



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: SEPTEMBER 8, 2016
EXPIRATION DATE: SEPTEMBER 16, 2016

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: **Student Housing Exemption from Inclusionary Housing Program**
Case Number: **2016-006593PCA** [Board File No. 160510]
Initiated by: Supervisor Wiener/ Introduced May 10, 2016 and June 21, 2016
Staff Contact: Menaka Mohan, Legislative Affairs
menaka.mohan@sfgov.org, 415-575-9141
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval**

PLANNING CODE AMENDMENT

The proposed Ordinance amends the Planning Code to change the requirement that Student Housing be owned or leased by an educational institution to be exempt from the Inclusionary Housing Program from five to two years.

The Way It Is Now:

In Section 415.3, the Inclusionary Housing Program, Student Housing Projects that meet certain criteria are exempt from the inclusionary housing requirement. The Student Housing Project must complete an Institutional Master Plan (IMP) and meet several requirements. Currently, the Post-Secondary Institution that is leasing the Student Housing Project must have **at least a five year master lease** or other contractual agreement, including a certificate from the owner of the real property and the Post-Secondary Educational Institution attaching a true and complete copy of the master lease or other contractual agreement that certifies that the lease or contract has not otherwise been amended or terminated.

The Way It Would Be:

In Section 415.3, the Inclusionary Housing Program, Student Housing Projects would still be required to meet the same requirements in order for the Student Housing Project to be exempt from the inclusionary housing requirements, including completing an IMP and meeting several requirements; however, the ordinance proposes that the Post-Secondary Institution that is leasing the Student Housing Project must have **at least a two year master lease** or other contractual agreement, including a certificate from the owner of the real property and the Post-Secondary Educational Institution attaching a true and complete copy of the master lease or other contractual agreement that certifies that the lease or contract has not otherwise been amended or terminated.

BACKGROUND

San Francisco is home to around 80,000 students and over 30 educational institutions which provide only 9,000 beds.¹ Assuming that 50% of students commute or live at home, this still leaves a huge shortfall—around 40,000 beds are still needed to meet demand. This shortfall contributes to the overall housing crises as students are forced to look for housing in the very limited and expensive existing housing stock. The lack of student housing also impacts educational institutions as they struggle to attract desirable students due to the high cost of housing in San Francisco.

Current Policy in San Francisco

In the Housing Element, Policy 1.9 states that *that new commercial developments and educational institutions should meet the housing demand they generate, especially for low income workers and students*. Additionally, since 2010, there have been two ordinances to aid educational institutions build the housing that is generated from the student body. The intent of these legislative changes has been two-fold, (1) to encourage the production of new student housing and (2) protect existing housing.

In 2010, Supervisor Bevan Dufty introduced legislation² that removed the inclusionary requirement from student housing. Housing projects not dedicated to students are required to pay the Inclusionary Housing fee or are required to provide Inclusionary Affordable units, either on-site or off site. The Inclusionary Housing requirement is the largest impact fee in San Francisco and removing this fee provided a significant fiscal incentive to build more housing for students. Given that students are generally low income, and because the student housing is in short supply, the exemption from Inclusionary Housing was approved. This 2010 ordinance paired this significant incentive with a provision that prevented the conversion of existing housing to student housing, or what became known as the “cannibalization” of existing housing.

In 2012, Supervisor Wiener introduced legislation³ that sought to expand on these goals by increasing the effectiveness of the current law while easing compliance. The original law included a burdensome requirement that required annual reports on the incomes of the specific people living in student housing. The 2012 law changed the reporting requirement to ensure a diverse student body, without requiring reporting on specific individual’s incomes. Under the new law, instead of each development documenting that 30% of the residents were low-income; the associated educational institution must document that 30% of their overall student body is low-income.

The law also established Student Housing as a use type so it could be tracked and regulated effectively. Additionally the ordinance established a mechanism to recapture inclusionary fees if the project ever converted to a standard residential use in the future. More importantly, the ordinance continued the prohibition on the conversion of existing housing to Student Housing.

On February 29, 2016 Supervisor Wiener held a hearing on Student Housing Needs and Production⁴ at a regularly scheduled Land Use and Transportation Committee. At the hearing, the Planning Department presented as well as four institutions which included: University of California, San Francisco (UCSF),

¹Sources: Business Times, February 4, 2016; SF Controller’s Office of Economic Analysis Report on Student Housing, 12/6/2010, Housing Action Coalition website <http://www.sfhac.org/policy-advocacy/student-housing>

²Ordinance No. 321-10 <https://sfgov.legistar.com/View.ashx?M=F&ID=1123080&GUID=39A95781-C62D-4E92-AA77-920A1922BBE8>

³Ordinance No. 188-12 <https://sfgov.legistar.com/View.ashx?M=F&ID=2125602&GUID=27090DC1-993D-486A-9F99-2D258CF1CB3F>

⁴Video from the hearing can be found here: http://sanfrancisco.granicus.com/MediaPlayer.php?view_id=177&clip_id=24825

University of California, Hastings College of Law (UC Hastings), San Francisco State University (SF State), and California College of the Arts (CCA). Each institution presented on the current student body, housing needs and challenges, and projected student housing need. Three of the institutions that presented are exempted from the Planning Code requirements of an IMP because they are state universities and not subject to local land use law.

Table 1: Rate of Student Housing Provided:

University of San Francisco	38%
University of California, Hastings	30%
University of California, San Francisco	14%

During the hearing, Supervisor Wiener asked the universities and the City to generate ideas that could increase the production of Student Housing. During public comment it was suggested that reducing the time of a master lease from five years to two years, with the option to renew after three years could incentivize the creation of more Student Housing. Given that universities are often wary of committing to a five year lease as the institution may want to see how the Student Housing operates, may not have the financial resources to commit to a five year lease, and a longer term lease may impede the institution's ability to build its own housing. This suggestion resulted in the ordinance before the Commission today.

ISSUES AND CONSIDERATIONS

Student Housing Definition

The definition of Student Housing⁵ is as follows: *a Residential Use characteristic defined as a living space for students of accredited Post-Secondary Educational Institutions that may take the form of Dwelling Units, Group Housing, or SRO Unit and is owned, operated, or otherwise controlled by an accredited Post-Secondary Educational Institution.* The land use type, Student Housing, is permitted where the underlying form of housing is permitted in the Zoning District in which it is located. Student Housing may consist of all or part of a building.

State of Student Housing in San Francisco

The Department estimates that there are currently around 9,000 beds provided for students based on a survey of Institutional Master Plans⁶ and information retrieved from other news sources.⁷ The table below shows new Student Housing added since 2012, which results in approximately 1200 beds:

⁵The definition is in Section 102 of the Planning Code

⁶Institutional Master Plans can be found here <http://sf-planning.org/institutional-master-plans>

⁷Sources: Business Times, February 4, 2016; SF Controller's Office of Economic Analysis Report on Student Housing, 12/6/2010, Housing Action Coalition website <http://www.sfhac.org/policy-advocacy/student-housing>

Table 2: New Student Housing Added since 2012

Address	No. of Units	No. of beds	School	Source
1321 Mission	120 studios & 40-3 bedroom suites	400 beds	½ CCA/ ½ SF Conservatory of Music	Planning Permit
38 Harriet	23 units	46 beds	California College of the Arts (CCA)	Planning Permit
SF State Campus	Not specified	+800 Beds, through remodel	San Francisco State	Business Times

Table 3 shows the projected pipeline as of February 2016, which will result in approximately 1700 beds.

Table 3: New Student Housing in the Pipeline as of February 2016

Address	No. of Units	No. of Beds	School	Status
75 Arkansas	30	228	CCA Lease	Under Review
2500 Turk	155 units	606	University of San Francisco	Under Review
200 Van Ness	144 Units	320	Conservatory of Music	Under Review
188 Hooper		600	CCA	Under Review

Group Housing

In 2015, Supervisors Avalos, Campos, Kim, and Mar sponsored legislation⁸ to clarify that Inclusionary Housing Requirements specified in Planning Code section 415 apply to Group Housing projects. The definition of Student Housing states that the housing may take the form of Group Housing. Group Housing is defined in Section 102 as the following, *“A Residential Use that provides lodging or both meals and lodging, without individual cooking facilities, by prearrangement for a week or more at a time, in a space not defined by this Code as a dwelling unit. Such group housing shall include, but not necessarily be limited to, a Residential Hotel, boardinghouse, guesthouse, rooming house, lodging house, residence club, commune, fraternity or sorority house, monastery, nunnery, convent, or ashram. It shall also include group housing affiliated with and operated by a medical or educational institution, when not located on the same lot as such institution, which shall meet the applicable provisions of Section 304.5 of this Code concerning institutional master plans.”* Given that if the Student Housing were to be built and no longer used as Student Housing but as Group Housing, the project would still have to pay the Affordable Housing Fee detailed in Section 415.1.

Academy of Art

Any discussion of Student Housing must also include a discussion of the Academy of Art. On January 21, 2016 the Government Audit and Oversight Committee of the Board of Supervisors held a hearing regarding AAU’s Institutional Master Plan and the AAU’s numerous Planning Code Violations. At this hearing the total number of AAU properties used as student housing was 17, providing a total of 1,810 student beds. Of these beds, only 38 percent or 690 beds were authorized as student housing whereas the remaining 62 percent, or 1,120 beds, were unauthorized. The Planning Commission initiated an ordinance⁹ on July 28, 2016 that proposes a path to legalization for two properties owned by AAU and will be considered for adoption on September 22, 2016 along with a Planning Code Amendment that is initiated by the Academy of Art.

However, the legislation before the Commission today does not impact the Department’s ability to enforce on unauthorized conversions of existing housing to Student Housing. Furthermore the legislation does not change the mechanism to collect Affordable Housing Fees or Affordable Housing Units if the units in a student housing project become subject to the Inclusionary Housing Ordinance.

IMPLEMENTATION

The Department has determined that this ordinance will not impact our current implementation procedures. In addition, the Department has consulted with the Mayor’s Office of Community Development-the agency that monitors student housing as it relates to inclusionary fees and affordable units-and MOHCD is comfortable with the shorter time frame that this legislation proposes.

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.

⁸Ordinance No. 164-15 <https://sfgov.legistar.com/View.ashx?M=F&ID=4051149&GUID=42F922BD-FF9B-49A1-9FCB-FE4F38D96B9D>

⁹The Planning Department Executive Summary can be found here: http://commissions.sfplanning.org/cpcpackets/2016-007198PCA_2012.0646PCA_2016-000559PCA.pdf

RECOMMENDATION

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

BASIS FOR RECOMMENDATION

The Department is supportive of the proposed legislation even if it shortens the master lease time from five years to two years because the private developer given the following:

The Shortage of Student Housing

The City currently faces an estimated 40,000 shortage of beds generated by post-secondary educational institutions. This shortfall contributes to the overall housing crises as students are forced to look for housing in the very limited and expensive existing housing stock. At the February 29, 2016 Land Use and Transportation Committee hearing, Supervisor Wiener asked several universities and the City to develop ideas to address this significant shortage. The shortened master lease time was suggested during public comment. The shortened lease time is beneficial to post-secondary institutions as it allows the institutions to evaluate how the building will be run and a longer term lease may impede the institution's ability to build its own housing. This ordinance proposes that change with the goal of creating more Student Housing which is desperately needed in the City.

Existing Housing Stock

The proposed ordinance does not change the current law which prohibits the conversion of the existing housing stock to Student Housing. The City still has the ability to enforce on any universities that purchase existing housing to convert to Student Housing.

Inclusionary Fees and Affordable Units

The current ordinance also does not change the law as it relates to the Inclusionary Affordable Housing Ordinance. Namely, if units in a student housing project become subject to the Inclusionary Housing Ordinance then the owner of those units shall pay the Affordable Housing Fee or provide the required number of on-site affordable units required at the time of the original project approval.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) (2) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received a letter of support from the California College of Arts (CCA) and a letter of support signed by the following educational institutions, UC Hastings College of the Law, Golden Gate University, California Institute of Integral Studies, California College of the Arts, American Conservatory Theater, Fashion Institute of Design and Merchandising, San Francisco Conservatory of Music, and the San Francisco Art Institute.

RECOMMENDATION:	Recommendation of Approval
------------------------	-----------------------------------

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit C: Letters of Support/Opposition
- Exhibit B: Board of Supervisors File No. 160510



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE: SEPTEMBER 8, 2016

Project Name: **Student Housing Exemption from Inclusionary Housing Program**
Case Number: **2016-006593PCA [Board File No. 160510]**
Initiated by: Supervisor Wiener/ Introduced May 10, 2016 and June 21, 2016
Staff Contact: Menaka Mohan, Legislative Affairs
menaka.mohan@sfgov.org, 415-575-9141
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 415.3 TO CODE TO CHANGE THE REQUIREMENT THAT STUDENT HOUSING BE OWNED OR LEASED BY AN EDUCATIONAL INSTITUTION TO BE EXEMPT FROM THE INCLUSIONARY HOUSING PROGRAM FROM FIVE TO TWO YEARS.; 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 May 10, 2016 and June 21, 2106 Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 160510 which would amend Section 415.1 of the Planning Code to Code to change the requirement that Student Housing be owned or leased by an educational institution to be exempt from the Inclusionary Housing Program from five to two years.;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 8, 2016; and,

WHEREAS, the proposed Ordinance has been determined to be categorically 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. There is a shortage of nearly 40,000 beds for Student Housing in the City and this shortfall contributes to the overall housing crises as students are forced to look for housing in the very limited and expensive existing housing stock.
2. The proposed ordinance does not change the current law which prohibits the conversion of the existing housing stock to Student Housing.
3. The current ordinance also does not change the law as it relates to the Inclusionary Affordable Housing Ordinance. Namely, if units in a student housing project become subject to the Inclusionary Housing Ordinance then the owner of those units shall pay the Affordable Housing Fee or provide the required number of on-site affordable units required at the time of the original project approval.
4. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY 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 will potentially facilitate the creation of more Student Housing by reducing the master lease time required from five years to two years lowering the financial burden on educational institutions thereby enhancing their ability to lease with property owners.

5. **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:
 1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

6. **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.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 8, 2016

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED:

CCa CALIFORNIA COLLEGE OF THE ARTS

San Francisco Board of Supervisors
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

August 26, 2016

San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

**RE: Minimum Lease Period for Qualified Student Housing
Shortening from Five to Two Years (FILE NO. 160510)**

Dear Supervisors and Planning Commissioners:

We are writing to urge you to support the proposed ordinance that amends the length of student housing leases required by the planning code.

The ordinance was initially passed in 2012 to encourage developers to build more affordable student housing. Our institution, the California College of the Arts, and the San Francisco Conservatory of Music are the only institutions to act on this ordinance to date, in part because of the required five-year term.

The current lease period requires our institution to carry a large liability on our balance sheets, which in turn, constrains us fiscally and hinders the flexibility of our organizations. A shorter lease period would reduce this burden.

Further, all educational institutions in San Francisco are at a disadvantage to those in other cities across California and the U.S., as the shortage and high cost of student housing can be a significant deterrent to many students considering matriculation in San Francisco.

Reducing the number of years required for a lease from five to two years will significantly enhance our ability to source and execute leases with property owners.

With the passing of this ordinance, we believe it will encourage the construction of new housing to target the chronically low student housing stock in San Francisco.

Thank you for the opportunity to comment on this important proposal.

Sincerely,



David Meckel
Director of Campus Planning

San Francisco Board of Supervisors
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

August 17, 2016

RE: Shortening the Minimum Lease Period for Qualified Student Housing from Five to Two Years

Dear Members of the Board of Supervisors and the Planning Commission:

The proposed ordinance amends the length of student housing leases required by the planning code. We are writing to urge you to support that resolution.

The ordinance was initially passed in 2012 to encourage developers to build more student housing. The California College of the Arts and the San Francisco Conservatory of Music are the only institutions to avail of the ordinance to date.

The current lease period of five years requires our institutions to carry a large liability, which in turn, constrains us fiscally and hinders the flexibility of our organizations. A shorter lease period would reduce this burden.

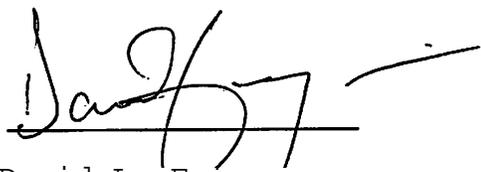
Further, all educational institutions in San Francisco are at a disadvantage to those in other cities across California and the U.S., as the shortage and high cost of student housing can be a significant deterrent to many students considering matriculation in San Francisco.

Reducing the number of years required for a lease from five to two years will significantly enhance our ability to source and execute leases with property owners.

With the passing of this ordinance, we believe it will encourage the construction of new housing to target the chronically low student housing stock in San Francisco.

Thank you for the opportunity to comment on this important proposal.

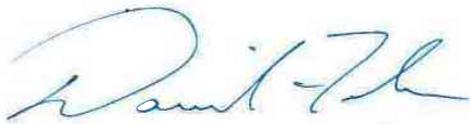
Sincerely,



David L. Faigman
Chancellor & Dean



UC HASTINGS
COLLEGE OF THE LAW



David J. Fike
President



Joseph L. Subbiondo
President

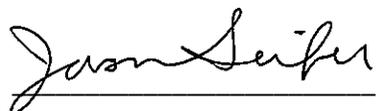


**California Institute
of Integral Studies**



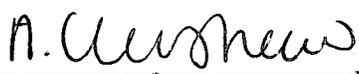
David Meckel
Director of Campus Planning

CC CALIFORNIA COLLEGE OF THE ARTS



Jason Seifer
Director of Finance & Operations

A.C.T. AMERICAN
CONSERVATORY
THEATER



Anna Clenshaw
Housing Director

FIDM

Fashion Institute of Design & Merchandising



David Stull
President

San Francisco Conservatory of Music

music



Rachel Schreiber
President

SFAI SAN FRANCISCO
ART INSTITUTE

1 [Planning Code - Student Housing Exemption from Inclusionary Housing Requirements]

2
3 **Ordinance amending the Planning Code to change the requirement from five to two**
4 **years that Student Housing be owned or leased by an educational institution to be**
5 **exempt from the Inclusionary Housing Program; affirming the Planning Department's**
6 **determination under the California Environmental Quality Act; and making findings of**
7 **public necessity, convenience, and welfare under Planning Code, Section 302, and of**
8 **consistency with the General Plan, and the eight priority policies of Planning Code,**
9 **Section 101.1.**

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

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

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

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

25 (b) On _____, the Planning Commission, in Resolution No. _____,
adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
3 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

4 (c) On _____, the Planning Commission, in Resolution No. _____,
5 approved this ordinance, recommended it for adoption by the Board of Supervisors, and
6 adopted findings that it will serve the public necessity, convenience, and welfare. Pursuant to
7 Planning Code Section 302, the Board adopts these findings as its own. A copy of said
8 Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is
9 incorporated herein by reference.

10
11 Section 2. The Planning Code is hereby amended by revising Section 415.3(c)(5), to
12 read as follows:

13 **SEC. 415.3. APPLICATION.**

14 * * * *

15 (c) Section 415.1 et seq., the Inclusionary Housing Program, shall not apply to:

16 * * * *

17 (5) A Student Housing project that meets all of the following criteria:

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

20 (B) An institutional master plan (IMP) pursuant to Section 304.5 is on file
21 with the Planning Department prior to the issuance of any building permit or alteration permit
22 in connection with the creation of the Student Housing project, and, in addition to the
23 requirements of Section 304.5, such IMP shall describe:

24 (i) to the extent such information is available, the type and
25 location of housing used by its students;

1 (ii) any plans for the provision of Student Housing; and
2 (iii) the Educational Institution's need for student housing to
3 support its program; and
4 (iv) the percentage of its students, on an average annual basis,
5 that receive some form of need-based assistance ~~as described in (H3B)~~.

6 (C) The Mayor's Office of Housing and Community Development (MOHCD)
7 is authorized to monitor this program. MOHCD shall develop a monitoring form and annual
8 monitoring fee to be paid by the owner of the real property or the Post-Secondary Educational
9 Institution or Religious Institutions, as defined in Section 102 of this Code. The owner of the
10 real property and each Post-Secondary Educational Institution or Institutions shall agree to
11 submit annual documentation to ~~the Mayor's Office of Housing (MOHCD)~~ and the Planning
12 Department, on or before December 31 of each year, that addresses the following:

13 (i) Evidence that the Post-Secondary Educational Institution
14 continues to own or otherwise control the Student Housing project under a master lease or
15 other contractual agreement with at least a two-year term, including a certificate from the
16 owner of the real property and the Post-Secondary Educational Institution attaching a true and
17 complete copy of the master lease or other contractual agreement (financial information may
18 be redacted) and certifying that the lease or contract has not otherwise been amended or
19 terminated; and

20 (ii) Evidence, on an average annualized basis, of the percentage
21 of students in good standing enrolled at least half time or more in the ~~p~~Post-~~s~~Secondary
22 Educational Institution or Institutions who are occupying the beds or accessory living space in
23 the Student Housing project; and
24
25

1 (iii) The owner of the real property records a Notice of Special
2 Restrictions (NSR) against fee title to the real property on which the Student Housing is
3 located that states the following:

4 -a. The Post-Secondary Educational Institution, or the
5 owner of the real property on its behalf, must file a statement with the Department if it intends
6 to terminate the Student Housing project at least 60 days before it terminates such use
7 ("statement of termination");

8 -b. The Student Housing project becomes subject to the
9 Inclusionary Housing Ordinance requirements applicable to Housing Projects other than
10 Qualified Housing Projects if (1) a Post-Secondary Educational Institution files a statement of
11 termination with the Department and another ~~P~~Post-~~S~~Secondary Educational Institution or
12 Institutions have not been substituted or obligated to meet the requirements of this subsection;
13 or (2) the owner of the real property or the ~~P~~Post-~~S~~Secondary Educational Institution fails to file
14 a statement of termination and fails to meet the requirements for a Student Housing project,
15 then within not more than one year of a Notice Of Violation issued by the Planning
16 Department;

17 -c. If units in a Student Housing project become subject
18 to the Inclusionary Housing Ordinance then the owner of those units shall (1) pay the
19 Affordable Housing Fee plus interest from the date the project received its first construction
20 document for the project if there is no evidence the ~~P~~Project ever qualified as Student Housing
21 or, if Student Housing was provided and occupied, then the Affordable Housing Fee with no
22 interest is due on the date the units were no longer occupied by qualifying households and
23 interest would accrue from that date if the fee is not paid; or (2) provide the required number
24 of on-site affordable units required at time of original project approval and that those units
25 shall be subject to all of the requirements of this Program. In this event, the owner of the real

1 property shall record a new NSR providing that the designated units must comply with all of
2 the requirements of this Program.

3 -d. The Post-Secondary Educational Institution is
4 required to report annually as required in Subsection (c)(5)(C) above;

5 -e. The City may commence legal action against the
6 owner and/or Post-Secondary Educational Institution to enforce the NSR and the terms of
7 Article IV of the Planning Code and Planning Code Section 415 et seq. if it determines that the
8 project no longer meets the requirements for a Student Housing project; and

9 -f. The Student Housing project may be inspected by
10 any City employee to determine its status as a Student Housing project and its compliance
11 with the requirements of this Code is Section at any time upon at least 24 hours' prior notice to the
12 owner of the real property or to the master lessee.

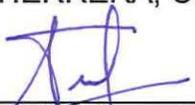
13 * * * *

14
15 Section 3. Effective Date. This ordinance shall become effective 30 days after
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
18 of Supervisors overrides the Mayor's veto of the ordinance.

19
20 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
21 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
22 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
23 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
24 additions, and Board amendment deletions in accordance with the "Note" that appears under
25 the official title of the ordinance.

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

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

By: 

ANDREA RUIZ-ESQUIDE
Deputy City Attorney

n:\egana\as2016\1600645\01104945.docx