



# SAN FRANCISCO PLANNING DEPARTMENT

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## Memo to the Planning Commission

HEARING DATE: APRIL 4, 2013

Continued from the November 29, 2012 and the March 7, 2013 Hearings

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*Project Name:* **Amendments related to Student Housing: Monitoring Requirement**  
*Case Number:* 2012.1315T [Board File No. 12-0883]  
*Initiated by:* Supervisor Kim / Introduced September 14, 2012  
*Staff Contact:* Sophie Hayward, Legislative Affairs  
sophie.hayward@sfgov.org, 415-558-6257  
*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* **Recommend Approval**

### BACKGROUND

On November 29, 2012, the Planning Commission (hereinafter "Commission") considered the proposed Ordinance introduced by Supervisor Kim that would amend the Planning Code by adding Section 102.36.1 to establish an annual monitoring requirement for Student Housing conversions. The proposed Ordinance would also require a posting to announce that the report is available for public review, and would provide an enforcement mechanism for failure to submit the annual report.

The Department's recommendation to the Commission at the November hearing was to recommend to the Board of Supervisors approval with five modifications.

At the November hearing, the Commission continued the item to March 7, 2013, and encouraged continued outreach and discussion among stakeholders, including universities, developers, and housing advocates. At the request of Supervisor Kim, the item was continued to April 4, 2013 at the March hearing.

### CURRENT PROPOSAL

Since the November Commission hearing, Supervisor Kim has conducted further outreach. Supervisor Kim has made all of the proposed modifications discussed at the Commission's November hearing. The Department, therefore, recommends that the Commission pass a resolution recommending approval of the draft Ordinance. The modifications made by Supervisor Kim are:

1. The annual reporting requirement will apply only to those projects that take advantage of one of the incentives associated with Student Housing, including: an exemption from inclusionary housing requirements, a reduction in open space requirements, a FAR bonus, or an exemption from unit mix requirements;
2. A full report is required only when any of the incentives associated with Student Housing is applied to a proposed project, or when Student Housing has been converted to other forms of housing;

3. If no incentive has been invoked, or no conversion has taken place, the owners or operators of Student Housing must submit a letter, every two years, confirming that no change in the Student Housing has occurred;
4. Any report or letter must be filed by January 31<sup>st</sup> detailing usage for the previous calendar year, so that the data may be included in the Department's annual Housing Inventory Report;
5. The Section 102.36.1(5) of the proposed Ordinance has been removed, and no additional notification to the Zoning Administrator is required when Student Housing units are converted to other forms of housing.

Further, the language has been modified to clarify that the annual report described in the proposed Ordinance is focused only on the building or buildings that triggers the reporting requirement.

The draft resolution and associated staff report provide background information and the basis for the Department's recommendation.

## RECOMMENDATION

The Department recommends *approval* of the proposed Ordinance.

<b>RECOMMENDATION:</b> <b>Approval</b>
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### Attachments:

Executive Summary, dated November 29, 2012  
Draft Resolution  
Board File No. 12-0883



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change

HEARING DATE: NOVEMBER 29, 2012

*Project Name:* **Amendments related to Student Housing: Monitoring Requirement**  
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*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* **Recommend Approval with Modifications**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code by adding Section 102.36.1 to establish an annual monitoring requirement for Student Housing conversions. The proposed Ordinance would also require a posting to announce that the report is available for public review, and would provide an enforcement mechanism for failure to submit the annual report.

#### The Way It Is Now:

Student Housing is defined in Section 136 of the Planning Code as a living space for students that may take the form of dwelling units, group housing, or an SRO, that is owned or controlled by an accredited post-secondary Educational Institution. Student Housing is permitted where the form of housing is permitted in the underlying Zoning District and Student Housing may consist of all or part of a building. Multiple institutions may provide Student Housing in a single building.

Section 307(j) of the Planning Code states that the Zoning Administrator may allow the conversion of Student Housing to any permitted residential use in the underlying zoning upon determination that the converted Student Housing has complied with all applicable aspects of the Planning Code.

#### The Way It Would Be:

The proposed Ordinance would establish an annual monitoring requirement for property owners, operators, or other entities that control Student Housing. The monitoring would involve the submittal of a report to the Planning Department containing data related to the Student Housing, including:

1. The total number of units under the ownership or control of the Post-Secondary Institution, per building;
2. The number of vacant and occupied Student Housing units per building – and if more than 50% of the Student Housing units are vacant, an explanation as to why;
3. The average rent for the Student Housing units;
4. The number of Student Housing units rented by week or by month;

5. The designation by room number and location of the Student Housing units. If the operator converts any Student Housing units to market-rate housing, the Zoning Administrator must be notified in writing of the conversion.

The proposed Ordinance would also require a posting to announce that the report is available for public review, and would provide an enforcement mechanism for failure to submit the annual report.

## **REQUIRED COMMISSION ACTION**

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

## **RECOMMENDATION**

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

## **BASIS FOR RECOMMENDATION**

The proposed Ordinance would create a monitoring requirement for Student Housing projects. The proposed Ordinance requires an Annual Unit Usage Report in order to monitor conversions.

As drafted, the annual report would be required of each entity that owns, operates, or controls Student Housing. The requirement applies to all providers of Student Housing, whether or not the Student Housing is located on an institution's campus, and whether the operator or owner is taking advantage of any of the incentives offered to encourage the production of new Student Housing, such as the exemption from inclusionary housing fees, the Floor Area Ratio (FAR) bonus, or the exemption from unit mix requirements in certain zoning districts. The report would be required annually, whether conversions have occurred or not.

The Department's recommendation is intended to simplify the method and frequency of the monitoring report. Specifically, after an initial filing, the Department recommends that the full report be required only when any of the incentives listed above are applied to a proposed project, or when Student Housing has been converted to other forms of housing. If no incentive has been invoked or no conversion has occurred, no new report would be required. However, every two years, owners or operators of Student Housing projects would submit a letter confirming that no change has occurred.

The Department recommends that the reporting process align with the reporting requirements for Residential Hotels and their conversion. Baseline information would be provided with the establishment of new Student Housing, and a full report would be submitted at the time of approved conversions. This data would be included in the annual Housing Inventory Report published by the Department in the spring for the preceding calendar year.<sup>1</sup> As proposed in the draft Ordinance, the Annual Usage Report would be submitted to the Department by November 1<sup>st</sup> of each year. In order to better coincide with existing reporting requirements for similar housing data, the Department recommends a report be submitted by January 31<sup>st</sup> for the previous calendar year. This data would be reflected in the spring

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<sup>1</sup> The Housing Inventory Report is available online at: [http://www.sf-planning.org/ftp/files/publications\\_reports/2011\\_Housing\\_Inventory\\_Report.pdf](http://www.sf-planning.org/ftp/files/publications_reports/2011_Housing_Inventory_Report.pdf). Page 17 of the 2011 report addresses Residential Hotels, and may serve as a model for the reporting format and method for Student Housing usage and conversion.

Housing Inventory Report. Procedurally, this reporting requirement could be added as a Condition of Approval for new Student Housing projects, and the report could be filed based on a form available on the Planning Department's website in order to ensure that the data submitted are consistent across projects by multiple project sponsors.

Lastly, the Department recommends that the requirement that the Zoning Administrator be informed in writing of any conversions from Student Housing to market rate or other forms of housing be removed from the proposed Ordinance. The existing requirements for the conversion from Student Housing to any other form of housing outlined in Planning Code Section 307(j) already require review by the Zoning Administrator. The Department recommends against adding a duplicate Zoning Administrator review process to the conversion process.

### **Proposed Modifications**

The Department recommends the following specific modifications:

1. The Department recommends that new projects file an initial report that details the number and average rent of Student Housing units in a given project;
2. After the initial filing, the Department recommends that a full report be required only when any of the incentives associated with Student Housing are applied to a proposed project, or when Student Housing has been converted to other forms of housing;
3. If no incentive has been invoked, or no conversion has taken place, the Department recommends the owners or operators of Student Housing submit a letter, every two years, confirming that no change in the Student Housing has occurred;
4. The Department recommends that any report or letter be filed by January 31<sup>st</sup> detailing usage for the previous calendar year, so that the data may be included in the Department's annual Housing Inventory Report;
5. The Department recommends that Section 102.36.1(5) of the proposed Ordinance be removed, and that no additional notification to the Zoning Administrator be required when Student Housing units are converted to other forms of housing.

### **ENVIRONMENTAL REVIEW**

The proposal to amend the Planning Code by adding Section 102.36.1 to add an annual monitoring requirement, as well as a posting requirement, and an enforcement mechanism for failure to submit the annual report would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

### **PUBLIC COMMENT**

As of the date of this report, the Planning Department has no written comments in regard to the proposed Ordinance.

<b>RECOMMENDATION:</b>	<b>Recommendation of Approval with Modification</b>
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**Attachments:**



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Draft Resolution

APRIL 4, 2013

*Project Name:* **Amendments related to Student Housing: Monitoring Requirement**  
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**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE BY ADDING SECTION 102.36.1 TO ESTABLISH AN ANNUAL MONITORING REQUIREMENT FOR STUDENT HOUSING CONVERSIONS, TO REQUIRE A POSTING TO ANNOUNCE THAT THE REPORT IS AVAILABLE FOR PUBLIC REVIEW, AND TO PROVIDE AN ENFORCEMENT MECHANISM FOR FAILURE TO SUBMIT THE ANNUAL REPORT; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.**

WHEREAS, on September 14, 2012, Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-0883, which would add a new Planning Code Section 102.36.1 regarding the monitoring of Student Housing conversions;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 29, 2012, and at that hearing Supervisor Kim agreed to conduct additional with stakeholders and post-secondary institutions; and,

WHEREAS, on March 26, 2013, Supervisor Kim introduced revisions to the proposed Ordinance, which included modifications based on outreach with stakeholders; and,

WHEREAS, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance in its revised form on April 4, 2013; and,

WHEREAS, the proposed Ordinance has been determined to be exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of

Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve** the proposed ordinance.

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The proposed Ordinance would create a monitoring requirement for Student Housing projects, and would require an Annual Unit Usage Report in order to monitor conversions.
2. Baseline information would be provided with the establishment of new Student Housing, and a full report would be submitted at the time of approved conversions.
3. Data received as part of the Annual Unit Usage Report would be included in the annual Housing Inventory Report published by the Department;
4. Procedurally, this reporting requirement could be added as a Condition of Approval for new Student Housing projects, and the report could be filed based on a form available on the Planning Department's website in order to ensure that the data submitted are consistent across projects by multiple project sponsors.
5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

### I. HOUSING ELEMENT

#### OBJECTIVE 1

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

#### POLICY 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

**POLICY 1.9**

Require new commercial developments and higher educational institutions to meet the housing demand they generate, particularly the need for affordable housing for lower income workers and students.

*The proposed Ordinance recognizes the need for new student housing, while creating a mechanism to track the demand for Student Housing and the rate at which it is converted to other forms of housing. While existing procedures prohibit the conversion of the existing housing stock to Student Housing, the proposed Ordinance would require a detailed annual report to support that policy with data.*

**OBJECTIVE 2**

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

**POLICY 2.2**

Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.

*The proposed Ordinance would further protect the existing housing stock from conversion from standard housing to student housing by introducing a formal reporting requirement.*

6. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:
- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced.
  - B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.
  - C) The City's supply of affordable housing will be preserved and enhanced.
  - D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking.
  - E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced.
  - F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.
  - G) That landmark and historic buildings will be preserved.



H) Parks and open space and their access to sunlight and vistas will be protected from development.

7. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution and in the proposed Ordinance with the modifications outlined above.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 13, 2013.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED:

FILE NO.

## **LEGISLATIVE DIGEST**

[Planning Code – Establishing a Program to Monitor Student Housing Conversions]

**Ordinance amending the San Francisco Planning Code by adding a new Section 102.36.1 to establish an annual monitoring requirement for student housing conversions and making findings, including environmental findings and findings of consistency with the priority policies of Planning Code Section 101.1 and the General Plan.**

### Existing Law

The Planning Code was recently amended to recognize a new category of use for student housing along with various limitations for such use. There is no current process to monitor the number of student housing units, the conversion of other uses to student housing, or the conversion of student housing to other uses.

### Amendments to Current Law

This legislation would add Section 102.36.1 to create annual monitoring requirements for student housing conversions and enforcement procedures for failing to comply with such requirements. The Ordinance would establish an annual reporting process that addresses the numbers of units, vacancies, occupancies, and average rents for student housing. The requirement would apply to: 1) buildings containing student housing that obtained identified Planning Code incentives during their Planning Commission approval process and 2) buildings that received Planning Commission approval after October 11, 2012 that converted student housing to other uses during the prior year. The entities owning or operating such buildings would submit an annual report to the Planning Department. The legislation also would provide that entities owning or operating a student housing use that does not fall within the limitations above submit only a letter to the Planning Department that no change in student housing has occurred. The Ordinance would make environmental findings and findings of consistency with the General Plan and priority policies of Planning Code Section 101.1.

1 [Planning Code – Establishing a Program to Monitor Student Housing Conversions]

2

3 **Ordinance amending the San Francisco Planning Code by adding a new Section**  
4 **102.36.1 to establish an annual monitoring requirement for student housing**  
5 **conversions and making findings, including environmental findings and findings of**  
6 **consistency with the priority policies of Planning Code Section 101.1 and the General**  
7 **Plan.**

8 NOTE: Additions are *single-underline italics Times New Roman*;  
9 deletions are ~~*strike-through italics Times New Roman*~~.  
10 Board amendment additions are double-underlined;  
11 Board amendment deletions are ~~strikethrough normal~~.

11

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

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

15 (a) The Planning Department has determined that the actions contemplated in this  
16 Ordinance are in compliance with the California Environmental Quality Act (California Public  
17 Resources Code sections 21000 et seq.) Said determination is on file with the Clerk of the  
18 Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by  
19 reference.

20 (b) On November 29, 2012, the Planning Commission, in Resolution No.  
21 \_\_\_\_\_ approved and recommended for adoption by the Board of Supervisors this  
22 legislation and adopted findings that it is consistent, on balance, with the City's General Plan  
23 and eight priority policies of Planning Code Section 101.1. The Board adopts these findings  
24 as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in  
25 File No. \_\_\_\_\_, and is incorporated by reference herein.

1 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this  
2 legislation will serve the public necessity, convenience, and welfare for the reasons set forth in  
3 Planning Commission Resolution No. \_\_\_\_\_, and incorporates such reasons by  
4 reference herein.

5 Section 2. The San Francisco Planning Code is hereby amended by adding Section  
6 102.36.1, to read as follows:

7 SEC. 102.36.1 STUDENT HOUSING CONVERSION MONITORING PROGRAM.

8 (a) Reporting Requirement. On or before January 31 of each year, every entity that owns,  
9 operates, or controls Student Housing as defined in Section 102.36 shall file with the Department an  
10 Annual Unit Usage Report containing the following information:

11 (1) The total number of units under the ownership, operation, or control of the entity  
12 that are used for Student Housing per building as of December 31 of the year preceding the filing;

13 (2) The number of vacant and occupied Student Housing units per building as of  
14 December 31 of the year preceding the filing; if more than 50 percent of the units are vacant, explain  
15 why; and

16 (3) The average rent for the Student Housing calculated on either a per-unit or per-bed  
17 basis as of December 31 of the year preceding the filing with an explanation for the basis of the  
18 calculation.

19 (b) Notice of Annual Unit Usage Report. On the day of filing, the owner or operator shall post  
20 a notice that a copy of the Annual Unit Usage Report submitted to the Department is available for  
21 inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, which notice shall  
22 remain posted for 30 days.

23 (c) Extension of Time for Filing. Upon application by an owner or operator and upon showing  
24 good cause, the Director may grant one extension of time not to exceed 30 days for said filing.

1           (d) Certificate of Annual Unit Usage Report. After receipt of a completed Annual Unit Usage  
2 Report, the Department shall issue a certified acknowledgment of receipt.

3           (e) Failure to File Annual Unit Usage Report or Insufficient Filing; Enforcement and  
4 Penalties. If an owner or operator fails to file the Annual Unit Usage Report or the Department  
5 determines that the filing is insufficient, and any such insufficiency is not remedied within 30 days after  
6 receipt of notice of such insufficiency, then the subject Student Housing use(s) shall be deemed in  
7 violation of this Code. The Zoning Administrator may seek an enforcement action, including the  
8 imposition of penalties, against said use(s) as set forth in this Code.

9           (f) Application. The abovementioned requirement for filing an annual report shall apply only  
10 to an entity that owns, operates, or controls Student Housing which received Planning Department or  
11 Planning Commission approval for one or more of the following incentives as set forth in the Planning  
12 Code: (1) inclusionary housing exemption pursuant Section 415.3(c)(5); (2) open space pursuant to  
13 Section 135(d)(2); (3) FAR bonus pursuant to Section 124(k); or (4) unit mix pursuant to Section  
14 207.6(b)(3). The abovementioned requirement for filing an annual report also shall apply to an entity  
15 that owns, operates, or controls Student Housing which the Planning Department or Planning  
16 Commission approved after October 11, 2012 when all or a portion of the Student Housing has been  
17 converted to other forms of housing during the preceding year. The annual report as specified in this  
18 Subsection (f) shall address only the particular Student Housing building or buildings that requires an  
19 entity to comply with this Subsection.

20           (g) Notwithstanding any provisions of this Section 102.36.1 to the contrary, if the entity that  
21 owns, operates, or controls Student Housing is not subject to Section 102.36.1(f), then said entity  
22 instead shall submit a letter to the Planning Department on or before January 31 confirming that no  
23 change in Student Housing has occurred. After the initial submission of such letter, the entity shall  
24 submit a new letter to the Planning Department every other year on or before January 31 confirming  
25 that no change in Student Housing has occurred. The letter as specified in this Subsection (g) shall

1 address only the particular Student Housing building or buildings that the Planning Department or  
2 Planning Commission approved after October 11, 2012.

3 Section 3. Effective Date. This ordinance shall become effective 30 days from the  
4 date of passage.

5 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to  
6 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,  
7 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are  
8 explicitly shown in this legislation as additions, deletions, Board amendment additions, and  
9 Board amendment deletions in accordance with the "Note" that appears under the official title  
10 of the legislation.

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

13 By: \_\_\_\_\_  
14 John D. Malamut  
15 Deputy City Attorney

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