



SAN FRANCISCO PLANNING DEPARTMENT

New Planning Code Summary

Enlargement, Alteration, or Reconstruction of Nonconforming Units

Code Changes: Section 181

Case Number: Board File No. 13-0783

Initiated by: Supervisor Avalos

Effective Date: January 24, 2014

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Purpose: As applied to existing housing in areas where dwelling units are principally permitted uses, the previous requirement was too strict and does not conform to San Francisco's housing policies. The 10-year restriction for owners who have evicted tenants is intended to reduce the possibility that this amendment to the Planning Code would encourage more evictions of tenants in order to enlarge, alter or reconstruct a unit.

The Way It Was:

Planning Code Section 181 describes the provisions for enlarging, altering, and reconstructing a nonconforming structure.¹

- **Section 181(c)** notes that in a building that has a total number of dwelling units that exceeds the permitted density in a given zoning district, units that exceed the permitted density are considered nonconforming. **Designated nonconforming units could not be enlarged, altered, or reconstructed in a manner that increased their nonconformity.**
- **Section 181(h)** prohibits the addition of new dwelling units in the Production, Distribution, and Repair (PDR) Zoning Districts, but allows the expansion and alteration of existing units in a manner consistent with the controls applicable to the Urban Mixed Use (UMU) District.

¹ Planning Code Section 180(a)(2) defines a nonconforming structure as "a structure which existed lawfully at the effective date of this Code, or of amendments thereto, and which fails to comply with one or more of the regulations for structures, including requirements for off-street parking and loading, under Articles 1.2, 1.5, 2.5, 6, 7 and 8 of this Code, that then became applicable to the property on which the structure is located."

The Way It Is Now: The Planning Code is amended to permit enlargement, alteration, or reconstruction of a dwelling or other housing structure exceeding the permitted density for the district in which it is located where (1) the dwelling or other housing structure is located in a district where a dwelling unit is a principally permitted use and (2) the enlargement, alteration, or reconstruction does not otherwise extend beyond the building envelope as it existed on January 1, 2013. An owner who has evicted any tenants after December 10, 2013 under the “owner move-in” provision of the Rent Ordinance will not be permitted to enlarge, alter or reconstruct for 5 years following such eviction, and an owner who has evicted any tenants after December 10, 2013 under the other “no fault” provisions of the Rent Ordinance will not be permitted to enlarge, alter or reconstruct for 10 years following such eviction.

Planning Code Section 181, which outlines provisions for enlargements, alterations, and reconstruction of nonconforming uses, was amended as follows:

- **Amendment to Section 181(c)(2)** allows, in zoning districts in which dwelling units are principally permitted, units that are nonconforming as to the zoning district’s permitted density to be enlarged, altered, or reconstructed, provided that the alterations not extend beyond the building’s envelope as it existed on January 1, 2013.
- **Amendment to Section 181(c)(3)** prohibits the expansions and alterations newly allowed pursuant to subsection (c)(2) for any dwelling unit for five years if a tenant in the unit has been subject to an “owner move-in” eviction after December 10, 2013. Additionally, the newly allowed expansions or alterations are prohibited for ten years if a tenant in the unit has been subject to any other form of “no-fault” eviction after December 10, 2013.
- **Amendment to Section 181(h)** adds dwelling units in the M-2 Zoning District to the existing provision that allows dwellings within PDR Zoning Districts to be expanded subject to Planning Code requirements applicable in the UMU Zoning District.

Link to signed legislation:

130783	0286-13	01/25/2014	Planning Code - Nonconforming Uses: Enlargement, Alteration or Reconstruction
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