

## When houses are sold in the social conservation area

Since November 2021, the possibilities for municipalities to implement the right of first refusal in social conservation areas have been severely restricted due to a landmark ruling by the Federal Administrative Court. Nevertheless, the district administration checks in every case whether a right of first refusal exists. The federal government is currently examining whether the legal basis for the right of first refusal should be changed in order to give the municipalities the opportunity to exercise the right of first refusal effectively.

## Which rent increases cannot be influenced by Erhaltungsrecht (conservation law)?

A social conservation ordinance can only influence modernisation-related rent increases but cannot prevent other rent increases under the German Civil Code (BGB).

### A social conservation ordinance has no influence on:

▲ basic rent increases pursuant to Section § 558 of the BGB

In Berlin, increases of 15 percent within three years are possible, up to a maximum of the local comparative rent (rent index).

▲ rent levels for new leases

Due to a federal rent control law called Mietpreisbremse (rent “break”), which has been introduced by the federal government in June 2015, rents on re-letting may not exceed ten percent above the local comparative rent, exceptions: new buildings and extensively modernized apartments.

▲ Modernisation apportionments in accordance with Section § 559 of the German Civil Code (BGB), if only the contemporary standard is established or minimum requirements under building regulations are met.

## If you have questions about your apartment

The tenant’ advisory service *asum* provides all tenants with free, individual tenancy law counselling on behalf of the district office. Here, you may clarify housing-related questions such as operating costs, rent increases, deficiencies, subsidized apartments, heating costs, rental agreements, cosmetic repairs and terminations.

In addition, you can obtain information on whether the upcoming modernisation is eligible for approval under Erhaltungsrecht (conservation law). However, even if measures are approved by the district office, this does not necessarily mean that you have to fully tolerate the planned measures. Do not hastily agree to a modernisation announcement or a rent increase. Make an appointment with the tenant’ advisory service *asum* and make use of your rights!

**Exchange information with your neighbours, join together to form house communities! This might help to ensure that modernisation measures take place in a socially acceptable manner.**

### Publisher

#### Friedrichshain-Kreuzberg District Office

Yorckstrasse 4-11, 10965 Berlin

- Urban Development Office, Conservation Areas Group -  
[www.berlin.de/ba-friedrichshain-kreuzberg/politik-und-verwaltung/aemter/stadtentwicklungsamt/stadtplanung/gruppe-erhaltungsgebiete/](http://www.berlin.de/ba-friedrichshain-kreuzberg/politik-und-verwaltung/aemter/stadtentwicklungsamt/stadtplanung/gruppe-erhaltungsgebiete/)

Phone number: 030 - 902 98 25 71

E-mail: [erhaltungsgebiete@ba-fk.berlin.de](mailto:erhaltungsgebiete@ba-fk.berlin.de)

### Here you will find support

Main location of *asum* GmbH  
Thaerstrasse 30d, 10249 Berlin



### Free tenants’ counseling by *asum* GmbH for all residents in Friedrichshain-Kreuzberg

You may set an appointment by calling the phone number **030 - 29 34 31 0** or by sending an e-mail to [info@asum-berlin.de](mailto:info@asum-berlin.de).

On the website of the tenant’ advisory service *asum* you will find all locations and office hours:  
[www.asum-berlin.de](http://www.asum-berlin.de)

Or by using the following QR code:



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**Social conservation area**  
**“Graefestraße”**  
**Information for residents**



## Dear residents of the area Graefestraße,

Since 1995, a social conservation ordinance is set in place for the residential area “Graefestraße” in accordance with § 172 paragraph 1 sentence 1 No. 2 of the Baugesetzbuch (*Building Code*). The social conservation ordinance is also known as *milieu protection*. The aim of the ordinance is to protect the residential population from displacement caused by modernisation measures or similar construction measures and to prevent negative social and urban developments. The district office uses all legal means to ensure that many people in Friedrichshain-Kreuzberg have a perspective to remain in their neighbourhood.

In social conservation areas, certain extensive modernisation measures as well as the conversion of rental apartments into condominiums (*freehold-flats*) can be restricted by the district office.

With this leaflet, we inform you about the regulations in the social conservation area.

Sincerely  
Florian Schmidt  
District Councilor for Building, Planning and cooperative urban development

## The social conservation area

The area Graefestraße is one of several social conservation areas in Friedrichshain-Kreuzberg. Around 15.500 people live here. Due to its inner-city location and its well-preserved old buildings, the area is highly popular as a residential neighbourhood. The residents of the area are exposed to high rent pressure. Particularly after expensive modernisation work, many people in the area are being asked to pay rents that they cannot afford. The social conservation ordinance aims to ensure that residents are not forced out of their neighbourhoods by these developments.

## What may be achieved by the social conservation ordinance?

### The district can prevent excessively expensive modernisation in the social conservation area.

Extensive modernisation measures drive up rents. Many tenants may no longer be able to afford their apartments and therefore lose the perspective to stay in their neighbourhoods. That is why so-called luxury modernisations are prohibited in social conservation areas.

### The following measures, among others, *must not* be approved by the district office in social conservation areas:

- ▲ changes to floor plans that are not necessary
- ▲ combining or dividing apartments
- ▲ addition of balconies, loggias or terraces with a floor area of more than four square meters
- ▲ addition of a second balcony, loggia or terrace
- ▲ installation of a second bathroom, tub and shower, underfloor heating system
- ▲ the change of use from residential to commercial (for example, to commercially operated vacation homes)

However, modernisation measures that solely establish the “contemporary amenity standard of an average apartment in the area” must always be approved. Nevertheless, this does not necessarily mean that you have to tolerate every measure. The district has commissioned the tenant advisory service *asum*, which may help tenants to clarify the question of toleration in each individual case (see last page).

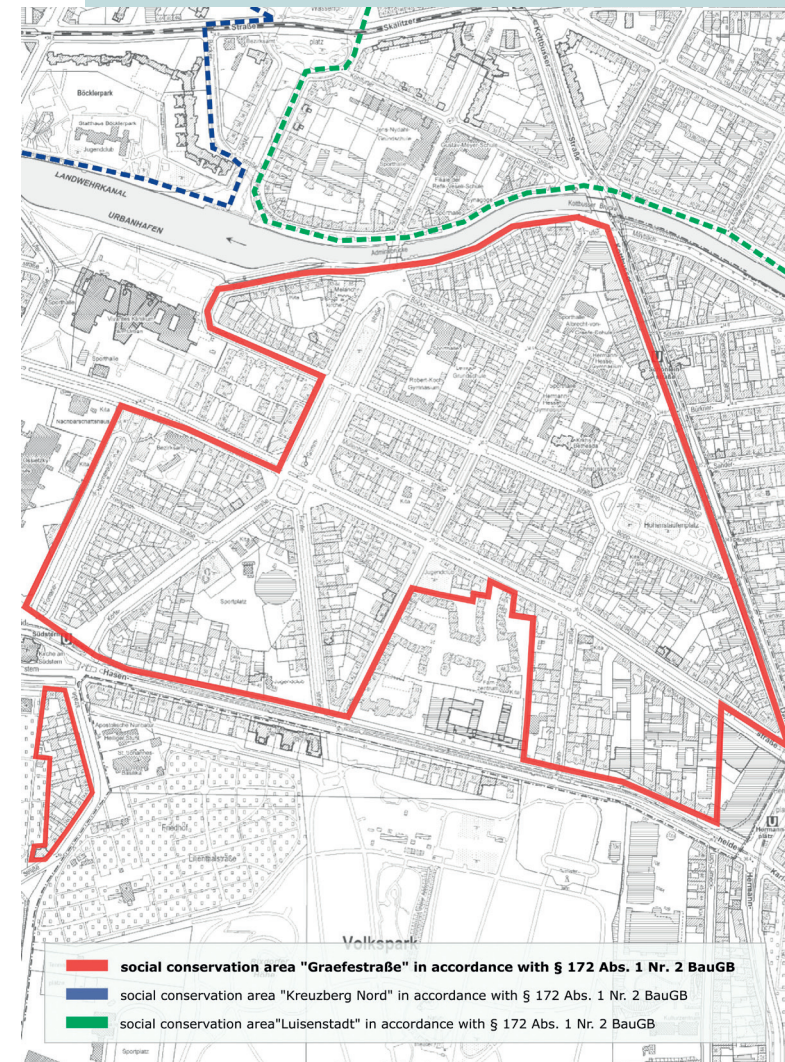
### The following measures, among others, *must* be approved by the district office in social conservation areas:

- ▲ first installation of a central heating system with hot water supply
- ▲ first installation of a bathroom
- ▲ addition of contemporary equipment to an existing bathroom
- ▲ basic installation of plumbing, water, electrical, antenna, cable TV and intercom (audio) systems
- ▲ renewal of existing windows in accordance with the Building Energy Act
- ▲ obligatory energetic renovations
- ▲ attic conversion and new construction

The addition of elevators will be examined by the district office on a case-by-case basis.

### Conversions of rental apartments into condominiums are regulated by the district in the social conservation area.

With effect from 06.10.2021, the so-called conversion ordinance according to § 250 BauGB came into force in Berlin. The ordinance designates Berlin as an area with a tense housing market. The ordinance further establishes that the conversion of rental flats into owner-occupied flats in existing residential buildings with more than five flats requires a special permit (§ 250 paragraph 3 sentence 1



No. 3 BauGB). The conversion is only to be approved by the district administration if there is a so called “approval condition” (§ 250 paragraph 3 BauGB), for example if at least two thirds of the condominiums are to be sold to tenants for their own use. The new regulation according to § 250 BauGB expires at the latest at the end of December 31<sup>st</sup> 2025.