

[Planning Code - Definitions, Family, Dwelling Unit]

**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 certain types of community care, elderly, congregate**  
**care, and recovery facilities as Residential Uses; include certain groups of six or fewer**  
**people and associated operators as a “Household”; 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 *~~striketrough italics Times New Roman font~~*.  
**Board amendment additions** are in double-underlined Arial font.  
**Board amendment deletions** are in ~~striketrough 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."  
25

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 redefine a “Family” as a “Household” that shares living  
18 expenses and maintains no more than nine leases for all the members of the Household. This  
19 definition embraces both unrelated and related households. The nine lease threshold allows  
20 housemates to occupy older houses and apartments without triggering a change in use to  
21 Group Housing, while still preserving an objective distinction between Group Housing and  
22 Dwelling Units for ground-up new Group Housing construction, where typically an individual  
23 lessee occupies a single Group Housing bedroom. Maintaining a distinction between Group  
24 Housing and Dwelling Units is important to ensure that new developments satisfy applicable  
25 development requirements, including inclusionary housing. The nine lease threshold also

1 allows for flexibility where housemates may be under separate leases or maintain various  
2 subleasing agreements for the household. This ordinance does not modify any definitions  
3 applicable to the Inclusionary Housing Ordinance, Section 415 et seq., including but not  
4 limited to "Household" as defined in Planning Code Section 401.

5 (g) This ordinance would also make certain groups of six or fewer individuals, as  
6 defined in the Health and Safety Code, a "Household" regardless of whether they otherwise  
7 satisfy the definition.

8 (h) This ordinance implements Policy 7.2.6 of the City's Housing Element, which  
9 included a short-term goal that the City modify the definition of "Family" to "ensure that it  
10 provides zoning code occupancy standards specific to unrelated adults and complies with fair  
11 housing law."  
12

13 Section 3. Article 1 of the Planning Code is hereby amended by revising Section 102,  
14 to read as follows:  
15

16 **SEC. 102. DEFINITIONS.**

17 \* \* \* \*

18 ***Dwelling.*** A building, or portion thereof, containing one or more Dwelling Units. A "one-  
19 family dwelling" is a building containing exclusively a single Dwelling Unit. A "two-family  
20 dwelling" is a building containing exclusively two Dwelling Units. A "three-family dwelling" is a  
21 building containing exclusively three Dwelling Units.

22 ***Dwelling Unit.*** A Residential Use defined as a room or suite of two or more rooms that  
23 is designed for, or is occupied by, one ~~family~~ Household doing its own cooking therein and  
24 having only one kitchen. A Dwelling Unit shall also include:  
25

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

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

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

7           \* \* \* \*

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

17           \* \* \* \*

18           **Group Housing.** A Residential Use that provides lodging or both meals and lodging,  
19 without individual or limited cooking facilities or kitchens, by prearrangement for 30 days or  
20 more at a time and intended as Long-Term Housing, in a space not defined by this Code as a  
21 Dwelling Unit. Except for Group Housing that also qualifies as Student Housing as defined in  
22 this Section 102, 100% Affordable Housing ~~as defined in~~ that meets the requirements of Planning  
23 Code Section 315, or housing operated by an organization with tax-exempt status under 26  
24 United States Code Section 501(c)(3) providing access to the unit in furtherance of its primary  
25 mission to provide housing, the residential square footage devoted to Group Housing shall

1 include both common and private space in the following amounts: for every gross square foot  
2 of private space (including bedrooms and individual bathrooms), 0.5 gross square feet of  
3 common space shall be provided, with at least 15% of the common space devoted to  
4 communal kitchens with a minimum of one kitchen for every 15 Group Housing units. Group  
5 Housing shall include, but not necessarily be limited to, a Residential Hotel, boardinghouse,  
6 guesthouse, rooming house, lodging house, residence club, commune, fraternity or sorority  
7 house, monastery, nunnery, convent, or ashram. It shall also include ~~g~~Group ~~h~~Housing  
8 affiliated with and operated by a medical or educational institution; when not located on the  
9 same lot as such institution, which shall meet the applicable provisions of Section 304.5 of this  
10 Code concerning institutional master plans.

11 \* \* \* \*

12 **Hours of Operation.** A commercial Use Characteristic limiting the permitted hours  
13 during which any commercial establishment, not including automated teller machines, may be  
14 open for business. Other restrictions on the hours of operation of Movie Theaters, Adult  
15 Businesses, Adult Sex Venues, Nighttime Entertainment, and General Entertainment Uses  
16 shall apply pursuant to provisions in Section 303(p), when such uses are permitted as  
17 Conditional Uses. A Pharmacy may qualify for the exception to operate on a 24-hour basis  
18 provided in Section 202.2(a)(2) of the Code. The hours of operation of a principally permitted  
19 Adult Sex Venue are subject to the provisions in Section 202.2(a)(8).

20 **Household.** *Except where the definition of Household provided in Section 401 applies,*  
21 *Household shall mean one or more persons that (a) share living expenses, such as rent or mortgage*  
22 *payments, food costs, and utilities, and (b) collectively maintain no more than nine leases, rental*  
23 *agreements, licenses, or other contractual agreements for exclusive use of all or a portion of the*  
24 *premises. Notwithstanding the foregoing, a Household shall also include the residents and operators of*  
25 *the following:*

1           (a) A residential facility serving six or fewer persons, as provided in California Health &  
2           Safety Code Sections 1502 and 1566.3;

3           (b) Alcoholism or drug abuse recovery or treatment facilities serving six or fewer persons, as  
4           provided in California Health & Safety Code Sections 11834.02 and 11834.23;

5           (c) Residential care facilities for the elderly serving six or fewer persons, as provided in  
6           California Health & Safety Code Sections 1569.2 and 1569.85;

7           (d) Intermediate care facilities for the developmentally disabled serving six or fewer persons,  
8           as provided in California Health & Safety Code Sections 1250 and 1267.8; and

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

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

14           \* \* \* \*

15          **Institutional Use.** A Use Category that includes Child Care Facility, Community  
16          Facility, Private Community Facility, Hospital, Job Training, Medical Cannabis Dispensary,  
17          Religious Institution, Residential Care Facility, Social Service or Philanthropic Facility, Post-  
18          Secondary Educational Institution, Public Facility, School, and Trade School, but not including  
19          any use that is classified as a Residential Use under this Section 102.

20           \* \* \* \*

21          **Residential Use.** A Use Category consisting of uses that provide housing for San  
22          Francisco residents, rather than visitors, including Dwelling Units, Group Housing, Residential  
23          Hotels, Senior Housing, Homeless Shelters, and for the purposes of Article 4 only any  
24          residential components of Institutional Uses. Single Room Occupancy, Intermediate Length  
25

1 Occupancy, and Student Housing designations are considered characteristics of certain  
2 Residential Uses. A Residential Use shall also include the following:

3 (a) A residential facility serving six or fewer persons, as provided in California Health &  
4 Safety Code Sections 1502 and 1566.3;

5 (b) Alcoholism or drug abuse recovery or treatment facilities serving six or fewer persons, as  
6 provided in California Health & Safety Code Sections 11834.02 and 11834.23;

7 (c) Residential care facilities for the elderly serving six or fewer persons, as provided in  
8 California Health & Safety Code Sections 1569.2 and 1569.85;

9 (d) Intermediate care facilities for the developmentally disabled serving six or fewer persons,  
10 as provided in California Health & Safety Code Sections 1250 and 1267.8;

11 (e) Congregate living health facility serving six or fewer persons, as provided in California  
12 Health & Safety Code Sections 1250 and 1267.16; and

13 (f) A state-authorized, certified, or licensed family care home, foster home, or group home  
14 serving six or fewer persons with mental health disorders or other disabilities or dependent and  
15 neglected children that provides care on a 24-hour-a-day basis, as provided in California Welfare &  
16 Institutions Code Section 5116.

17 \* \* \* \*

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

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



1 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
2 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
3 additions, and Board amendment deletions in accordance with the “Note” that appears under  
4 the official title of the ordinance.

5  
6 Section 6. No Conflict with Federal or State Law. Nothing in Section 3 of this  
7 ordinance shall be interpreted or applied so as to create any requirement, power, or duty in  
8 conflict with any federal or state law.

9  
10 Section 7. Severability. If any section, subsection, sentence, clause, phrase, or word of  
11 this ordinance, or any application thereof to any person or circumstance, is held to be invalid  
12 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not  
13 affect the validity of the remaining portions or applications of the ordinance. The Board of  
14 Supervisors hereby declares that it would have passed this ordinance and each and every  
15 section, subsection, sentence, clause, phrase, and word not declared invalid or  
16 unconstitutional without regard to whether any other portion of this ordinance or application  
17 thereof would be subsequently declared invalid or unconstitutional.

18  
19 APPROVED AS TO FORM:  
20 DAVID CHIU, City Attorney

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

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