11) "Residential Building" shall be mean any structure containing one or more
2 Residential Uses or Live-Work Units as a principal use, regardless of any other uses present
3 in the building.

4 (12) "Residential Unit" shall mean a legal conforming or nonconforming dwelling
5 unit as defined in Planning Code Section 102.7, or a legal nonconforming Live/Work Unit as
6 defined in Planning Code Section 102.13, or Group Housing as defined in Planning Code
7 Section 209.2(a), (b), and (c). ~~; provided, however, this definition shall not include a Residential~~
8 ~~Unit in a Residential Hotel, as defined and regulated by Chapter 41 of the San Francisco~~
9 ~~Administrative Code.~~

10 (13) "Vertical Envelope Elements" shall mean all exterior walls that provide
11 weather and thermal barriers between the interior and exterior of the building, or that provide
12 structural support to other elements of the building envelope.

13 * * * *

14 (f) Residential Conversion.

15 (1) Residential Conversion not otherwise prohibited or subject to Conditional
16 Use authorization by this Code, shall be prohibited, unless the Planning Commission
17 approves the building permit application at a Mandatory Discretionary Review hearing, or is
18 exempted from such approval as provided in subsections (f)(3) or (4) below. The conversion of
19 Residential Units to Student Housing is prohibited. For the purposes of this subsection,
20 Residential Units that have been defined as such by the time a First Certificate of Occupancy
21 has been issued by the Department of Building Inspection for new construction shall not be
22 converted to Student Housing.

23 (2) The Planning Commission shall consider the following criteria in the review
24 of applications for Residential Conversion:
25

1 (A) whether conversion of the unit(s) would eliminate only owner
2 occupied housing, and if so, for how long the unit(s) proposed to be removed were owner
3 occupied;

4 (B) whether Residential Conversion would provide desirable new non-
5 residential use(s) appropriate for the neighborhood and adjoining district(s);

6 (C) in districts where Residential Uses are not permitted, whether
7 Residential Conversion will bring the building closer into conformance with the uses permitted
8 in the zoning district;

9 (D) whether conversion of the unit(s) will be detrimental to the City's
10 housing stock;

11 (E) whether conversion of the unit(s) is necessary to eliminate design,
12 functional, or habitability deficiencies that cannot otherwise be corrected;

13 (F) whether the Residential Conversion will remove Affordable Housing,
14 or units subject to the Rent Stabilization and Arbitration Ordinance.

15 (3) Planning Commission approval shall not be required for the change of use or
16 occupancy of a dwelling unit, group housing, or SRO to Student Housing if the dwelling unit, group
17 housing or SRO will be Student Housing owned, operated or otherwise controlled by a not for profit
18 post-secondary Educational Institution and

19 (A) it was built by the post-secondary Educational Institution;

20 (B) it is in a convent, monastery, or similar religious order facility;

21 (C) it is on an adjoining lot (i.e., sharing the same lot line) to the post-secondary
22 Educational Institution, so long as the lot has been owned by the post-secondary Educational
23 Institution for at least ten years as of the effective date of Ordinance 188-12; or

24 (D) as of August 10, 2010, it was owned, operated or otherwise controlled by a
25 post-secondary Educational Institution that had an Institutional Master Plan on file with the Planning

Commission, and where the occupancy by those other than students at that date was less than 20% of the total occupants. For purposes of determining occupancy, the post-secondary Educational Institution shall present to the Planning Department verified information regarding its rental or lease of units as of that date.

(4) Planning Commission approval shall not be required for a Residential Conversion if the Residential Unit was subject to the Residential Hotel Unit Conversion and Demolition Ordinance, San Francisco Administrative Code Chapter 41, and obtained a permit to convert in compliance with the requirements set forth therein.

* * * *

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

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance

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

By: _____
Kate H. Stacy
Deputy City Attorney

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