

1 [Planning Code - Creating a New Definition of Student Housing]

2

3 **Ordinance amending the San Francisco Planning Code by: 1) adding a new Section**
 4 **102.36 to create a definition of Student Housing; 2) amending Section 124 to create a**
 5 **new subsection (k), to permit additional square footage above the floor area ratio limits**
 6 **for student housing projects in buildings in the C-3-G and C-3-S Districts, that are not**
 7 **designated as significant or contributory pursuant to Article 11; 3) amending Section**
 8 **135(d)(2) to adjust the minimum open space requirements for dwelling units that do not**
 9 **exceed 350 square feet, plus a bathroom; 4) amending Section 207.6(b)(3) to exempt**
 10 **student housing from the unit mix requirement in RTO, NCT, DTR and Eastern**
 11 **Neighborhoods Mixed Used Districts; 5) amending Section 307 to permit the**
 12 **conversion of student housing into residential uses, when certain conditions are met;**
 13 **6) amending Section 312 to require notice for a change of use to group housing; 7)**
 14 **amending Section 317 to prohibit the conversion of residential units into student**
 15 **housing, except in specified circumstances; 8) amending Section 401 to make**
 16 **conforming amendments; 9) amending Section 415.3 to make conforming amendments**
 17 **and to simplify the monitoring responsibilities of the Mayor's Office of Housing; 10)**
 18 **amending Tables 814, 840, 841, 842, and 843 to make conforming amendments; and 11)**
 19 **making findings, including environmental findings and findings of consistency with the**
 20 **priority policies of Planning Code Section 101.1 and the General Plan.**

21 NOTE: Additions are *single-underline italics Times New Roman*;
 22 deletions are *strike-through italics Times New Roman*.
 23 Board amendment additions are double-underlined;
 Board amendment deletions are ~~strike-through normal~~.

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

25

1 Section 1. Findings. The Board of Supervisors of the City and County of San
2 Francisco hereby finds and determines that:

3 (a) The Planning Department has determined that the actions contemplated in this
4 Ordinance are in compliance with the California Environmental Quality Act (California Public
5 Resources Code sections 21000 et seq.) Said determination is on file with the Clerk of the
6 Board of Supervisors in File No. 111374 and is incorporated herein by reference.

7 (b) On November 3, 2011, and January 1, 2012, the Planning Commission, in
8 Resolution Nos. 18485 and 18652 approved and recommended for adoption by the Board of
9 Supervisors this legislation and adopted findings that it is consistent, on balance, with the
10 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
11 adopts these findings as its own. A copy of said Resolutions are on file with the Clerk of the
12 Board of Supervisors in File No. 111374, and is incorporated by reference herein.

13 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
14 legislation will serve the public necessity, convenience, and welfare for the reasons set forth in
15 Planning Commission Resolution Nos. 18485 and 18652, and incorporates such reasons by
16 reference herein.

17
18 Section 2. The San Francisco Planning Code is hereby amended by adding Section
19 102.36, to read as follows:

20 **SEC. 102.36. STUDENT HOUSING.**

21 *Student Housing is a living space for students of accredited post-secondary Educational*
22 *Institutions that may take the form of dwelling units, group housing, or a SRO, and is owned, operated*
23 *or otherwise controlled by an accredited post-secondary Educational Institution, as defined in Section*
24 *209.3(i) of this Code. Unless expressly provided for elsewhere in this Code, the use of Student*

1 Housing is permitted where the form of housing is permitted in the underlying Zoning District in which
2 it is located. Student Housing may consist of all or part of a building, and Student Housing owned,
3 operated or controlled by more than one post-secondary Educational Institution may be located in one
4 building.

5
6 Section 3. The San Francisco Planning Code is hereby amended by amending Section
7 124, to add a new subsection (k), to read as follows:

8 **SEC. 124. BASIC FLOOR AREA RATIO.**

9 (k) For buildings in C-3-G and C-3-S Districts that are not designated as Significant or
10 Contributory pursuant to Article 11 of this Code, additional square footage above that permitted by the
11 base floor area ratio limits set forth above may be approved for construction of a project, or portion
12 thereof, that constitutes a Student Housing project, as defined in Section 102.36 of this Code. Such
13 approval shall be subject to the conditional use procedures and criteria in Section 303 of this Code.

14
15 Section 4. The San Francisco Planning Code is hereby amended by amending Section
16 135(d)(2), to read as follows:

17 **SEC. 135. USABLE OPEN SPACE FOR DWELLING UNITS AND GROUP**
18 **HOUSING, R, NC, MIXED USE, C, AND M DISTRICTS.**

19 (d)(2) For group housing structures, and SRO units, and dwelling units that measure less
20 than 350 square feet plus a bathroom, the minimum amount of usable open space provided for
21 use by each bedroom shall be 1/3 the amount required for a dwelling unit as specified in
22 Paragraph (d)(1) above. For purposes of these calculations, the number of bedrooms on a lot
23 shall in no case be considered to be less than one bedroom for each two beds. Where the
24 actual number of beds exceeds an average of two beds for each bedroom, each two beds
25 shall be considered equivalent to one bedroom.

1
2 Section 5. The San Francisco Planning Code is hereby amended by amending Section
3 207.6(b)(3), to read as follows:

4 **SEC. 207.6. REQUIRED MINIMUM DWELLING UNIT MIX IN RTO, NCT, DTR, AND**
5 **EASTERN NEIGHBORHOODS MIXED USE DISTRICTS.**

6 (3) This Section does not apply to buildings for which 100 percent of the residential
7 uses are: group housing, dwelling units which are provided at below market rates pursuant to
8 Section 326.3(h)(2)(B) of this Code, Single Room Occupancy Units, ~~s~~Student ~~H~~Housing (as
9 defined in Sec. ~~315.1.38-106.36~~), or housing specifically and permanently designated for
10 seniors or persons with physical disabilities.

11 Section 6. The San Francisco Planning Code is hereby amended by adding Section
12 307(j), to read as follows:

13 **SEC. 307. OTHER POWERS AND DUTIES OF THE ZONING ADMINISTRATOR.**

14 *(j) Conversion from Student Housing to Non-Student Residential Use. If a residential*
15 *project no longer qualifies as Student Housing as defined in Planning Code Section 102.36, the Zoning*
16 *Administrator may allow the conversion of the Student Housing to any permitted residential use in the*
17 *zoning district in which the Student Housing is located upon determination that the converted Student*
18 *Housing has complied with any applicable Inclusionary Affordable Housing Requirements as outlined*
19 *in Planning Code Section 415.3(c)(5)(C)(iii), and that all other Planning Code requirements applicable*
20 *to that residential use have been met or modified through appropriate procedures.*

21
22 Section 7. The San Francisco Planning Code is hereby amended by amending
23 Section 312(c), to read as follows:

24 **SEC. 312. PERMIT REVIEW PROCEDURES FOR ALL NC AND EASTERN**
25 **NEIGHBORHOODS MIXED USE DISTRICTS.**

1 (c) Changes of Use. In NC Districts, all building permit applications for a change of
2 use to a bar, as defined in Section 790.22, a liquor store, as defined in Section 790.55, a
3 walkup facility, as defined in Section 790.140, other large institutions, as defined in Section
4 790.50, other small institutions, as defined in Section 790.51, a full-service restaurant, as
5 defined in Section 790.92, a large fast food restaurant, as defined in Section 790.90, a small
6 self-service restaurant, as defined in Section 790.91, a self-service specialty food use, as
7 defined in Section 790.93, a massage establishment, as defined in Section 790.60, an
8 outdoor activity, as defined in Section 790.70, an adult or other entertainment use, as defined
9 in Sections 790.36 and 790.38, ~~or~~ a fringe financial service use, as defined in Section
10 790.111, or Group Housing as defined in Section 790.88(b) shall be subject to the provisions of
11 Subsection 312(d). In all Eastern Neighborhoods Mixed Use Districts all building permit
12 applications for a change of use from any one land use category to another land use category
13 shall be subject to the provisions of Subsection 312(d). In addition, any accessory massage
14 use in the Ocean Avenue Neighborhood Commercial Transit District shall be subject to the
15 provisions of Subsection 312(d).

16 For the purposes of this Subsection, "land use category" shall mean those categories
17 used to organize the individual land uses which appear in the use tables in Article 8,
18 immediately preceding a group of individual land uses, and include the following: residential
19 use, institutional use, retail sales and service use, assembly, recreation and entertainment
20 use, office use, motor vehicle services use, industrial home and business service use, or other
21 use.

22
23 Section 8. The San Francisco Planning Code is hereby amended by amending Section
24 317, subsections (b)(1) and (f)(1), to read as follows:
25

1 **SEC. 317. LOSS OF DWELLING UNITS THROUGH MERGER, CONVERSION, AND DEMOLITION.**

2 (b)(1) "Conversion of Residential Unit" shall mean the removal of cooking facilities in a
3 Residential Unit or the change of occupancy (as defined and regulated by the Building Code),
4 or the change of use (as defined and regulated by the Planning Code), of any Residential Unit
5 to a non-residential use. The change of occupancy from a dwelling unit, group housing, or SRO to
6 Student Housing is also considered a conversion of a residential unit. Notwithstanding the foregoing,
7 the change of use or occupancy of a dwelling unit, group housing, or SRO to Student Housing is not
8 considered a conversion of a residential unit if the dwelling unit, group housing or SRO will be Student
9 Housing owned, operated or otherwise controlled by a not for profit post-secondary Educational
10 Institution and (i) it was built by the post-secondary Educational Institution; (ii) it is in a convent,
11 monastery, or similar religious order facility; (iii) it is on an adjoining lot (i.e., sharing the same lot
12 line) to the post-secondary Educational Institution, so long as the lot has been owned by the post-
13 secondary Educational Institution for at least ten years as of the effective date of this ordinance; or (iv)
14 as of August 10, 2010, it was owned, operated or otherwise controlled by a post-secondary Educational
15 Institution that had an Institutional Master Plan on file with the Planning Commission, and where the
16 occupancy by those other than students at that date was less than 20% of the total occupants. For
17 purposes of determining occupancy, the post-secondary Educational Institution shall present to the
18 Planning Department verified information regarding its rental or lease of units as of that date.

19 (f) Loss of Residential Units Through Conversion.

20 (1) Conversion of Residential Units not otherwise subject to Conditional Use
21 authorization by this Code, shall be prohibited, unless the Planning Commission approves the
22 building permit application at a Mandatory Discretionary Review hearing. The conversion of
23 residential units to Student Housing is prohibited. For the purposes of this subsection, residential units
24 that have been defined as such by the time a First Certificate of Occupancy has been issued by the
25 Department of Building Inspection for new construction shall not be converted to Student Housing.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Section 9. The San Francisco Planning Code is hereby amended by deleting the definitions of "Qualified Educational Institution," "Qualified Student," "Qualified Student Housing Project" and "Qualified Student Housing," and amending the definition of "Student Housing" in Section 401, to read as follows:

SEC. 401. DEFINITIONS.

~~"Qualified Educational Institution" for purposes of Section 415 shall mean an accredited post secondary Educational Institution which has Qualified Students.~~

~~"Qualified Student" for purposes of Section 415 shall mean a student who receives or is eligible to receive need based financial aid including, but not limited to, Pell Grants, Perkins Loans, Stafford Subsidized Loans or other grants or loans and is currently enrolled at a Qualified Educational Institute.~~

~~"Qualified Student Housing Project" for purposes of Section 415 shall mean any housing project that contains housing for Qualified Students and which may also contain housing for persons who are enrolled students but not Qualified Students, created either through new construction or conversion of an existing building or space.~~

~~"Qualified Student Housing" shall mean housing or group housing (measured either by units or beds) or accessory living space within a non-residential space, either owned by a Qualified Educational Institution or controlled by a Qualified Educational Institution through a long term master lease for a period of at least 20 years in which at least thirty percent (30%) of such beds are occupied by Qualified Students. The Qualified Student Housing may be on the site of the Institution or at another location in the City and County of San Francisco.~~

~~"Student Housing." A building where 100 percent of the residential uses are affiliated with and operated by an accredited post-secondary educational institution. Typically, student housing is for rent, not for sale. This housing shall provide lodging or both meals and lodging, by prearrangement for~~

1 ~~one week or more at a time. This definition only applies in the Eastern Neighborhoods Mixed Use~~
2 ~~Districts. As defined in Planning Code Section 102.36.~~

3
4 Section 10. The San Francisco Planning Code is hereby amended by amending
5 Section 415.3(c)(5), to read as follows:

6 (5) A ~~Qualified Student Housing Project~~ Student Housing project that meets all of the
7 following criteria:

8 (A) The building or space conversion does not result in loss or conversion of existing
9 housing, including but not limited to rental housing and dwelling units;

10 (B) An institutional master plan (IMP) pursuant to Section 304.5 is on file with the
11 Planning Department prior to the issuance of any building permit or alteration permit in
12 connection with the creation of the ~~Qualified Student Housing Project~~Student Housing project, and,
13 in addition to the requirements of Section 304.5, such IMP shall describe: (i) to the extent
14 such information is available, the type and location of housing used by its students; (ii) any
15 plans for the provision of ~~Qualified Student Housing~~Student Housing; and (iii) the Educational
16 Institution's need for student housing to support its program; and (iv) the percentage of its
17 students, on an average annual basis, that receive some form of need-based assistance as
18 described in (113B).

19 (C) The Mayor's Office of Housing (MOH) is authorized to monitor this program.
20 MOH shall develop a monitoring form and annual monitoring fee to be paid by the ~~Qualified~~
21 ~~Educational Institution~~ owner of the real property or the post-secondary Educational Institution or
22 Institutions, as defined in Section 209.3(j) of this Code. The ~~Qualified Educational Institution~~ owner of
23 the real property and each post-secondary Educational Institution or Institutions shall agree to
24 submit annual documentation to the Mayor's Office of Housing (MOH) and the Planning
25 Department, on or before December 31 of each year, that addresses the following:

1 (i) Evidence that the Qualified Educational Institution post-secondary Educational
2 Institution continues to own or otherwise control the Qualified Student Housing Project
3 Student Housing project under a master lease or other contractual agreement with at least a
4 5 year term, including a certificate from the owner of the real property and the Qualified
5 Educational Institution post-secondary Educational Institution attaching a true and complete
6 copy of the master lease or other contractual agreement (financial information may be
7 redacted) and certifying that the lease or contract has not otherwise been amended or
8 terminated; and

9 (ii) Evidence, on an average annualized basis, of the percentage of Qualified Students
10 students in good standing enrolled at least half time or more in the Qualified Educational
11 Institution post-secondary Educational Institution or Institutions who are occupying the beds
12 or accessory living space in the Qualified Student Housing-Student Housing project-
13 including but not limited to the number and percentage of qualifying students; the rent paid by
14 each student; the type of dwelling the rent covers (i.e. single room; double room; etc.); and

15 (iii) The Qualified Educational Institution owner of the real property records a Notice of
16 Special Restrictions (NSR) against fee title to the real property on which the Qualified
17 Student Housing Student Housing is located that states the following:

18 - The Qualified Educational Institution post-secondary Educational Institution, or the owner of
19 the real property on its behalf, must file a statement with the Department if it intends to
20 terminate the Qualified Student Housing Project Student Housing project at least 60 days
21 before it terminates such use ("statement of termination");

22 - The Qualified Student Housing Project Student Housing project becomes subject to the
23 Inclusionary Housing Ordinance requirements applicable to Housing Projects other
24 than Qualified Housing Projects if (1) a the Qualified Educational Institution post-secondary
25 Educational Institution files a statement of termination with the Department and another

1 post secondary Educational Institution or Institutions have not been substituted or obligated to
2 meet the requirements of this section; or (2) the owner of the real property or the Qualified
3 Educational Institution post-secondary Educational Institution fails to file a statement of
4 termination and fails to meet the requirements for a Qualified Student Housing Project
5 Student Housing project, then within not more than one year of a Notice Of Violation
6 issued by the Planning Department;

7 - If ~~the~~ units in a Qualified Student Housing Project Student Housing project becomes subject
8 to the Inclusionary Housing Ordinance then ~~#~~ the owner of those units shall (1) pay the
9 Affordable Housing Fee plus interest from the date the project received its first
10 construction document for the project if there is no evidence the Project ever qualified
11 as ~~Qualified Student Housing~~ Student Housing or, if ~~Qualified Student Housing~~ Student
12 Housing was provided and occupied, then the Affordable Housing Fee with no interest
13 is due on the date the units were no longer occupied by qualifying households and
14 interest would accrue from that date if the fee is not paid; or (2) provide the required
15 number of on-site affordable units required at time of original project approval and that
16 those units shall be subject to all of the requirements of this Program. In this event, the
17 ~~project sponsor~~ owner of the real property shall record a new NSR providing that the
18 designated units must comply with all of the requirements of this Program.

19 - The ~~Qualified Educational Institution~~ post-secondary Educational Institution is required to
20 report annually as required in subsection (C) above;

21 - The City may commence legal action against the owner and/or ~~Qualified Educational~~
22 ~~Institution~~ post-secondary Educational Institution to enforce the NSR and the terms of
23 Article IV of the Planning Code and Planning Code Section 415 et seq. if it determines
24 that the project no longer meets the requirements for a Qualified Student Housing Project
25 Student Housing project; and

1 - The ~~Qualified Student Housing Project~~ Student Housing project may be inspected by any
 2 City employee to determine its status as a ~~Qualified Student Housing Project~~ Student
 3 Housing project and its compliance with this Section at any time upon at least 24 hours'
 4 prior notice to the owner of the real property or to the master lessee.

5
 6 Section 11. The San Francisco Planning Code is hereby amended by amending
 7 Table 814, in Section 814, and by adding a new # to the Specific Provisions section of that
 8 Table, to read as follows:

814.16(a)	Student Housing	§ 315.1(38) <u>102.36</u>	C#
-----------	-----------------	--------------------------------------	----

9
 10
 11
 12 **SPECIFIC PROVISIONS FOR SPD DISTRICTS**

Article Code Section	Other Code Section	Zoning Controls
<u>§ 814.16</u>	<u>§ 102.36</u>	<u>Student Housing generally is permitted where the particular form of housing is permitted in the underlying Zoning District in which it is located (see Section 102.36.) However, in the South Park District Student Housing is subject to a conditional use requirement subject to Section 303.</u>

13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24 Section 12. The San Francisco Planning Code is hereby amended by amending
 25 Tables 840, 841, 842 and 843, in Sections 840, 841, 842 and 843, to read as follows:

840.23	<i>Student Housing</i>	<i>§ 315.1(38)</i>	€
--------	------------------------	--------------------	---

841.23	<i>Student Housing</i>	<i>§ 315.1(38)</i>	€
--------	------------------------	--------------------	---

842.23	<i>Student Housing</i>	<i>§ 315.1(38)</i>	€
--------	------------------------	--------------------	---

843.23	<i>Student Housing</i>	<i>§ 315.1(38)</i>	€
--------	------------------------	--------------------	---

Section 13. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 14. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent parts of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance to the "Note" that appears under the official title of this legislation. This Ordinance shall not be construed to effectuate any unintended amendments. Any additions or deletions not explicitly shown as described above, omissions, or other technical and non-substantive differences between this Ordinance and the Planning Code that are contained in this legislation are purely accidental and shall not effectuate an amendment to the Planning Code. The Board hereby authorizes the City Attorney, in consultation with the Clerk and other affected City departments, to make those necessary adjustments to the published Planning

1 Code, including non-substantive changes such as renumbering or relettering, to ensure that
2 the published version of the Planning Code is consistent with the laws that this Board enacts.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____
7 ANDREA RUIZ-ESQUIDE
8 Deputy City Attorney

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25