

[Planning Code - Definitions, Family, Dwelling Unit, Residential Care Facility]

**Ordinance amending the Planning Code to define a “Family” as a “Household,” eliminate numeric limits on unrelated family members and requirements that family members share meals, classify Residential Care Facilities that serve six or fewer persons as Residential Uses, include certain groups of six or fewer people and associated operators as a “Household”; clarify the Zoning Administrator’s enforcement authority to administratively subpoena documents; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.**

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. Environmental and Land Use 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. The Board affirms this determination.

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

6 (c) Pursuant to Planning Code Section 302, this Board finds that this ordinance will  
7 serve the public necessity, convenience, and welfare for the reasons set forth in Planning  
8 Commission Resolution No. \_\_\_\_\_, and incorporates such reasons by this reference  
9 thereto. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File  
10 No. \_\_\_\_\_.

11  
12 Section 2. Background and General Findings.

13 (a) Under the Planning Code, a Dwelling Unit can only be occupied by a Family, as  
14 defined in the Planning Code. Groups that do not constitute a Family can occupy Group  
15 Housing. Generally, Group Housing is a type of residential use with limited cooking facilities  
16 and larger common areas. Group Housing includes boardinghouses, communes, and  
17 fraternity or sorority houses.

18 (b) Currently, the Planning Code defines Family to exclude groups of more than five  
19 unrelated people, unless the group prepares and consumes meals together, controls its  
20 membership, and determines its own use of the residential space. Related family members  
21 with more than five people do not need to satisfy these criteria. Before 1978, the Planning  
22 Code did not distinguish between related and unrelated people for the purposes of defining a  
23 Family. For example, the 1957 Planning Code defined a Family as "one or more persons  
24 occupying the premises as a single and separate housekeeping unit."

1 (c) Many older homes and apartments in San Francisco are occupied by several  
2 unrelated individuals who do not prepare meals together. Living with housemates is often  
3 more affordable than living in smaller units and provides important community ties, particularly  
4 for young adults. Like related families, housemate households can live together for many  
5 years, particularly in high-cost cities like San Francisco.

6 (d) The current “Family” definition subjects housemates to a stringent numeric  
7 requirement unless they can satisfy certain parameters around kitchen use. If more than five  
8 housemates desire to live together without preparing meals together, their unit must meet  
9 Group Housing standards. Often these older houses and apartments cannot satisfy the  
10 requirements for Group Housing, which include 0.5 gross square feet of common space for  
11 each gross square foot of private space.

12 (e) Group Housing developments, while designed for permanent residents, are tailored  
13 to residents who are in a transitional stage in their lives, either as a function of their  
14 employment situation or their student status. Group Housing is characterized by smaller  
15 individual unit sizes and scaled-back private amenities. These typologies differ from the  
16 single-family homes or large apartments occupied by housemates.

17 (f) This ordinance would remove any limitations on or references to five unrelated  
18 people living in a dwelling unit and redefine a “Family” as a “Household.” For Residential Uses  
19 established before the enactment of this ordinance, a Household is defined as a group of  
20 people that share a space with unconditional 24-hour access to a kitchen, bedroom, bathroom  
21 and that share at least one living expense. For Residential Uses established after the  
22 effective date of this ordinance, a Household is defined as one that meets the foregoing  
23 criteria and maintains no more than nine leases for all the members of the Household. A  
24 Household also includes any dependents of the Household members. This definition  
25 embraces both unrelated and related households. The nine-lease threshold allows

1 housemates to occupy older houses and apartments without triggering a change in use to  
2 Group Housing, while still preserving an objective distinction between Group Housing and  
3 Dwelling Units for ground-up new Group Housing construction, where typically an individual  
4 lessee occupies a single Group Housing bedroom. Maintaining a distinction between Group  
5 Housing and Dwelling Units is important to ensure that new developments satisfy applicable  
6 development requirements, including inclusionary housing. The nine-lease threshold also  
7 allows for flexibility where housemates may be under separate leases or maintain various  
8 subleasing agreements for the household. This ordinance does not modify any definitions  
9 applicable to the Inclusionary Housing Ordinance, Section 415 et seq., including but not  
10 limited to “Household” as defined in Planning Code Section 401.

11 (g) Consistent with state law, this ordinance would also make Residential Care  
12 Facilities serving six or fewer individuals a “Household” regardless of whether they otherwise  
13 satisfy the definition.

14 (h) This ordinance implements Policy 7.2.6 of the City’s Housing Element, which  
15 included a short-term goal that the City modify the definition of “Family” to “ensure that it  
16 provides zoning code occupancy standards specific to unrelated adults and complies with fair  
17 housing law.”

18 (i) The distinction between “Dwelling Unit” and “Group Housing” is largely antiquated  
19 and should be the subject of future reform and review to be more inclusive of non-traditional  
20 households and more flexible conceptions of residential density, while still maintaining the  
21 intent of the City’s inclusionary housing requirements.

22  
23 Section 3. Articles 1 and 1.7 of the Planning Code are hereby amended by revising  
24 Sections 102 and 176, to read as follows:  
25

1           **SEC. 102. DEFINITIONS.**

2           \* \* \* \*

3           **Dwelling.** A building, or portion thereof, containing one or more Dwelling Units. A "one-  
4 family dwelling" is a building containing exclusively a single Dwelling Unit. A "two-family  
5 dwelling" is a building containing exclusively two Dwelling Units. A "three-family dwelling" is a  
6 building containing exclusively three Dwelling Units.

7           **Dwelling Unit.** A Residential Use defined as a room or suite of two or more rooms that  
8 is designed for, or is occupied by, one ~~family~~Household doing its own cooking therein and  
9 having only one kitchen. A Dwelling Unit shall also include:

10           (a) "Employee housing" when providing accommodations for six or fewer employees,  
11 as provided in ~~State~~California Health and Safety Code ~~§Section~~ 17021.5; and

12           (b) A housekeeping room as defined in the Housing Code ~~shall be a Dwelling Unit for~~  
13 ~~purposes of this Code.~~

14           For the purposes of this Code, a Live/Work Unit, as defined in this Section, shall not be  
15 considered a Dwelling Unit.

16           \* \* \* \*

17           **Family.** ~~A single and separate living unit, consisting of either one person, or two or more~~  
18 ~~persons related by blood, marriage or adoption or by legal guardianship pursuant to court order, plus~~  
19 ~~necessary domestic servants and not more than three roomers or boarders; a group of not more than~~  
20 ~~five persons unrelated by blood, marriage or adoption, or such legal guardianship unless the group has~~  
21 ~~the attributes of a family in that it (a) has control over its membership and composition; (b) purchases~~  
22 ~~its food and prepares and consumes its meals collectively; and (c) determines its own rules or~~  
23 ~~organization and utilization of the residential space it occupies. A group occupying group housing or a~~  
24 ~~hotel, motel, or any other building or portion thereof other than a Dwelling, shall not be deemed to be~~  
25 ~~a family.~~ Family shall mean Household, as defined in this Section 102.

1           \*   \*   \*   \*

2           **Group Housing.** A Residential Use that provides lodging or both meals and lodging,  
3 without individual or limited cooking facilities or kitchens, by prearrangement for 30 days or  
4 more at a time and intended as Long-Term Housing, in a space not defined by this Code as a  
5 Dwelling Unit. Except for Group Housing that also qualifies as Student Housing as defined in  
6 this Section 102, 100% Affordable Housing ~~as defined in~~ that meets the requirements of Planning  
7 Code Section 315, or housing operated by an organization with tax-exempt status under 26  
8 United States Code Section 501(c)(3) providing access to the unit in furtherance of its primary  
9 mission to provide housing, the residential square footage devoted to Group Housing shall  
10 include both common and private space in the following amounts: for every gross square foot  
11 of private space (including bedrooms and individual bathrooms), 0.5 gross square feet of  
12 common space shall be provided, with at least 15% of the common space devoted to  
13 communal kitchens with a minimum of one kitchen for every 15 Group Housing units. Group  
14 Housing shall include, but not necessarily be limited to, a Residential Hotel, boardinghouse,  
15 guesthouse, rooming house, lodging house, residence club, commune, fraternity or sorority  
16 house, monastery, nunnery, convent, or ashram. It shall also include ~~g~~Group ~~h~~Housing  
17 affiliated with and operated by a medical or educational institution; when not located on the  
18 same lot as such institution, which shall meet the applicable provisions of Section 304.5 of this  
19 Code concerning institutional master plans.

20           \*   \*   \*   \*

21           **Hours of Operation.** A commercial Use Characteristic limiting the permitted hours  
22 during which any commercial establishment, not including automated teller machines, may be  
23 open for business. Other restrictions on the hours of operation of Movie Theaters, Adult  
24 Businesses, Adult Sex Venues, Nighttime Entertainment, and General Entertainment Uses  
25 shall apply pursuant to provisions in Section 303(p), when such uses are permitted as

1 Conditional Uses. A Pharmacy may qualify for the exception to operate on a 24-hour basis  
2 provided in Section 202.2(a)(2) of the Code. The hours of operation of a principally permitted  
3 Adult Sex Venue are subject to the provisions in Section 202.2(a)(8).

4 **Household.** Except where the definition of Household provided in Section 401 applies within  
5 Article 4, Household shall mean any of the following:

6 (a) For Residential Uses established before the effective date of the ordinance in this Board  
7 File No. 250719, one or more persons, including any dependents, that (i) occupy a residential space  
8 with unconditional 24-hour access to a full kitchen, full bathroom, private sleeping room, and  
9 circulation from the building entrance to each of the aforementioned areas; and (ii) share at least one  
10 living expense, such as rent or mortgage payments, food costs, or utilities.

11 (b) For Residential Uses established on or after the effective date of the ordinance in this Board  
12 File No. 250719, one or more persons, including any dependents, that (i) occupy a residential space  
13 with unconditional 24-hour access to a full kitchen, full bathroom, private sleeping room, and  
14 circulation from the building entrance to each of the aforementioned areas, (ii) share at least one living  
15 expense, such as rent or mortgage payments, food costs, or utilities; and (iii) collectively maintain no  
16 more than nine leases, rental agreements, licenses, or other contractual agreements for exclusive use of  
17 all or a portion of the premises.

18 (c) The residents and operators of a Residential Care Facility that serves six or fewer persons.

19 (d) Any group of people required under state or federal law to be considered a “Family” or  
20 “Household” for purposes of local land use regulations.

21 A group of persons occupying Group Housing or a Hotel, Motel, or any other building or  
22 portion thereof other than a Dwelling, shall not be deemed to be a Household. Family and Household  
23 shall be used interchangeably for the purposes of this Code.

24 \* \* \* \*

1           **Institutional Use.** A Use Category that includes Child Care Facility, Community  
2 Facility, Private Community Facility, Hospital, Job Training, Medical Cannabis Dispensary,  
3 Religious Institution, Residential Care Facility serving seven or more persons, Social Service or  
4 Philanthropic Facility, Post-Secondary Educational Institution, Public Facility, School, and  
5 Trade School.

6           \* \* \* \*

7           **Residential Care Facility.** An Institutional Healthcare Use providing lodging, board  
8 and care for a period of 24 hours or more to seven or more persons in need of specialized aid  
9 by personnel licensed by the State of California, or a Residential Use if such facility serves six or  
10 fewer persons. Such facility shall display nothing on or near the facility that gives an outward  
11 indication of the nature of the occupancy except for a sign as permitted by Article 6 of this  
12 Code, shall not provide outpatient services, and shall be located in a structure ~~which~~that  
13 remains residential in character. Such facilities shall include, but not necessarily be limited to,  
14 a board and care home, family care home, long-term nursery, orphanage, rest home or home  
15 for the treatment of addictive, contagious or other diseases, or psychological disorders.

16           \* \* \* \*

17           **Residential Use.** A Use Category consisting of uses that provide housing for San  
18 Francisco residents, rather than visitors, including Dwelling Units, Group Housing, Residential  
19 Hotels, Senior Housing, Homeless Shelters, and, for the purposes of Article 4 only, any  
20 residential components of Institutional Uses. Single Room Occupancy, Intermediate Length  
21 Occupancy, and Student Housing designations are considered characteristics of certain  
22 Residential Uses. A Residential Use shall also include a Residential Care Facility that serves six or  
23 fewer persons.

24           \* \* \* \*



1           **SEC. 176. ENFORCEMENT AGAINST VIOLATIONS.**

2           (a) **Violations Unlawful.** Any use, structure, lot, feature, or condition in violation of  
3 this Code is hereby found and declared to be unlawful and a public nuisance. Should any  
4 permit or license have been issued that was not then in conformity with the provisions of this  
5 Code, such permit or license shall be null and void.

6           b) **Methods of Enforcement.** The Zoning Administrator shall have authority to  
7 investigate violations of this Code, including but not limited to the power to issue and serve  
8 administrative subpoenas as necessary to determine whether violations of this Code have occurred.  
9 Recipients of administrative subpoenas shall have a reasonable opportunity to challenge the  
10 administrative subpoena by seeking judicial review before suffering any penalties for refusing to  
11 comply. Where the recipient of an administrative subpoena does not allow the Zoning Administrator  
12 access to the records requested and does not seek prompt judicial review, the Zoning Administrator  
13 may presume that the violation occurred, absent clear and convincing evidence otherwise. The Zoning  
14 Administrator shall have authority to enforce this Code against violations thereof by any of the  
15 following actions:

16           \* \* \* \*

17  
18           Section 4. Effective Date. This ordinance shall become effective 30 days after  
19 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
20 ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the Board  
21 of Supervisors overrides the Mayor's veto of the ordinance.

22  
23           Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
25 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.

Section 6. No Conflict with Federal or State Law. Nothing in Section 3 of this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

By: /s/ Giulia Gualco-Nelson  
GIULIA GUALCO-NELSON  
Deputy City Attorney

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