

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing and Community Development  
Delene Wolf, Executive Director, Rent Board  
Cynthia Goldstein, Executive Director, Board of Appeals

FROM: Derek Evans, Assistant Clerk, Board of Supervisors

DATE: September 22, 2015

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed substitute legislation, introduced by Supervisor Wiener on September 15, 2015:

**File No. 150587**

**Ordinance amending the Building and Planning Codes to require written and posted notice to all tenants of a building in which demolition or merger of a dwelling unit is proposed; requiring an affidavit and notice if kitchens, stoves or bathrooms would be removed; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, Planning Code, Section 302, and the eight priority policies of Planning Code, Section 101.1.**

If you have any additional comments or reports to be included with the file, please forward them to the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc:

Eugene Flannery, Mayor's Office of Housing and Community Development  
Sophie Hayward, Mayor's Office of Housing and Community Development  
Gary Cantara, Board of Appeals

1 [Building and Planning Codes - Notice to Tenants of Dwelling Unit Merger or Demolition]

2

3 **Ordinance amending the Building and Planning Codes to require written and posted**  
4 **notice to all tenants of a building in which demolition or merger of a dwelling unit is**  
5 **proposed; and requiring an affidavit and notice if kitchens, stoves or bathrooms would**  
6 **be removed; affirming the Planning Department's determination under the California**  
7 **Environmental Quality Act; and making findings of consistency with the General Plan,**  
8 **Planning Code, Section 302, and the eight priority policies of Planning Code, Section**  
9 **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.

14

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

16 Section 1. Findings.

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

22 (b) On September 10, 2015, the Planning Commission, in Resolution No. 19455,  
23 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
24 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
25

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
2 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that the actions  
4 contemplated in this ordinance will serve the public necessity, convenience, and welfare for  
5 the reasons set forth in Planning Commission Resolution No. 19455 and the Board  
6 incorporates such reasons herein by reference. A copy of the Planning Commission  
7 Resolution No. 19455 is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

8 (d) The Planning and Building Codes do not require that all tenants receive notice  
9 when permits are applied for or issued, even where the proposed work will affect their place of  
10 residence. Some tenants, particularly those residing in existing non-permitted units, are not  
11 aware of the issuance of a permit that may result in the removal of their unit. They are  
12 therefore unable to comment upon, be involved in, or potentially appeal the issuance of the  
13 permit, and are left with little recourse through the City processes.

14  
15 Section 2. The Building Code is hereby amended by revising Sections 106A.3.1,  
16 106A.3.2.3 and 106A.4.6 to read as follows:

17  
18 **106A.3.1 Application.** To obtain a permit, the applicant shall first file an application therefor  
19 in writing on a form furnished by the code enforcement agency for that purpose. Every such  
20 application shall:

- 21 1. Identify and describe the work to be covered by the permit for which application is  
22 made.
- 23 2. Describe the land on which the proposed work is to be done by legal description,  
24 street address or similar description that will readily identify and definitely locate the proposed  
25 building or work.



1           3. For new buildings or structures, indicate the use or occupancy of all parts of the  
2 building or structure for which the proposed work is intended. For alteration work, indicate the  
3 proposed use or occupancy and the most current legal use or occupancy of all portions of the  
4 building or structure affected by or relevant to the proposed work.

5           4. Be accompanied by plans, diagrams, computations and specifications and other  
6 data as required in Section 106A.3.2.

7           5. State the valuation of any new building or structure or any addition, remodeling or  
8 alteration to an existing building.

9           6. Be signed by the owner, or the owner's authorized agent, who may be required to  
10 submit evidence to indicate such authority. Such agent shall be responsible for advising the  
11 owner of all conditions attached to the application by the various approving agencies.

12           7. Give such other data and information as may be required by the building official.

13           8. Include, when available, the name, address and telephone number of the owner or  
14 contractor. When applicable, State and City license numbers shall be indicated.

15           9. Contain an agreement by the owner of the premises to hold harmless the City and  
16 County of San Francisco and its officials and employees from all costs, liability and damages  
17 resulting, whether directly or indirectly, from use or occupancy of the sidewalk, street or  
18 subsidewalk space, or from anything in connection with the work included in the permit. The  
19 agreement shall run with the land and be binding on all of the owner's successors in title.

20           10. Include an affidavit, signed under penalty of perjury, that the owner, or the owner's  
21 authorized representative, is not removing a legal or illegal dwelling unit, as defined in the Housing  
22 Code, when the work included in the permit is removal of a stove, kitchen, as defined in the Housing  
23 Code, or bathroom, as defined in the Housing Code. Such affidavit shall be posted prominently for at  
24 least fifteen (15) days in a conspicuous common area within the building where the work is proposed  
25 and shall be provided via hand delivery or U.S. mail to all tenants residing in the building.

1  
2 **106A.3.2.3 Substantial alterations – Notification, sign posting and affidavits.** In addition  
3 to any other requirements for notice set forth in this code, the following shall apply:

4 Any person filing an application to (1) substantially alter, as that term is defined by the  
5 Building Official, an apartment house or residential hotel (as defined in Section 41.4(p) of the  
6 ~~San Francisco~~ Administrative Code) that contains five or more dwelling units, or (2) remove a  
7 legal or illegal dwelling unit, as defined in the Housing Code, shall post a sign at least 15 inches by  
8 15 inches (381 mm × 381 mm) in a conspicuous common area of the apartment house or  
9 residential hotel for at least 15 days with the following information: notice that the application  
10 has been made, the nature of the work to be performed, the means of obtaining information  
11 from the Department, and the procedure for appealing the issuance of building permits. When  
12 the permit application proposes to remove a legal or illegal dwelling unit, the posted sign shall also  
13 contain a list of tenant counseling or legal services that can provide assistance to tenants with  
14 understanding and participating in the City's processes, and notice of such application shall be  
15 delivered via hand delivery or U.S. mail to all tenants in the building. Such notice shall also include  
16 contact information for translation services into Spanish, Chinese, and Russian. In occupied  
17 residential unreinforced masonry buildings, required signs shall also include specified  
18 information provided by the Building Official. The applicant shall thereafter submit an affidavit  
19 signed under penalty of perjury stating that the sign has been posted as required by this  
20 section. See Section 110A, Table 1A-L – Public Information – for fee to defray the cost of  
21 maintaining records of said affidavits. The Building Official shall not approve the application  
22 until this affidavit is submitted. If there is reason to believe that the sign was not posted as  
23 required, the Building Official shall investigate the matter, shall provide the applicant an  
24 opportunity to respond to any complaint of noncompliance, shall determine whether the  
25



1 requirements of this section have been substantially met, and shall cancel an application or  
2 revoke the permit if it is determined they have not been substantially met.

3  
4 **106A.4.6 Notice of permit issuance.** Within 24 hours after the issuance of a building permit  
5 authorizing the types of work described below, notice of such issuance shall be given in the  
6 manner set forth below.

7 1. For permits to demolish or erect a building or structure, or to move a structure to a  
8 new site, the permittee shall obtain from the Department a sign containing the following  
9 information: permit number; filing date; address and phone number of the agency to contact  
10 for information regarding permit issuance; the date of permit issuance; address and phone of  
11 agency to contact to appeal issuance of permit; name, address and phone number of  
12 permittee.

13 For unreinforced masonry buildings, additional information shall be provided, as  
14 required by the Building Official.

15 See Section 110A, Table 1A-L – Public Information – for applicable fee.

16 The permittee shall cause the sign to be erected on the site of the property to which the  
17 application applies.

18 **Location of sign.** The sign shall be clearly visible to passing motorists and passing  
19 pedestrians. In the case of moved buildings, the sign shall be posted at the site onto which the  
20 building is to be moved. The minimum dimensions shall be 30 inches by 30 inches (762 mm ×  
21 762 mm), unless the permit relates to a vacant site or a vacant building, in which case the  
22 Building Official may require a sign up to 8 feet (2.438 m) wide and 4 feet (1.219 m) high upon  
23 a determination that the larger sign will provide better public notice. If a larger sign is required,  
24 the permittee shall provide it, and it shall contain the information set forth above. The sign  
25 required herein shall be installed as follows: The bottom edge of the sign shall be at least 6

1 feet (1.829 m) above grade; the face of the sign shall be parallel to the main street frontage  
2 and shall be located 5 feet (1.524 m) or less from the street property line; the sign shall be  
3 attached to one or more posts substantially embedded into the ground in order to withstand  
4 wind or other load factors, or may be attached to an existing front building wall. The  
5 background color of the sign shall be white, and the color of the text shall be black; the letter  
6 size of the first line shall be a minimum of 8 inches (203.2 mm) high; the size and style of the  
7 text shall be such that the message is clear and legible from a distance of 10 feet (3.048 m) to  
8 a viewer with normal vision.

9 **Duration of sign posting.** The permittee shall cause the sign to be erected within 24  
10 hours after a permit is issued. The sign shall remain posted until either the conclusion of the  
11 hearing on the permit before the Board of Appeals or the time for filing such appeal has  
12 lapsed without an appeal being filed. Work under a demolition permit shall not begin until 15  
13 days after the date on which the permit is issued.

14 **Revocation for noncompliance.** The Building Official shall, after providing the  
15 permittee an opportunity to respond to any complaint of noncompliance, revoke any permit  
16 where the applicant has not substantially complied with the provisions of this section or  
17 Section 106A.3.2.3 requiring notice of permit application and issuance.

18 The requirements contained in this code relating to notice are not intended to give any  
19 right to any person to challenge in any administrative or judicial proceeding any action for  
20 which notice is given if such person would not otherwise have the legal right to do so.

21 2. For a permit which would authorize a structural addition to an existing building, the  
22 Department shall mail written notice to the owners of properties immediately adjacent to the  
23 subject building as shown on the current tax roll. See Section 110A, Table 1A-L – Public  
24 Information – for applicable fee.  
25



1           3. For a permit which would authorize the demolition or moving of a building or  
2 structure, written notice shall be mailed to the owners of properties within 300 feet (91.44 m)  
3 in every direction from the edge of the property on which the proposed demolition work will  
4 take place, or from which the building will be moved. Owners notified shall be as shown on the  
5 last annual tax roll. Notice to interested organizations or groups shall be made as provided in  
6 Section 106A.4 of this code.

7           4. For changes in occupancy per this code, notice shall be provided as specified in  
8 Section 6 of the San Francisco Business and Tax Regulations Code. See Section 110A,  
9 Table 1A-L – Public Information – for applicable fee.

10           5. For a permit that would authorize removal of a legal or illegal dwelling unit, as defined in  
11 the Housing Code, permittee shall post a sign at least 15 inches by 15 inches (381 mm × 381 mm) in a  
12 conspicuous common area of the building where the work will occur, with the following information:  
13 permit number; filing date; address and phone number of the agency to contact for information  
14 regarding permit issuance; the date of permit issuance; address and phone number of agency to  
15 contact to appeal issuance of permit; name, address and phone number of permittee. The sign shall  
16 also contain a list of tenant counseling or legal services that can provide assistance to tenants with  
17 understanding and participating in the City's processes. The sign shall remain posted until either the  
18 conclusion of the hearing on the permit before the Board of Appeals or the time for filing such appeal  
19 has lapsed without an appeal being filed. Such notice shall also include contact information for  
20 translation services into Spanish, Chinese, and Russian.

21           **Revocation for noncompliance.** The Building Official shall, after providing the permittee an  
22 opportunity to respond to any complaint of noncompliance, revoke any permit where the applicant has  
23 not substantially complied with the provisions of this section or Section 106A.3.2.3 requiring notice of  
24 permit application and issuance.



1 Section 3. The Planning Code is hereby amended by revising Sections 311 and 312 to  
2 read as follows:

3  
4 **SEC. 311. RESIDENTIAL PERMIT REVIEW PROCEDURES FOR RH, RM, AND RTO**  
5 **DISTRICTS.**

6 (a) Purpose. The purpose of this Section is to establish procedures for reviewing  
7 building permit applications for lots in R Districts in order to determine compatibility of the  
8 proposal with the neighborhood and for providing notice to property owners and residents on  
9 the site and neighboring the site of the proposed project and to interested neighborhood  
10 organizations, so that concerns about a project may be identified and resolved during the  
11 review of the permit.

12 (b) Applicability. Except as indicated herein, all building permit applications for  
13 demolition and/or new construction, and/or alteration of residential buildings, including the  
14 removal of an authorized or unauthorized residential unit, in RH, RM, and RTO Districts shall be  
15 subject to the notification and review procedures required by this Section. Subsection 311(e)  
16 regarding demolition permits and approval of replacement structures shall apply to all R  
17 Districts.

18 (1) For the purposes of this Section, an alteration in RH and RM Districts shall  
19 be defined as any change in use, removal of more than 75 percent of a residential building's  
20 existing interior wall framing or the removal of more than 75 percent of the area of the existing  
21 framing, or an increase to the exterior dimensions of a residential building except those  
22 features listed in Section 136(c)(1) through 136(c)(24) and 136(c)(26).

23 (2) For the purposes of this Section, an alteration in RTO Districts shall be  
24 defined as a change of use described in Section 312(c), removal of more than 75 percent of a  
25 building's existing interior wall framing or the removal of more than 75 percent of the area of

1 the existing framing, or an increase to the exterior dimensions of a building except those  
2 features listed in Section 136(c)(1) through 136(c)(24) and 136(c)(26).

3 (c) Building Permit Application Review for Compliance and Notification. Upon  
4 acceptance of any application subject to this Section, the Planning Department shall review  
5 the proposed project for compliance with the Planning Code and any applicable design  
6 guidelines approved by the Planning Commission. Applications determined not to be in  
7 compliance with the standards of Articles 1.2, 1.5, 2 and 2.5 of the Planning Code, Residential  
8 Design Guidelines, including design guidelines for specific areas adopted by the Planning  
9 Commission, or with any applicable conditions of previous approvals regarding the project,  
10 shall be held until either the application is determined to be in compliance, is disapproved or a  
11 recommendation for cancellation is sent to the Department of Building Inspection.

12 (1) Residential Design Guidelines. The construction of new residential buildings  
13 and alteration of existing residential buildings in R Districts shall be consistent with the design  
14 policies and guidelines of the General Plan and with the "Residential Design Guidelines" as  
15 adopted and periodically amended for specific areas or conditions by the Planning  
16 Commission. The design for new buildings with residential uses in RTO Districts shall also be  
17 consistent with the design standards and guidelines of the "Ground Floor Residential Units  
18 Design Guidelines" as adopted and periodically amended by the Planning Commission. The  
19 Planning Director may require modifications to the exterior of a proposed new residential  
20 building or proposed alteration of an existing residential building in order to bring it into  
21 conformity with the "Residential Design Guidelines" and with the General Plan. These  
22 modifications may include, but are not limited to, changes in siting, building envelope, scale  
23 texture and detailing, openings, and landscaping.

24 (2) Notification. Upon determination that an application is in compliance with  
25 the development standards of the Planning Code, the Planning Department shall cause a



1 notice to be posted on the site pursuant to rules established by the Zoning Administrator and  
2 shall cause a written notice describing the proposed project to be sent in the manner  
3 described below. This notice shall be in addition to any notices required by the Building Code  
4 and shall have a format and content determined by the Zoning Administrator. It shall include a  
5 description of the proposal compared to any existing improvements on the site with  
6 dimensions of the basic features, elevations and site plan of the proposed project including  
7 the position of any adjacent buildings, exterior dimensions and finishes, and a graphic  
8 reference scale. The notice shall describe the project review process and shall set forth the  
9 mailing date of the notice and the expiration date of the notification period.

10 Written notice shall be mailed to the notification group which shall include the project  
11 sponsor, tenants of the subject property, relevant neighborhood organizations as described in  
12 Subparagraph 311(c)(2)(C) below, all individuals having made a written request for notification  
13 for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to  
14 the extent practical, occupants, of properties in the notification area. *For the purposes of Section*  
15 *311(g) below, written notice shall also be mailed to tenants of the subject property in unauthorized*  
16 *residential units.*

17 (A) The notification area shall be all properties within 150 feet of the  
18 subject lot in the same Assessor's Block and on the block face across from the subject lot.  
19 When the subject lot is a corner lot, the notification area shall further include all property on  
20 both block faces across from the subject lot, and the corner property diagonally across the  
21 street.

22 (B) The latest City-wide Assessor's roll for names and addresses of  
23 owners shall be used for said notice.

24 (C) The Planning Department shall maintain a list, available for public  
25 review, of neighborhood organizations which have indicated an interest in specific properties



1 or areas. The organizations having indicated an interest in the subject lot or its area shall be  
2 included in the notification group for the proposed project.

3 (3) Notification Period. All building permit applications shall be held for a period  
4 of 30 calendar days from the date of the mailed notice to allow review by residents and  
5 owners of neighboring properties and by neighborhood groups.

6 (4) Elimination of Duplicate Notice. The notice provisions of this Section may  
7 be waived by the Zoning Administrator for building permit applications for projects that have  
8 been, or before approval will be, the subject of a duly noticed public hearing before the  
9 Planning Commission or Zoning Administrator, provided that the nature of work for which the  
10 building permit application is required is both substantially included in the hearing notice and  
11 is the subject of the hearing.

12 (5) Notification Package. The notification package for a project subject to notice  
13 under this Section 311 shall include a written notice and reduced-size drawings of the project.

14 (A) The written notice shall compare the proposed project to the existing  
15 conditions at the development lot. Change to basic features of the project that are quantifiable  
16 shall be disclosed on the written notice. The basic features of existing and proposed  
17 conditions shall include, where applicable, front setback, building depth, rear yard depth side  
18 setbacks, building height, number of stories, dwelling unit count and use of the building.

19 (B) The written notice shall describe whether the project is a demolition,  
20 new construction or alteration project. If the project is an alteration, the type of alteration shall  
21 be described: horizontal, vertical or both horizontal and vertical additions and where the  
22 alteration is located.

23 (C) Written project description shall be part of the notice. In addition, the  
24 notice shall describe the project review process, information on how to obtain additional  
25 information and the contact information of the Planning Department.

1 (D) The building permit application number(s) shall be disclosed in the  
2 written notice. The start and expiration dates of the notice shall be stated. A description about  
3 the recipient's rights to request additional information, to request Discretionary Review by the  
4 Planning Commission and to appeal to other boards or commissions shall be provided.

5 (E) 11x17 sized or equivalent drawings to scale shall be included with  
6 the Section 311 written notice. The drawings shall illustrate the existing and proposed  
7 conditions in relationship to the adjacent properties. All dimensions and text throughout the  
8 drawings shall be legible. The drawings shall include a site plan, floor plans and elevations  
9 documenting dimensional changes that correspond to the basic features included in the  
10 written notice.

11 (F) The existing and proposed site plan shall illustrate the project  
12 including the full lots and structures of the directly adjacent properties.

13 (G) The existing and proposed floor plans shall illustrate the location and  
14 removal of interior and exterior walls. The use of each room shall be labeled. Significant  
15 dimensions shall be provided to document the change proposed by the project.

16 (H) The existing and proposed elevations shall document the change in  
17 building volume: height and depth. Dimensional changes shall be documented, including  
18 overall building height and also parapets, penthouses and other proposed vertical and  
19 horizontal building extensions. The front and rear elevations shall include the full profiles of  
20 the adjacent structures including the adjacent structures' doors, windows and general  
21 massing. Each side elevation shall include the full profile of the adjacent building in the  
22 foreground of the project, and the adjacent windows, lightwells and general massing shall be  
23 illustrated.

24 (d) Requests for Planning Commission Review. A request for the Planning  
25 Commission to exercise its discretionary review powers over a specific building permit



1 application shall be considered by the Planning Commission if received by the Planning  
2 Department no later than 5:00 p.m. of the last day of the notification period as described  
3 under Subsection (c)(3) above, subject to guidelines adopted by the Planning Commission.  
4 The project sponsor of a building permit application may request discretionary review by the  
5 Planning Commission to resolve conflicts between the Director of Planning and the project  
6 sponsor concerning requested modifications to comply with the Residential Design  
7 Guidelines.

8 (1) Scheduling of Hearing. The Zoning Administrator shall set a time for  
9 hearing requests for discretionary review by the Planning Commission within a reasonable  
10 period.

11 (2) Notice. Mailed notice of the discretionary review hearing by the Planning  
12 Commission shall be given not less than 10 days prior to the date of the hearing to the  
13 notification group as described in Paragraph 311(c)(2) above. Posted notice of the hearing  
14 shall be made as provided under Planning Code Section 306.8.

15 (e) Demolition of Dwellings, Approval of Replacement Structure Required. Unless the  
16 building is determined to pose a serious and imminent hazard as defined in the Building Code  
17 an application authorizing demolition in any R District of an historic or architecturally important  
18 building or of a dwelling shall not be approved and issued until the City has granted final  
19 approval of a building permit for construction of the replacement building. A building permit is  
20 finally approved if the Board of Appeals has taken final action for approval on an appeal of the  
21 issuance or denial of the permit or if the permit has been issued and the time for filing an  
22 appeal with the Board has lapsed with no appeal filed.

23 (1) The demolition of any building whether or not historically and architecturally  
24 important may be approved administratively where the Director of the Department of Building  
25 Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines, after



1 consultation with the Zoning Administrator, that an imminent safety hazard exists, and the  
2 Director of the Department of Building Inspection determines that demolition or extensive  
3 alteration of the structure is the only feasible means to secure the public safety.

4 (f) Wireless Telecommunications Services Facility as Accessory Use, Notification and  
5 Review Required. Building permit applications for new construction of a wireless  
6 telecommunications services facility as an accessory use under Article 2 of the Planning Code  
7 in RH and RM Districts shall be subject to the notification and review procedures required by  
8 this Section.

9 (g) Removal of Residential Units. When removal or elimination of a residential unit is  
10 proposed, the Applicant shall provide notice to occupants of the subject property by complying with the  
11 following notification procedures.

12 (1) The Applicant shall provide a list of all existing residential units in the subject  
13 property to the Zoning Administrator, including those units that may be unauthorized residential units.

14 (2) The Applicant shall post a notice of the application at least 30 inches by 30 inches  
15 in a conspicuous common area of the subject property, with the content as described in Subsections  
16 (c)(5)(A) – (D) above, and including the phone numbers of the agencies to contact regarding building  
17 permit issuance and appeal. The sign shall also indicate the appropriate City agency or resource to  
18 contact for assistance in securing tenant counseling or legal services that can provide assistance to  
19 tenants with understanding and participating in the City's processes. The sign shall be posted no later  
20 than the start date of the notice required under Subsection (c)(5) and shall remain posted until the  
21 conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator,  
22 the Board of Supervisors or the Board of Appeals. Such notice shall also include contact information  
23 for translation services into Spanish, Chinese, and Russian.

24 (3) The Planning Department shall cause notice to be mailed to all residential units in  
25 the building, including any unauthorized residential units.

1                   (4) If an application proposes the kind of work set forth in Section 311(b) above, the  
2 Applicant shall comply with the notification requirements set forth in Section 311(c) above, in addition  
3 to the on-site notification requirements set forth in this Section 311(g), but this Section 311(g) shall not  
4 require compliance with such notification requirements if they are otherwise not required.

5  
6 **SEC. 312. PERMIT REVIEW PROCEDURES FOR ALL NC, RED, AND EASTERN**  
7 **NEIGHBORHOODS MIXED USE DISTRICTS.**

8           (a) Purpose. The purpose of this Section is to establish procedures for reviewing  
9 building permit applications for lots in NC, RED, and Eastern Neighborhoods Mixed Use  
10 Districts in order to determine compatibility of the proposal with the neighborhood and for  
11 providing notice to property owners, occupants and residents on the site and neighboring the  
12 site of the proposed project and to interested neighborhood organizations, so that concerns  
13 about a project may be identified and resolved during the review of the permit.

14           (b) Applicability. Except as indicated herein, all building permit applications for  
15 demolition, new construction, the removal of an authorized or unauthorized residential unit,  
16 changes in use to a formula retail use as defined in Section 303.1 of this Code or alterations  
17 which expand the exterior dimensions of a building shall be subject to the notification and  
18 review procedures required by Subsection 312(d). Subsection 312(f) regarding demolition  
19 permits and approval of replacement structures shall apply to all NC, RED, and Eastern  
20 Neighborhoods Mixed Use Districts. For the purposes of this Section, addition to a building of  
21 the features listed in Section 136(c)(1) through 136(c)(24) and 136(c)(26) shall not be subject  
22 to notification under this Section.

23           (c) Changes of Use. In NC Districts, all building permit applications for a change of  
24 use to a bar, as defined in Section 790.22, a liquor store, as defined in Section 790.55, a  
25 walkup facility, as defined in Section 790.140, other large institutions, as defined in Section



1 790.50, other small institutions, as defined in Section 790.51, a Limited Restaurant, as defined  
2 in Section 790.90, a Restaurant, as defined in Section 790.91, a massage establishment, as  
3 defined in Section 790.60, an outdoor activity, as defined in Section 790.70, an adult or other  
4 entertainment use, as defined in Sections 790.36 and 790.38, a fringe financial service use,  
5 as defined in Section 790.111, or Group Housing as defined in Section 790.88(b) shall be  
6 subject to the provisions of Subsection 312(d); provided, however, that a change of use from  
7 a Restaurant to a Limited-Restaurant shall not be subject to the provisions of Subsection  
8 312(d). In all RED and Eastern Neighborhoods Mixed Use Districts all building permit  
9 applications for a change of use from anyone land use category to another land use category  
10 shall be subject to the provisions of Subsection 312(d). In addition, any accessory massage  
11 use in the Ocean Avenue Neighborhood Commercial Transit District shall be subject to the  
12 provisions of Subsection 312(d).

13 For the purposes of this Subsection, "land use category" shall mean those categories  
14 used to organize the individual land uses which appear in the use tables in Article 8,  
15 immediately preceding a group of individual land uses, and include the following: residential  
16 use, institutional use, retail sales and service use, assembly, recreation and entertainment  
17 use, office use, motor vehicle services use, industrial home and business service use, or other  
18 use.

19 (d) Building Permit Application Review for Compliance and Notification. Upon  
20 acceptance of any application subject to this Section, the Planning Department shall review  
21 the proposed project for compliance with the Planning Code and any applicable design  
22 guidelines approved by the Planning Commission. Applications determined not to be in  
23 compliance with the standards of Articles 1.2, 1.5, 2 and 2.5 of the Planning Code, including  
24 design guidelines for specific areas adopted by the Planning Commission, or with any  
25 applicable conditions of previous approvals regarding the project, shall be held until either the



1 application is determined to be in compliance, is disapproved or a recommendation for  
2 cancellation is sent to the Department of Building Inspection.

3 (1) Neighborhood Commercial Design Guidelines. The construction of new  
4 buildings and alteration of existing buildings in NC Districts shall be consistent with the design  
5 policies and guidelines of the General Plan as adopted and periodically amended for specific  
6 areas or conditions by the Planning Commission. The Director of Planning may require  
7 modifications to the exterior of a proposed new building or proposed alteration of an existing  
8 building in order to bring it into conformity with the General Plan. These modifications may  
9 include, but are not limited to, changes in siting, building envelope, scale texture and detailing,  
10 openings, and landscaping.

11 (2) Notification. Upon determination that an application is in compliance with  
12 the development standards of the Planning Code, the Planning Department shall cause a  
13 notice to be posted on the site pursuant to rules established by the Zoning Administrator and  
14 shall cause a written notice describing the proposed project to be sent in the manner  
15 described below. This notice shall be in addition to any notices required by the Building Code  
16 and shall have a format and content determined by the Zoning Administrator. It shall include a  
17 description of the proposal compared to any existing improvements on the site with  
18 dimensions of the basic features, elevations and site plan of the proposed project including  
19 the position of any adjacent buildings, exterior dimensions and finishes, a graphic reference  
20 scale, existing and proposed uses and commercial or institutional business name, if known.  
21 The notice shall describe the project review process and shall set forth the mailing date of the  
22 notice and the expiration date of the notification period.

23 Written notice shall be mailed to the notification group which shall include the project  
24 sponsor, tenants of the subject property, relevant neighborhood organizations as described in  
25 Subparagraph 312(d)(2)(C) below, all individuals having made a written request for

1 notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all  
2 owners and, to the extent practical, occupants, of properties in the notification area. For the  
3 purposes of Section 312(h) below, written notice shall also be mailed to tenants of the subject property  
4 in unauthorized residential units.

5 (A) The notification area shall be all properties within 150 feet of the  
6 subject lot in the same Assessor's Block and on the block face across from the subject lot.  
7 When the subject lot is a corner lot, the notification area shall further include all property on  
8 both block faces across from the subject lot, and the corner property diagonally across the  
9 street.

10 (B) The latest City-wide Assessor's roll for names and addresses of  
11 owners shall be used for said notice.

12 (C) The Planning Department shall maintain a list, updated every six  
13 months with current contact information, available for public review, and kept at the Planning  
14 Department's Planning Information Counter, and reception desk, as well as the Department of  
15 Building Inspection's Building Permit Counter, of neighborhood organizations which have  
16 indicated an interest in specific properties or areas. The organizations having indicated an  
17 interest in the subject lot or its area shall be included in the notification group for the proposed  
18 project. Notice to these groups shall be verified by a declaration of mailing signed under  
19 penalty of perjury. In the event that such an organization is not included in the notification  
20 group for a proposed project as required under this subsection, the proposed project must be  
21 re-noticed.

22 (3) Notification Period. All building permit applications shall be held for a period  
23 of 30 calendar days from the date of the mailed notice to allow review by residents,  
24 occupants, owners of neighboring properties and by neighborhood groups.



1           (4) Elimination of Duplicate Notice. The notice provisions of this Section may  
2 be waived by the Zoning Administrator for building permit applications for projects that have  
3 been, or before approval will be, the subject of a duly noticed public hearing before the  
4 Planning Commission or Zoning Administrator, provided that the nature of work for which the  
5 building permit application is required is both substantially included in the hearing notice and  
6 is the subject of the hearing.

7           (e) Requests for Planning Commission Review. A request for the Planning  
8 Commission to exercise its discretionary review powers over a specific building permit  
9 application shall be considered by the Planning Commission if received by the Planning  
10 Department no later than 5:00 p.m. of the last day of the notification period as described  
11 under Subsection (d)(3) above, subject to guidelines adopted by the Planning Commission.

12           The project sponsor of a building permit application may request discretionary review  
13 by the Planning Commission to resolve conflicts between the Director of Planning and the  
14 project sponsor concerning requested modifications to comply with relevant design guidelines  
15 of the General Plan.

16           (1) Scheduling of Hearing. The Zoning Administrator shall set a time for  
17 hearing requests for discretionary review by the Planning Commission within a reasonable  
18 period.

19           (2) Notice. Mailed notice of the discretionary review hearing by the Planning  
20 Commission shall be given not less than 10 days prior to the date of the hearing to the  
21 notification group as described in Paragraph 312(d)(2) above. Posted notice of the hearing  
22 shall be made as provided under Planning Code Section 306.8.

23           (f) Demolition of Dwellings, Approval of Replacement Structure Required. Unless the  
24 building is determined to pose a serious and imminent hazard as defined in the Building Code  
25 an application authorizing demolition in any NC or Eastern Neighborhoods Mixed Use District

1 of an historic or architecturally important building or of a dwelling shall not be approved and  
2 issued until the City has granted final approval of a building permit for construction of the  
3 replacement building. A building permit is finally approved if the Board of Appeals has taken  
4 final action for approval on an appeal of the issuance or denial of the permit or if the permit  
5 has been issued and the time for filing an appeal with the Board has lapsed with no appeal  
6 filed.

7 (1) The demolition of any building whether or not historically and architecturally  
8 important may be approved administratively where the Director of the Department of Building  
9 Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines, after  
10 consultation with the Zoning Administrator, that an imminent safety hazard exists, and the  
11 Director of the Department of Building Inspection determines that demolition or extensive  
12 alteration of the structure is the only feasible means to secure the public safety.

13 (g) Wireless Telecommunications Services Facility as Accessory Use, Notification and  
14 Review Required. Building permit applications for new construction of a wireless  
15 telecommunications services facility as an accessory use under Article 7 or 8 of the Planning  
16 Code in all NC, RED, or Eastern Neighborhoods Mixed Use Districts shall be subject to the  
17 notification and review procedures required by this Section.

18 (h) **Removal of Residential Units.** When removal or elimination of a residential unit is  
19 proposed, the Applicant shall comply with the following notification procedures.

20 (1) The Applicant shall provide a list of all residential units in the subject property to the  
21 Zoning Administrator, including those units that may be unauthorized residential units.

22 (2) The Applicant shall post a notice of the application at least 30 inches by 30 inches  
23 in a conspicuous common area of the subject property, with the content as described in Subsection  
24 (d)(2) above, and including the phone numbers of the agencies to contact regarding building permit  
25 issuance and appeal. The sign shall also indicate the appropriate City agency or resource to contact



1 for assistance in securing tenant counseling or legal services that can provide assistance to tenants  
2 with understanding and participating in the City's processes. The sign shall be posted no later than the  
3 mailing date of the notice required under Subsection (d)(2) above and shall remain posted until the  
4 conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator,  
5 the Board of Supervisors or the Board of Appeals. Such notice shall also include contact information  
6 for translation services into Spanish, Chinese, and Russian.

7 (3) The Planning Department shall cause notice to be mailed to all residential units in  
8 the building, including any unauthorized residential units.

9 (4) If an application proposes the kind of work set forth in Section 312(b) above, the  
10 Applicant shall comply with the notification requirements set forth in Section 312(d) above, in addition  
11 to the on-site notification requirements set forth in this Section 312(h), but this Section 312(h) shall not  
12 require compliance with such notification requirements if they are otherwise not required.

13  
14 Section 4. Effective Date. This ordinance shall become effective 30 days after  
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
17 of Supervisors overrides the Mayor's veto of the ordinance.

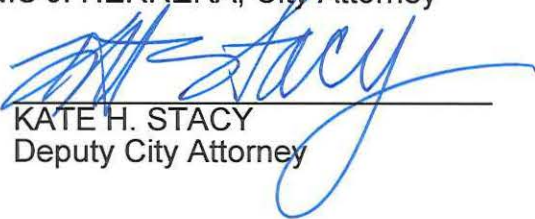
18  
19 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
20 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
21 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
22 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
23 additions, and Board amendment deletions in accordance with the "Note" that appears under

24 //  
25 //

1 the official title of the ordinance.

2

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

5 By:   
6 KATE H. STACY  
7 Deputy City Attorney

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