

File No. 130041

Committee Item No. 3

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date July 29, 2013

Board of Supervisors Meeting Date \_\_\_\_\_

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
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#### OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Categorical Exemption Stamp, dtd 1/22/13 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Planning Commission Resolution No. 18927 |
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Completed by: Alisa Miller Date July 26, 2013

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Planning Code - Conversion, Demolition, Merger, and Conformity of Residential Uses]

2  
3 **Ordinance amending Planning Code, Section 317, and various other sections, and**  
4 **repealing Sections 790.84, 790.86, 890.84, and 890.86, to revise the criteria for the**  
5 **residential demolition, conversion, and merger; standardize definitions of residential**  
6 **demolition, conversion, and merger across various use districts; permit the**  
7 **enlargement or alteration of dwelling units which are nonconforming as to density in**  
8 **districts where dwelling units are principally permitted if there is no increase in**  
9 **nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to**  
10 **nonconforming uses or noncomplying structures to comply with disabled access**  
11 **requirements or to provide secure bicycle parking; establish a strong presumption in**  
12 **favor of preserving dwelling units in enforcement of requirements for nonconforming**  
13 **uses, structures, and lots; and making environmental findings, Planning Code, Section**  
14 **302, findings, and findings of consistency with the General Plan and the Priority**  
15 **Policies of Planning Code, Section 101.1.**

16 NOTE: Additions are *single-underline italics Times New Roman*;  
17 deletions are *strike-through italics Times New Roman*.  
18 Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough normal~~.

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

20 Section 1. Findings.

21 (a) The Planning Department has determined that the actions contemplated in this  
22 ordinance comply with the California Environmental Quality Act (California Public Resources  
23 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of  
24 Supervisors in File No. 130041 and is incorporated herein by reference.

1 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
2 amendments will serve the public necessity, convenience, and welfare for the reasons set  
3 forth in Planning Commission Resolution No. 18927 and the Board hereby incorporates such  
4 reasons herein by reference. A copy of Planning Commission Resolution No. 18927 is on file  
5 with the Clerk of the Board of Supervisors in File No. 130041.

6 (c) This Board finds that these Planning Code amendments are consistent with the  
7 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set  
8 forth in Planning Commission Resolution No. 18927 and the Board hereby incorporates such  
9 reasons herein by reference.

10  
11 Section 2. The San Francisco Planning Code is hereby amended by repealing  
12 Sections 790.84, 790.86, 890.84, and 890.86, to read as follows:

13 ~~**SEC. 790.84. RESIDENTIAL CONVERSION.**~~

14 ~~*The change in occupancy (as defined and regulated by the Building Code) of any residential use*~~  
15 ~~*to a nonresidential use. This definition shall not apply to conversions of residential hotels, as defined*~~  
16 ~~*and regulated in Chapter 41 of the San Francisco Administrative Code.*~~

17 ~~**SEC. 790.86. RESIDENTIAL DEMOLITION.**~~

18 ~~*The demolition (as defined by the Building Code) of any building or structure or portion thereof*~~  
19 ~~*containing a residential use. This definition shall not apply to demolitions of residential hotels, as*~~  
20 ~~*regulated in Chapter 41 of the San Francisco Administrative Code.*~~

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23 ~~*to a nonresidential use. This definition shall not apply to conversions of residential hotels, as defined*~~  
24 ~~*and regulated in Chapter 41 of the San Francisco Administrative Code.*~~

25 ~~**SEC. 890.86. RESIDENTIAL DEMOLITION.**~~

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2 ~~containing a residential use. This definition shall not apply to conversions of residential hotels, as~~  
3 ~~regulated in Chapter 41 of the San Francisco Administrative Code.~~

4           Section 3. The San Francisco Planning Code is hereby amended by amending  
5 Sections 180, 181, 207.7, 212, 317, 703.2 and the Zoning Control Tables of Sections 710  
6 through 742, 803.8, and the Zoning Control Tables of Sections 803.2, 810 through 818 and  
7 827, to read as follows:

8           **SEC. 180. NONCONFORMING USES, NONCOMPLYING STRUCTURES AND**  
9 **SUBSTANDARD LOTS OF RECORD: GENERAL.**

10           The following provisions shall apply to ~~non-conforming~~ nonconforming uses,  
11 noncomplying structures and substandard lots of record:

12           (a) Definitions. Such uses, structures and lots are hereby defined as follows:

13           (1) A "nonconforming use" is a use which existed lawfully at the effective date of  
14 this Code, or of amendments thereto, or a live/work unit which existed on the effective date of  
15 Ordinance No. 412-88 (effective October 10, 1988) (other than a live/work unit wholly or partly  
16 occupying space whose legal occupancy under the Building Code was then limited to a  
17 residential occupancy) and which fails to conform to one or more of the use limitations under  
18 Articles 2, 6, 7 and 8 of this Code that then became applicable for the district in which the  
19 property is located.

20           (2) A "noncomplying structure" is a structure which existed lawfully at the  
21 effective date of this Code, or of amendments thereto, and which fails to comply with one or  
22 more of the regulations for structures, including requirements for off-street parking and  
23 loading, under Articles 1.2, 1.5, 2.5, 6, 7 and 8 of this Code, that then became applicable to  
24 the property on which the structure is located.

1 (3) A "substandard lot of record" is a lot which existed lawfully at the effective  
2 date of any requirement of this Code applicable thereto for minimum lot width or area (on  
3 December 26, 1946, or through subsequent amendments), and which fails to meet one or  
4 more of such requirements. Any lot existing and recorded as a separate parcel in the office of  
5 the Assessor or the Recorder at such effective date shall be deemed to be a lot of record  
6 under this Code as of such date. Any lot created by merger of such existing lots of record or  
7 parts thereof in such a manner as to establish a lesser number of lots, each having an  
8 increased area with no reduction in width, or an increased width with no reduction in area, or  
9 both an increased area and an increased width, shall also be deemed to be a lot of record  
10 under this Code as of the date of such merger.

11 (b) Timely compliance with the Code. Such uses, structures and lots, in failing to meet  
12 applicable requirements of this Code, are incompatible with the purposes of this Code and  
13 with other uses, structures and lots in the City, and it is intended that these uses, structures  
14 and lots shall be brought into compliance with this Code as quickly as the fair interests of the  
15 parties will permit.

16 (c) Continuation of nonconforming uses, structures, and lots. Notwithstanding any other  
17 provision of this Code, such uses, structures and lots may be continued, except as otherwise  
18 provided in Sections 180 through 189, and subject to the limitations of this Article 1.7.

19 (d) Change in ownership. A mere change of title or possession or right of possession of  
20 property, without any other change that is relevant to the restrictions of this Code, shall not  
21 terminate the status of a nonconforming use, noncomplying structure or substandard lot of  
22 record.

23 (e) Lawfully existing structures and uses. Any structure or use for which a permit was  
24 lawfully granted prior to May 2, 1960, pursuant to the ~~City~~ Planning Code provisions in effect  
25 on that date, and which was thereafter commenced and completed in accordance with such

1 provisions, shall be deemed to have been a lawfully existing structure or use on that date. Any  
2 structure or use for which a permit has been lawfully granted pursuant to the provisions of this  
3 Code relating to amendments, and which has thereafter been commenced and completed in  
4 accordance with such provisions, shall be deemed to be a lawfully existing structure or use at  
5 the time of the amendment that causes it to become a noncomplying structure or a  
6 nonconforming use.

7 (f) Compliance with other requirements of the Planning Code. Except as specifically  
8 provided in this Code to the contrary, every nonconforming use, noncomplying structure and  
9 substandard lot of record shall comply with the applicable requirements of this Code, other  
10 than those requirements from which such uses, structures and lots are exempted by this  
11 Section 180.

12 (g) Nonconforming signs. Section 606(c) and other provisions of Article 6 of this Code  
13 shall regulate the signs permitted for nonconforming uses. In addition, signs which are  
14 themselves classified as nonconforming uses and noncomplying structures under this Code  
15 shall be governed by Section 604 and other provisions of Article 6 of this Code.

16 (h) Preserving Dwelling Units. In enforcing this Section 180, there shall be a strong  
17 presumption in favor of preserving Dwelling Units.

18 **SEC. 181. NONCONFORMING USES: ENLARGEMENTS, ALTERATIONS AND**  
19 **RECONSTRUCTION.**

20 The following provisions shall apply to ~~non-conforming~~ nonconforming uses with respect  
21 to enlargements, alterations and reconstruction:

22 (a) Increases in nonconformity. A nonconforming use, and any structure occupied by  
23 such use, shall not be enlarged, intensified, extended, or moved to another location, with the  
24 exception of the construction of a mezzanine within a live/work unit and expansion of dwelling  
25 units in PDR Districts, unless the result will be elimination of the nonconforming use, except

1 as provided in Paragraph (b)(3) and (i) below and Section 186.1 of this Code. A  
2 nonconforming use shall not be extended to occupy additional space in a structure, or  
3 additional land outside a structure, or space in another structure, or to displace any other use,  
4 except as provided in Sections 182 and 186.1 of this Code.

5 (b) Permitted alterations. A structure occupied by a nonconforming use shall not be  
6 constructed, reconstructed or altered, unless the result will be elimination of the  
7 nonconforming use, except as provided in Section 186.1 of this Code and in Subsections (a)  
8 above and (d), (e), (f) ~~and (g)~~, (h) and (i) below, and except as follows:

9 (1) Ordinary maintenance and minor repairs shall be permitted where necessary  
10 to keep the structure in sound condition, as well as minor alterations, where such work is  
11 limited to replacement of existing materials with similar materials placed in a similar manner.

12 (2) Minor alterations shall be permitted where ordered by an appropriate public  
13 official to correct immediate hazards to health or safety, or to carry out newly enacted  
14 retroactive requirements essential to health or safety.

15 (3) Alterations otherwise allowed by this Code shall be permitted for any portion  
16 of the structure that will not thereafter be occupied by the nonconforming use, provided the  
17 nonconforming use is not enlarged, intensified, extended, or moved to another location.

18 (4) All other alterations of a structural nature shall be permitted only to the extent  
19 that the aggregate total cost of such other structural alterations, as estimated by the  
20 Department of Building Inspection Public Works, is less than ½ of the assessed valuation of the  
21 improvements prior to the first such alteration, except that structural alterations required to  
22 reinforce the structure to meet the standards for seismic loads and forces of the Building Code  
23 shall be permitted without regard to cost.

24 (5) Alterations necessary to bring uses and structures into conformity with disabled  
25 access requirements or to provide secure bicycle parking shall be permitted.

1           (c) Dwellings nonconforming as to density. A dwelling or other housing structure  
2 exceeding the permitted density of dwelling units or other housing units set forth in Sections  
3 207.5, 208, 209.1, 209.2, or 215 of this Code for the district in which it is located shall be  
4 classified as a nonconforming use under Section 180 of this Code, but only to the extent that  
5 such dwelling or other housing structure exceeds the permitted density. In Districts where a  
6 Dwelling Unit is a principally permitted use, this ~~This~~ Section 181 shall not apply with respect to  
7 enlargements, alterations and reconstruction of the nonconforming portion of such dwelling or  
8 other housing structure, consisting of those dwelling units or other housing units which exceed  
9 the permitted density, so long as such enlargements, alterations, or reconstruction do not otherwise  
10 increase nonconformity in permitted height, bulk, or required rear yards or setbacks. Any dwelling  
11 unit or other housing unit coming within the density limit shall not be affected by this Section  
12 181. Except as provided in Sections 181(h) and 182(e), no dwelling or other housing structure  
13 exceeding the permitted density of dwelling units or other housing units shall be altered to  
14 increase the number of dwelling units or other housing units therein, or to increase or create  
15 any other nonconformity with respect to the dwelling unit or other housing unit density  
16 limitations of Section 209.1 or Section 209.2.

17           (d) Structures damaged or destroyed by calamity. Notwithstanding the foregoing provisions  
18 of this Section 181, a structure occupied by a nonconforming use that is damaged or  
19 destroyed by fire, or other calamity, or by Act of God, or by the public enemy, may be restored  
20 to its former condition and use; provided that such restoration is permitted by the Building  
21 Code, and is started within eighteen months and diligently prosecuted to completion. The age  
22 of such a structure for the purposes of Sections 184 and 185 shall nevertheless be computed  
23 from the date of the original construction of the structure. Except as provided in Subsection (e)  
24 below, no structure occupied by a nonconforming use that is voluntarily razed or required by  
25



1 law to be razed by the owner thereof may thereafter be restored except in full conformity with  
2 the use limitations of this Code.

3 For purposes of this Subsection (d), "started within eighteen months" shall mean that  
4 within eighteen months of the fire or other calamity or Act of God, the structure's owner shall  
5 have filed a building permit application to restore the structure to its former condition and use.

6 (e) Unreinforced masonry buildings. In order that major life safety hazards in structures  
7 may be eliminated as expeditiously as possible, a structure containing nonconforming uses  
8 and constructed of unreinforced masonry that is inconsistent with the requirements of the  
9 UMB Seismic Retrofit Ordinance, Ordinance No. 227-92, may be demolished and  
10 reconstructed with the same nonconforming use or a use as permitted by Planning Code  
11 Section 182; provided that:

12 (1) there is no increase in any nonconformity, or any new nonconformity, with  
13 respect to the use limitations of this Code;

14 (2) ~~provided further that~~ the current requirements of the Building Code, the  
15 Housing Code and other applicable portions of the Municipal Code are met; and

16 (3) ~~provided further that~~ such restoration or reconstruction is started within one  
17 year after razing or other demolition work on the structure and diligently prosecuted to  
18 completion.

19 (f) Nighttime Entertainment Uses in certain Mixed-Use Districts. A nighttime entertainment  
20 use within the RSD, MUG, MUR, or SLR Districts may be enlarged, intensified, extended or  
21 expanded, including the expansion to an adjacent lot or lots, provided that:

22 (1) the enlargement, intensification, extension or expansion is approved as a  
23 conditional use pursuant to Sections 303 and 316 of this Code;

1 (2) the use as a whole meets the parking and signage requirements, floor area  
2 ratio limit, height and bulk limit, and all other requirements of this Code which would apply if  
3 the use were a permitted one; and

4 (3) the provisions of Section 803.5(b) of this Code are satisfied.

5 (g) Automotive Sales and Service Signs in the Automotive Special Use District. Automotive  
6 sales and service signs within the Automotive Special Use District which have all required  
7 permits but which do not comply with the controls for new signs established in Section 607.3  
8 of this Code shall be permitted to remain as nonconforming uses and shall be permitted to  
9 modify the signage text to describe new automobile ownerships and dealerships that may  
10 occur from time to time.

11 (h) Dwellings in PDR and M-2 Districts. In PDR and M-2 Districts, no building containing  
12 a residential use shall be altered to increase the number of dwelling units or other housing  
13 units therein. However, individual dwelling units or other housing units may be expanded,  
14 subject to height, bulk, and all other provisions of this Code which would otherwise be  
15 applicable to dwelling units or other housing units in the Urban Mixed Use District.

16 (i) Nonconforming Non-Residential Uses in the Eastern Neighborhoods Mixed Use, PDR-1-  
17 D, and PDR-1-G Districts. In the Eastern Neighborhoods Mixed Use, PDR-1-D, and PDR-1-G  
18 Districts, a non-residential nonconforming use may expand in gross floor area by no more  
19 than 25 percent with eConditional #Use authorization pursuant to Section 303 of this Code.  
20 Such conditional use authorization may not be granted for any subsequent or additional  
21 expansion beyond the initial 25 percent.

22 **SEC. 207.7. RESTRICTIONS ON DEMOLITION, CONVERSION, AND MERGER OF**  
23 **EXISTING DWELLING UNITS IN RTO AND RTO-M, NCT, AND THE UPPER MARKET**  
24 **NEIGHBORHOOD COMMERCIAL DISTRICTS.**

1 (a) **Purpose.** The controls governing the RTO ~~and RTO-M, NCT, and the Upper Market~~  
2 ~~Neighborhood Commercial~~ Districts are flexible with regard to dwelling unit density and parking,  
3 and intended to foster creative infill housing of moderate to high density while maintaining the  
4 character of the district. The intent of this flexibility, however, is not to encourage the  
5 demolition or removal of existing housing stock, particularly units in older buildings.

6 (b) **Controls.** Demolition of any dwelling unit, merger of any two or more dwelling units,  
7 or conversion of a dwelling unit to a non-residential use (herein all generally referred to as  
8 "demolition") in an RTO ~~or RTO-M, NCT, or the Upper Market Neighborhood Commercial~~ District  
9 shall be permitted only with Conditional Use authorization from the Planning Commission  
10 ~~under Sections 313 and 317 of this Code . Under no circumstance may the Commission grant a~~  
11 ~~Conditional Use for demolition of a dwelling unit absent consideration of a replacement Code-~~  
12 ~~complying project on the same lot. In granting any Conditional Use, the Commission shall consider~~  
13 ~~each of the following characteristics of the dwelling unit(s) proposed for demolition and of the~~  
14 ~~proposed replacement project, and shall approve such demolition if, on balance, the proposal meets~~  
15 ~~these criteria, and serves the public interest:~~

16 (1) ~~the assessed value of the units proposed for demolition exceed that which is~~  
17 ~~affordable to households earning 100% of median income;~~

18 (2) ~~the units proposed for demolition are unsound, in accord with the Planning~~  
19 ~~Commission's adopted definition of "unsound";~~

20 (3) ~~there is no history of poor maintenance or Code violations;~~

21 (4) ~~the property is not a historic resource under CEQA;~~

22 (5) ~~the proposed replacement project results in a net increase in the number of units on-~~  
23 ~~site;~~

24 (6) ~~the proposed replacement project is of superb architectural and urban design, meets~~  
25 ~~or exceeds all relevant design guidelines and Area Plan policies;~~

1           ~~(7) the proposed replacement project preserves rental housing on site from conversion~~  
2 ~~to other forms of occupancy or tenure;~~

3           ~~(8) the proposed replacement project restores rent control to equivalent number of units~~  
4 ~~on the site;~~

5           ~~(9) the proposed replacement project features affordability at least equivalent to the~~  
6 ~~existing units;~~

7           ~~(10) the proposed replacement project represents no net loss in the number of family-~~  
8 ~~sized units;~~

9           ~~(11) the proposed replacement project serves as supportive housing or serves a special~~  
10 ~~or underserved population;~~

11           ~~(12) the proposed project seeks to convert a ground floor, street facing residential use~~  
12 ~~to a commercial use in a neighborhood commercial district where such commercial uses are desirable;~~  
13 ~~and~~

14           ~~(13) the proposed replacement project serves a public interest or public use that cannot~~  
15 ~~be met without the proposed demolition.~~

16 **SEC. 212. ADDITIONAL REQUIREMENTS FOR USES IN CERTAIN C AND M DISTRICTS.**

17           In the following C and M Districts, the permitted uses indicated in Sections 215 through  
18 227 shall be subject to the additional requirements contained in this Section 212.

19           (a) **Uses in enclosed buildings.** In ~~C-1 and~~ C-2 Districts, all permitted uses, and all  
20 storage, servicing, fabricating, processing or repair uses accessory thereto, shall be  
21 conducted within enclosed buildings, with the exceptions of:

- 22           (1) Those uses indicated by an asterisk (\*) in the column for the district;
- 23           (2) Accessory off-street parking and loading areas where permitted;
- 24           (3) Accessory outdoor dining areas where permitted;
- 25           (4) Accessory recreation areas where permitted; and,

1 (5) Mobile Food Facilities as defined in Section ~~102.34~~ 102.31.

2 (b) **Drive-up Facilities.** ~~Drive-in uses.~~ In ~~C-1,~~ and C-3 Districts, a Drive-up Facility, as  
3 defined in Section 790.30 of this Code, shall not be ~~no~~ permitted ~~use shall include an establishment of~~  
4 ~~the "drive-in" type, serving customers waiting in parked motor vehicles, with the exception of~~  
5 ~~automobile service stations and automobile washes where permitted.~~

6 (c) **Required ground-floor commercial frontage in ~~the~~ C-3 Districts.**

7 (1) **Purpose.** The purpose of this section is to assure continuity of retail and  
8 consumer service uses in the C-3-R ~~district~~ District, and in other important commercial streets  
9 in C-3 Districts.

10 (2) **Applicability.**

11 (A) In the C-3-R District, along any block frontage that is entirely within  
12 such district or partly in such district and partly in the C-3-O District, where such block  
13 frontage faces a street 40 feet or more in width;

14 (B) On building frontages facing Destination Alleyways, as defined in the  
15 Downtown Streetscape Plan;

16 (C) Along any street frontage facing Market Street in all C-3 Districts  
17 except the Van Ness and Market Downtown Residential Special Use District.

18 (3) **Controls.**

19 ~~(e)(1)~~ (A) **Ground story.** Only those permitted uses listed in Sections 218 and  
20 ~~227~~ 221 shall be located facing such street in the ground story of any building. At least 1/2 the  
21 total width of any new or reconstructed building, parallel to and facing such street, shall be  
22 devoted at the ground story to entrances, show windows or other displays of such uses.

23 ~~(e)(2)~~ (B) **All levels.** All other permitted uses shall be located either on stories  
24 above or below the ground story or at a distance of not less than 20 feet behind ~~the front of the~~  
25

1 *building each street frontage* at the ground story. No more than 1/3 the width of any lot, parallel  
2 to and facing such street, shall be devoted to entrances to such other permitted uses.

3 (d) Hazardous, noxious, or offensive uses prohibited. No use listed as permitted in any C  
4 District or M-1 District shall include any use that is hazardous, noxious or offensive for  
5 reasons described in Section 202(c) of this Code.

6 (e) **Loss of Housing in C-3 Districts.** In C-3 Districts, all Residential Conversion and  
7 Residential Demolition, as those terms are defined in Section 317, above the ground floor shall be  
8 subject to Conditional Use authorization under Sections 303 and 317 of this Code ~~demolitions of~~  
9 ~~residential buildings and all conversions to nonresidential use of residential uses above the ground~~  
10 ~~floor shall be permitted only if authorized as a conditional use under Section 303 of this Code, unless~~  
11 ~~the Superintendent of the Bureau of Building Inspection or the Chief of the Bureau of Fire Prevention~~  
12 ~~and Public Safety determines that the building is unsafe or dangerous and that demolition is the only~~  
13 ~~feasible means to secure the public safety. When considering whether to grant a conditional use permit~~  
14 ~~for the demolition or conversion, in lieu of the criteria set forth in Planning Code Section 303,~~  
15 ~~consideration shall be given to the adverse impact on the public health, safety and general welfare of~~  
16 ~~the loss of housing stock in the district and to any unreasonable hardship to the applicant if the permit~~  
17 ~~is denied.~~

18 **SEC. 317. LOSS OF DWELLING UNITS THROUGH MERGER, CONVERSION, AND**  
19 **DEMOLITION.**

20 (a) **Findings.** San Francisco faces a continuing shortage of affordable housing. There  
21 is a high ratio of rental to ownership tenure among the City's residents. The General Plan  
22 recognizes that existing housing is the greatest stock of rental and financially accessible  
23 residential units, and is a resource in need of protection. Therefore, a public hearing will be  
24 held prior to approval of any permit that would remove existing housing, with certain  
25 exceptions, as described below. The Planning Commission shall develop a Code

1 Implementation Document setting forth procedures and regulations for the implementation of  
2 this Section 317 as provided further below. The Zoning Administrator shall modify economic  
3 criteria related to property values and construction costs in the Implementation Document as  
4 warranted by changing economic conditions to meet the intent of this Section.

5 (b) **Definitions.** For the purposes of this Section 317, the terms below shall be defined  
6 as follows:

7 (1) "Residential Conversion of Residential Unit" shall mean the removal of cooking  
8 facilities in a Residential Unit or the change of occupancy (as defined and regulated by the  
9 Building Code), or the change of use (as defined and regulated by the Planning Code), of any  
10 Residential Use or Live-Work Unit to a non-residential use. This definition shall not apply to  
11 conversions of residential hotels, as defined and regulated in Chapter 41 of the San Francisco  
12 Administrative Code. The change of occupancy from a dwelling unit, group housing, or SRO to  
13 Student Housing is also considered a conversion of a ~~R~~Residential ~~U~~Unit. Notwithstanding the  
14 foregoing, the change of use or occupancy of a dwelling unit, group housing, or SRO to  
15 Student Housing is not considered a conversion of a ~~R~~Residential ~~U~~Unit if the dwelling unit,  
16 group housing or SRO will be Student Housing owned, operated or otherwise controlled by a  
17 not for profit post-secondary Educational Institution and

18 ~~(i)~~ (A) it was built by the post-secondary Educational Institution;

19 ~~(ii)~~ (B) it is in a convent, monastery, or similar religious order facility;

20 ~~(iii)~~ (C) it is on an adjoining lot (i.e., sharing the same lot line) to the post-  
21 secondary Educational Institution, so long as the lot has been owned by the post-secondary  
22 Educational Institution for at least ten years as of the effective date of ~~this~~ Ordinance 188-12;  
23 or

24 ~~(iv)~~ (D) as of August 10, 2010, it was owned, operated or otherwise  
25 controlled by a post-secondary Educational Institution that had an Institutional Master Plan on

1 file with the Planning Commission, and where the occupancy by those other than students at  
2 that date was less than 20% of the total occupants. For purposes of determining occupancy,  
3 the post-secondary Educational Institution shall present to the Planning Department verified  
4 information regarding its rental or lease of units as of that date.

5 (2) "Residential Demolition of Residential Buildings" shall mean any of the  
6 following:

7 (A) Any work on a Residential Building for which the Department of  
8 Building Inspection determines that an application for a demolition permit is required, or

9 (B) A major alteration of a Residential Building that proposes the  
10 Removal of more than 50% of the sum of the Front Facade and Rear Facade and also  
11 proposes the Removal of more than 65% of the sum of all exterior walls, measured in lineal  
12 feet at the foundation level, or

13 (C) A major alteration of a Residential Building that proposes the  
14 Removal of more than 50% of the Vertical Envelope Elements and more than 50% of the  
15 Horizontal Elements of the existing building, as measured in square feet of actual surface  
16 area.

17 (D) The Planning Commission may reduce the above numerical elements  
18 of the criteria in Subsections (b)(2)(B) and (b)(2)(C), by up to 20% of their values should it  
19 deem that adjustment is necessary to implement the intent of this Section 317, to conserve  
20 existing sound housing and preserve affordable housing.

21 (3) "Facade" shall mean an entire exterior wall assembly, including but not  
22 limited to all finishes and siding, fenestration, doors, recesses, openings, bays, parapets,  
23 sheathing and framing.

24 (4) "Front Facade" shall mean the portion of the Facade fronting a right-of-way,  
25 or the portion of the Facade most closely complying with that definition, as in the case of a



1 flag lot. Where a lot has more than one frontage on rights-of-way. all ~~suek~~ such frontages shall  
2 be considered Front Facades except where a facade meets the definition of "Rear Facade."

3 (5) "Horizontal Elements" shall mean all roof areas and all floor plates, except  
4 floor plates at or below grade.

5 (6) "Mandatory Discretionary Review" shall mean a hearing before the Planning  
6 Commission that is required by this Section 317 at which the Commission will determine  
7 whether to approve, modify or disapprove a permit application.

8 (7) "Residential Merger" shall mean the combining of two or more legal  
9 Residential Units, resulting in a decrease in the number of Residential Units within a building,  
10 or the enlargement of one or more existing units while substantially reducing the size of others  
11 by more than 25% of their original floor area, even if the number of units is not reduced. The  
12 Planning Commission may reduce the numerical element of this criterion by up to 20% of its  
13 value should it deem that adjustment is necessary to implement the intent of this Section 317,  
14 to conserve existing housing and preserve affordable housing.

15 (8) "Rear Facade" shall mean that portion of the Facade facing the part of a lot  
16 that most closely complies with the applicable Planning Code rear yard requirements.

17 (9) "Removal" shall mean, with reference to a wall, roof or floor structure, its  
18 dismantling, its relocation or its alteration of the exterior function by construction of a new  
19 building element exterior to it. Where a portion of an exterior wall is removed, any remaining  
20 wall with a height less than the Building Code requirement for legal head room shall be  
21 considered demolished. Where exterior elements of a building are removed and replaced for  
22 repair or maintenance, in like materials, with no increase in the extent of the element or  
23 volume of the building, such replacement shall not be considered Removal for the purposes of  
24 this Section. The foregoing does not supersede any requirements for or restrictions on  
25 noncomplying structures and their reconstruction as governed by Article 1.7 of this Code.

1 (10) "Removal" shall mean, with reference to a Residential Unit, its Conversion,  
2 Demolition, or Merger.

3 (11) "Residential Building" shall be mean any structure containing one or more  
4 Residential Uses or Live-Work Units as a principal use, regardless of any other uses present in  
5 the building.

6 (12) "Residential Unit" shall mean a legal conforming or ~~non-conforming~~  
7 nonconforming dwelling unit as defined in Planning Code Section 102.7, or a legal ~~non-~~  
8 conforming nonconforming Live/Work Unit as defined in Planning Code Section 102.13.

9 (13) "Residential Use" shall mean a Dwelling Unit or Group Housing as a principal  
10 use.

11 (14) "Vertical Envelope Elements" shall mean all exterior walls that provide  
12 weather and thermal barriers between the interior and exterior of the building, or that provide  
13 structural support to other elements of the building envelope.

14 (c) **Applicability.** Where an application for a permit that would result in the loss of one  
15 or more Residential Units is required to obtain Conditional Use authorization by other sections  
16 of this Code, the application for a replacement building or alteration permit shall also be  
17 subject to Conditional Use requirements. Any application for a permit that would result in the  
18 loss or Removal of three or more Residential Units, notwithstanding any other sections of this  
19 Code, shall require a Conditional Use authorization for the Removal and replacement of the  
20 units. Approval of any other application that would result in the loss or Removal of up to two  
21 Residential Units is prohibited unless the Planning Commission approves such permit  
22 application and the replacement structure permit application at a Mandatory Discretionary  
23 Review hearing, with certain exceptions specified below.

24 (d) ~~Loss of Residential Units Through Demolitions.~~

1 (1) No permit to Demolish a Residential Building in any zoning district shall be  
2 issued until a building permit for the replacement structure is finally approved, unless the  
3 building is determined to pose a serious and imminent hazard as defined in the Building Code.  
4 A building permit is finally approved if the Board of Appeals has taken final action for approval  
5 on an appeal of the issuance or denial of the permit or if the permit has been issued and the  
6 time for filing an appeal with the Board of Appeal has lapsed with no appeal filed.

7 (2) If Conditional Use authorization is required for approval of the permit ~~to~~  
8 ~~Demolish a for~~ Residential Demolition Building by other sections of this Code, the Commission  
9 shall consider the replacement structure as part of its decision on the Conditional Use  
10 application. If Conditional Use authorization is required for the replacement structure by other  
11 sections of this Code, the Commission shall consider the demolition as part of its decision on  
12 the Conditional Use application. In either case, Mandatory Discretionary Review is not  
13 required, although the Commission shall apply appropriate criteria adopted under this Section  
14 317 in addition to the criteria in Section 303 of the Planning Code in its consideration of  
15 Conditional Use authorization. If neither permit application is subject to Conditional Use  
16 authorization, then separate Mandatory Discretion Review cases shall be heard to consider  
17 the permit applications for the demolition and the replacement structure.

18 (3) For those applications ~~to Demolish for~~ a Residential Demolition Building in  
19 districts that require Mandatory Discretionary Review, administrative review criteria shall  
20 ensure that only applications to demolish Single-Family Residential Buildings that are  
21 demonstrably not affordable or financially accessible housing, or Residential Buildings of two  
22 units or fewer that are found to be unsound housing, are exempt from Mandatory  
23 Discretionary Review hearings. Specific numerical criteria for such analyses shall be adopted  
24 by the Planning Commission in the Code Implementation Document, in accordance with this  
25

1 Section 317, and shall be adjusted periodically by the Zoning Administrator based on  
2 established economic real estate and construction indicators.

3 (A) The Planning Commission shall determine a level of affordability or  
4 financial accessibility, such that Single-Family Residential Buildings on sites in RH-1 Districts  
5 that are demonstrably not affordable or financially accessible, that is, housing that has a value  
6 greater than at least 80% of the combined land and structure values of single-family homes in  
7 San Francisco as determined by a credible appraisal, made within six months of the  
8 application to demolish, are not subject to a Mandatory Discretionary Review hearing. The  
9 demolition and replacement building applications shall undergo notification as required by  
10 other sections of this Code. The Planning Commission, in the Code Implementation  
11 Document, may increase the numerical criterion in this subsection by up to 10% of its value  
12 should it deem that adjustment is necessary to implement the intent of this Section 317, to  
13 conserve existing housing and preserve affordable housing.

14 (B) The Planning Commission, in the Code Implementation Document,  
15 shall adopt criteria and procedures for determining the soundness of a structure proposed for  
16 demolition, where "soundness" is an economic measure of the feasibility of upgrading a  
17 residence that is deficient with respect to habitability and Housing Code requirements, due to  
18 its original construction. The "soundness factor" for a structure shall be the ratio of a  
19 construction upgrade cost (i.e., an estimate of the cost to repair specific habitability  
20 deficiencies) to the replacement cost (i.e., an estimate of the current cost of building a  
21 structure the same size as the existing building proposed for demolition), expressed as a  
22 percent. A building is unsound if its soundness factor exceeds 50%. A Residential Building  
23 that is unsound may be approved for demolition.

24 (C) The Planning Commission shall consider the following additional  
25 criteria in the review of applications *to demolish for Residential Demolition Buildings*:

- 1 (i) whether the property is free of a history of serious, continuing  
2 Code violations;
- 3 (ii) whether the housing has been maintained in a decent, safe,  
4 and sanitary condition;
- 5 (iii) whether the property is an "historical resource" under CEQA;  
6 (iv) whether the removal of the resource will have a substantial  
7 adverse impact under CEQA;
- 8 (v) whether the project converts rental housing to other forms of  
9 tenure or occupancy;
- 10 (vi) whether the project removes rental units subject to the Rent  
11 Stabilization and Arbitration Ordinance;
- 12 (vii) whether the project conserves existing housing to preserve  
13 cultural and economic neighborhood diversity;
- 14 (viii) whether the project conserves neighborhood character to  
15 preserve neighborhood cultural and economic diversity;
- 16 (ix) whether the project protects the relative affordability of existing  
17 housing;
- 18 (x) whether the project increases the number of permanently  
19 affordable units as governed by Article 4 Section 315;
- 20 (xi) whether the project locates in-fill housing on appropriate sites  
21 in established neighborhoods;
- 22 (xii) whether the project creates Quality, new family housing;  
23 (xiii) whether the project creates new supportive housing;  
24 (xiv) whether the ~~protect~~ project promotes construction of well-  
25 designed housing to enhance existing neighborhood character;

1 (xv) whether the project increases the number of on-site dwelling  
2 units;

3 (xvi) whether the project increases the number of on-site  
4 bedrooms;

5 (xvii) if the Residential Demolition removes Affordable Housing or  
6 housing subject to the Rent Stabilization and Arbitration Ordinance, whether replacement housing will  
7 be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to  
8 households with children to the housing to be demolished.

9 (4) Nothing in this Section is intended to permit ~~the~~ Residential Demolition of  
10 ~~Residential Buildings~~ in those areas of the City where other sections of this Code prohibit such  
11 demolition or replacement structure.

12 (5) Nothing in this Section is intended to exempt buildings or sites where  
13 demolition is proposed from undergoing review with respect to Articles 10 and 11 of the Code,  
14 where the requirements of those articles apply. Notwithstanding the definition of "~~Demolition of~~  
15 "Residential Demolition Buildings" in this section and as further described in the Code  
16 Implementation Document with regard to ~~the loss of~~ Residential Demolition Units, the criteria of  
17 Section 1005 shall apply to projects subject to review under the requirements of Article 10  
18 with regard to the structure itself.

19 (e) ~~Loss of Residential Units Through Merger.~~

20 (1) The Merger of Residential Units not otherwise subject to Conditional Use  
21 authorization by this Code, shall be prohibited, unless the Planning Commission approves the  
22 building permit application at a Mandatory Discretionary Review hearing, applying the criteria  
23 in subsection (2) below, or the project qualifies for administrative approval and the Planning  
24 Department approves the project administratively in accordance with subsections (3) ~~or (4)~~  
25 below.

1 (2) The Planning Commission shall consider ~~these~~ the following criteria in the  
2 review of applications to merge Residential Units:

3 ~~(i)~~ (A) whether removal of the unit(s) would eliminate only owner occupied  
4 housing, and if so, for how long the unit(s) proposed to be removed have been owner  
5 occupied;

6 ~~(ii)~~ (B) whether removal of the unit(s) and the merger with another is  
7 intended for owner occupancy;

8 ~~(iii)~~ (C) whether the removal of the unit(s) will remove Affordable Housing, or  
9 housing subject to the Rent Stabilization and Arbitration Ordinance ~~whether removal of the unit(s) will~~  
10 ~~bring the building closer into conformance with the prevailing density in its immediate area and in the~~  
11 ~~same zoning district;~~

12 ~~(iv)~~ (D) if removal of the unit(s) removes Affordable Housing or units subject to  
13 the Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which  
14 is equal or greater in size, number of bedrooms, affordability, and suitability to households with  
15 children to the units being removed ~~whether removal of the unit(s) will bring the building closer into~~  
16 ~~conformance with prescribed zoning;~~

17 ~~(v)~~ (E) whether removal of the unit(s) is necessary to correct design or  
18 functional deficiencies that cannot be corrected through interior alterations.

19 (3) Administrative review criteria shall ensure that only those Residential Units  
20 proposed for Merger that are demonstrably not affordable or financially accessible housing  
21 are exempt from Mandatory Discretionary Review hearings. Applications for which the least  
22 expensive unit proposed for merger has a value greater than at least 80% of the combined  
23 land and structure values of single-family homes in San Francisco, as determined by a  
24 credible appraisal, made within six months of the application to merge, are not subject to a  
25 Mandatory Discretionary Review hearing. The Planning Commission, in the Code

1 Implementation Document, may increase the numerical criterion in this subsection by up to  
2 10% of its value should it deem that adjustment is necessary to implement the intent of this  
3 Section 317, to conserve existing housing and preserve affordable housing.

4 ~~(4) Projects that meet a supermajority of the merger criteria, in subsection (d)(2) above,~~  
5 ~~may be approved administratively by the Planning Department, consistent with this Section 317.~~

6 **(f) ~~Loss of Residential Units Through Conversion.~~**

7 (1) ~~Conversion of Residential Conversion Units~~ not otherwise prohibited or subject  
8 to Conditional Use authorization by this Code, shall be prohibited, unless the Planning  
9 Commission approves the building permit application at a Mandatory Discretionary Review  
10 hearing. The conversion of ~~R~~Residential ~~u~~Units to Student Housing is prohibited. For the  
11 purposes of this subsection, ~~R~~Residential ~~u~~Units that have been defined as such by the time a  
12 First Certificate of Occupancy has been issued by the Department of Building Inspection for  
13 new construction shall not be converted to Student Housing.

14 (2) The Planning Commission shall consider ~~these~~ the following criteria in the  
15 review of applications for Residential Conversion ~~Conversion of Residential Units~~;

16 ~~(i)~~ (A) whether conversion of the unit(s) would eliminate only owner  
17 occupied housing, and if so, for how long the unit(s) proposed to be removed were owner  
18 occupied;

19 ~~(ii)~~ (B) whether Residential Conversion ~~conversion of the unit(s)~~ would  
20 provide desirable new non-residential use(s) appropriate for the neighborhood and adjoining  
21 district(s);

22 ~~(iii)~~ (C) in districts where Residential Uses are not permitted, whether  
23 Residential Conversion ~~conversion of the unit(s)~~ will bring the building closer into conformance  
24 with the uses permitted prevailing character of its immediate area and in the same zoning district;



1                    ~~(iv)~~ (D) whether conversion of the unit(s) will be detrimental to the City's  
2 housing stock;

3                    ~~(v)~~ (E) whether conversion of the unit(s) is necessary to eliminate design,  
4 functional, or habitability deficiencies that cannot otherwise be corrected;

5                    (F) whether the Residential Conversion will remove Affordable Housing, or units  
6 subject to the Rent Stabilization and Arbitration Ordinance;

7                    (G) if the Residential Conversion removes Affordable Housing or units subject to  
8 the Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which  
9 is equal or greater in size, number of bedrooms, affordability, and suitability to households with  
10 children to the units being converted.

11                    (g) Exemptions. This Section 317 Shall Not Apply to Property:

12                    (1) Owned by the United States or any of its agencies;

13                    (2) Owned by the State of California or any of its agencies, with the exception of  
14 such property not used exclusively for a governmental purpose;

15                    (3) Under the jurisdiction of the Port of San Francisco or the Successor Agency to  
16 the San Francisco Redevelopment Agency of the City and County of where the application of this  
17 ordinance Section is prohibited by State or local law; or

18                    (4) Where demolition of the building or Removal of a Residential Unit is  
19 necessary to comply with a court order or City order that directs the owner to demolish the  
20 building or remove the unit, due to conditions that present an imminent threat to life safety.

21 **SEC. 703.2. USES PERMITTED IN NEIGHBORHOOD COMMERCIAL DISTRICTS.**

22                    A use is the specific purpose for which a property or building is used, occupied,  
23 maintained, or leased. Whether or not a use is permitted in a specific district is set forth or  
24 summarized and cross-referenced in Sections 710.1 through 730.95 of this Code for each  
25 district class.

1 (a) **Use Categories.** The uses, functions, or activities, which are permitted in each  
 2 Neighborhood Commercial District class include those listed below by zoning control category  
 3 and number and cross-referenced to the Code Section containing the definition.

No.	Zoning Control Categories for Uses	Section Number of Use Definition
...		
<del>.38</del> <u>.36</u>	Residential Conversion	§ <u>317 790.84</u>
<del>.39</del> <u>.37</u>	Residential Demolition	§ <u>317 790.86</u>
<u>.38</u>	<u>Residential Division</u>	§ <u>207.8</u>
<u>.39</u>	<u>Residential Merger</u>	§ <u>317</u>
...		

12 **SEC. 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT NC-1**  
 13 **ZONING CONTROL TABLE**

No.	Zoning Category	§ References	NC-1		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>710.36</u> <del>710.38</del>	Residential Conversion	§ <u>317 790.84</u>	P		
<del>710.39</del> <u>710.37</u>	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	NC-2		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>711.36</u> <u>711.38</u>	Residential Conversion	§ <u>317.790.84</u>	P	C	
<u>711.37</u> <u>711.39</u> ...	Residential Demolition	§ <u>317.790.86</u>	P	C	C

**SEC. 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	NC-3		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>712.36</u> <u>711.38</u>	Residential Conversion	§ <u>317.790.84</u>	P	C	C#
<u>712.37</u> <u>712.39</u> ...	Residential Demolition	§ <u>317.790.86</u>	P	C	C

**SEC. 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT NC-S  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	NC-S		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>713.36</u> <u>713.38</u>	Residential Conversion	§ <u>317 790.84</u>	P		
<u>713.37</u> <u>713.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Broadway		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>714.36</u> <u>714.38</u>	Residential Conversion	§ <u>317 790.84</u>	P	C	
<u>714.37</u> <u>714.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 715. CASTRO NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Castro Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>715.36</u> <u>715.38</u>	Residential Conversion	§ <u>317 790.84</u>	P	C	
<u>715.37</u> <u>715.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 716. INNER CLEMENT STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Inner Clement Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>716.36</u> <u>716.38</u>	Residential Conversion	§ <u>317 790.84</u>	P		
<u>716.37</u> <u>716.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 717. OUTER CLEMENT NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Outer Clement Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>717.36</u> <u>717.38</u>	Residential Conversion	§ <u>317 790.84</u>	P		
<u>717.37</u> <u>717.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 718. UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Upper Fillmore Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>718.36</u> <u>718.38</u>	Residential Conversion	§ <u>317 790.84</u>	P	C	
<u>718.37</u> <u>718.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Haight Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>719.36</u> <u>719.38</u>	Residential Conversion	§ <u>317 790.84</u>	P		
<u>719.37</u> <u>719.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 720. HAYES-GOUGH NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Hayes-Gough <i>Transit</i>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>720.36</u> <u>720.38</u>	Residential Conversion	§ <u>317 207.7, 790.84</u>	C	C	
<u>720.37</u> <u>720.39</u>	Residential Demolition	§ <u>317 207.7, 790.86</u>	C	C	C
<u>720.38</u> <u>720.39a</u> ...	Residential Division	§ 207.8	P	P	P

1                   **SEC. 721. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL DISTRICT**  
 2                   **ZONING CONTROL TABLE**

3                   ...

No.	Zoning Category	§ References	Upper Market Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>721.36</u> <u>721.38</u>	Residential Conversion	§ <u>317 790.84</u>	<u>P C</u>	C	
<u>721.37</u> <u>721.39</u>	Residential Demolition	§ <u>317 790.86</u>	<u>P C</u>	C	C
<u>721.38</u> <u>721.39a</u>	Residential Division	§ 207.8	P	P	P
<u>721.39</u> ...	<u>Residential Merger</u>	§ <u>317</u>	<u>C</u>	<u>C</u>	<u>C</u>

15                   **SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT**  
 16                   **ZONING CONTROL TABLE**

17                   ...

No.	Zoning Category	§ References	North Beach		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>722.36</u> <u>722.38</u>	Residential Conversion	§ <u>317 790.84</u>	P		
<u>722.37</u> <u>722.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C



**SEC. 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Polk Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>723.36</u> <u>723.38</u>	Residential Conversion	§ <u>317 790.84</u>	P	C	
<u>723.37</u> <u>723.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 724. SACRAMENTO STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Sacramento Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>724.36</u> <u>724.38</u>	Residential Conversion	§ <u>317 790.84</u>	P		
<u>724.37</u> <u>724.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 725. UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Union Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<del>725.36</del>	Residential Conversion	§ <del>317 790.84</del>	P	C	C
<del>725.38</del>					
<del>725.37</del>	Residential Demolition	§ <del>317 790.86</del>	P	C	C
<del>725.39</del>					
...					

**SEC. 726. VALENCIA STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Valencia Street Transit		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<del>726.36</del>	Residential Conversion	§ <del>317 207.7, 790.84</del>	C		
<del>726.37</del>					
<del>726.37</del>	Residential Demolition	§ <del>317 207.7, 790.86</del>	C	C	C
<del>726.38</del>					
<del>726.38</del>	Residential Division	§ 207.8	P	P	P
<del>726.39</del>					
<del>726.39</del>	<i>Residential Merger</i>	§ 317	<u>C</u>	<u>C</u>	<u>C</u>
...					

**SEC. 727. 24<sup>TH</sup> STREET – MISSION NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE**

No.	Zoning Category	§ References	24 <sup>th</sup> Street – Mission Transit		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>727.36</u> <u>727.37</u>	Residential Conversion	§ <del>317 207.7, 790.84</del>	C		
<u>727.37</u> <u>727.38</u>	Residential Demolition	§ <del>317 207.7, 790.86</del>	C	C	C
<u>727.38</u> <u>727.39</u>	Residential Division	§ 207.8	P	P	P
<u>727.39</u> ...	<i>Residential Merger</i>	§ <u>317</u>	<u>C</u>	<u>C</u>	<u>C</u>

**SEC. 728. 24<sup>TH</sup> STREET – NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE**

No.	Zoning Category	§ References	24 <sup>th</sup> Street – Noe Valley		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>728.36</u> <u>728.38</u>	Residential Conversion	§ <u>317 790.84</u>	P		
<u>728.37</u> <u>728.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 729. WEST PORTAL AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	West Portal Avenue		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>729.36</u> <del>729.38</del>	Residential Conversion	§ <u>317 790.84</u>	P		
<u>729.37</u> <del>729.39</del> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

**SEC. 730. INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Inner Sunset		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>730.36</u> <del>730.38</del>	Residential Conversion	§ <u>317 790.84</u>	P		
<u>730.37</u> <del>730.39</del> ...	Residential Demolition	§ <u>317 790.86</u>	P	C	C

1                   **SEC. 731. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**  
 2   **NCT-3 ZONING CONTROL TABLE**

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No.	Zoning Category	§ References	NCT-3		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>731.36</u> <u>731.38</u>	Residential Conversion	§ <u>317 207.7, 790.84</u>	C	C	C
<u>731.37</u> <u>731.39</u>	Residential Demolition	§ <u>317 207.7, 790.86</u>	C	C	C
<u>731.38</u> <u>731.39a</u>	Residential Division	§ 207.8	P	P	P
<u>731.39</u> ...	<u>Residential Merger</u>	<u>§ 317</u>	<u>C</u>	<u>C</u>	<u>C</u>

15                   **SEC. 732. PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT**  
 16   **ZONING CONTROL TABLE**

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No.	Zoning Category	§ References	Pacific Avenue <i>NCD</i>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>732.36</u> <u>732.38</u>	Residential Conversion	§ <u>317 790.84</u>	C		
<u>732.37</u> <u>732.39</u> ...	Residential Demolition	§ <u>317 790.86</u>	C		

**SEC. 733. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT  
DISTRICT  
ZONING CONTROL TABLE**

....

No.	Zoning Category	§ References	Upper Market Street <i>Transit</i>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>733.36</u> <u>733.38</u>	Residential Conversion	§ <u>317 207.7, 790.84</u>	C	C	-
<u>733.37</u> <u>733.39</u>	Residential Demolition	§ <u>317 207.7, 790.86</u>	C	C	C
<u>733.38</u> <u>733.39a</u>	Residential Division	§ 207.8	P	P	P
<u>733.39</u> ....	<i>Residential Merger</i>	§ <u>317</u>	<u>C</u>	<u>C</u>	<u>C</u>

**SEC. 733A. NEIGHBORHOOD COMMERCIAL TRANSIT CLUSTER DISTRICT NCT-1  
ZONING CONTROL TABLE**

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No.	Zoning Category	§ References	NCT-1		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>733A.36</u> <u>733A.38</u>	Residential Conversion	§ <u>317 790.84</u>	P		
<u>733A.37</u> <u>733A.39</u>	Residential Demolition	§ <u>317 790.86</u>	C	C	C

1	<u>733A.38</u>	Residential Division	§ 207.8	P	P	P
2	<u>733A.39a</u>					
3	<u>733.39</u>	<u>Residential Merger</u>	<u>§ 317</u>	<u>C</u>	<u>C</u>	<u>C</u>
4	...					

5                   **SEC. 734. SMALL-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT NCT-2**  
6   **ZONING CONTROL TABLE**

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8	9	10	11	NCT-2		
				Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+	
		§ 790.118				
<u>734.36</u>	Residential Conversion	§ <u>317 207.7, 790.84</u>	C	C		
<u>734.37</u>						
<u>734.37</u>	Residential Demolition	§ <u>317 207.7, 790.86</u>	C	C	C	
<u>734.38</u>						
<u>734.38</u>	Residential Division	§ 207.8	P	P	P	
<u>734.39</u>						
<u>734.39</u>	<u>Residential Merger</u>	<u>§ 317</u>	<u>C</u>	<u>C</u>	<u>C</u>	
18	...					

19                   **SEC. 735. SOMA NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING**  
20   **CONTROL TABLE**

21                   ...

22	23	24	SoMa <u>Transit</u>		
			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
		§ 790.118			
<u>735.36</u>	Residential Conversion	§ <u>317 207.7, 790.84</u>	C	C	-

1	<u>735.37</u>				
2	<u>735.37</u>	Residential Demolition	§ <del>317 207.7, 790.86</del>	C	C
3	<u>735.38</u>				
4	<u>735.38</u>	Residential Division	§ 207.8	P	P
5	<u>735.39</u>				
6	<u>735.39</u>	<u>Residential Merger</u>	§ 317	<u>C</u>	<u>C</u>
7	...				

**SEC. 736. MISSION NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Mission Street <i>Transit</i>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>736.36</u>	Residential Conversion	§ <del>317 207.7, 790.84</del>	C	C	C
<u>736.37</u>					
<u>736.37</u>	Residential Demolition	§ <del>317 207.7, 790.86</del>	C	C	C
<u>736.38</u>					
<u>736.38</u>	Residential Division	§ 207.8	P	P	P
<u>736.39</u>					
<u>736.39</u>	<u>Residential Merger</u>	§ 317	<u>C</u>	<u>C</u>	<u>C</u>
...					



1                   **SEC. 737. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**  
 2                   **ZONING CONTROL TABLE**

3                   ...

No.	Zoning Category	§ References	Ocean Ave. <u>Avenue Transit</u>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
737.36 737.38	Residential Conversion	§ <u>317 790.84</u>	C	C	
737.37 737.39	Residential Demolition	§ <u>317 790.86</u>	C	C	C
737.38 737.39a	Residential Division	§ 207.8	P	P	P
737.39 ...	<u>Residential Merger</u>	§ <u>317</u>	<u>C</u>	<u>C</u>	<u>C</u>

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 16                   **SEC. 738. GLEN PARK NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**  
 17                   **ZONING CONTROL TABLE**

18                   ...

No.	Zoning Category	§ References	Glen Park <u>NCT-Transit</u>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
738.36 738.38	Residential Conversion	§ <u>317 790.84</u>	C	C	
738.37 738.39	Residential Demolition	§ <u>317 790.86</u>	C	C	C

1	<u>738.38</u>	Residential Division	§ 207.8	P	P	P
2	<u>738.39a</u>					
3	<u>738.39</u>	<u>Residential Merger</u>	§ 317	<u>C</u>	<u>C</u>	<u>C</u>
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**SEC. 739. NORIEGA STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Noriega Street <i>Neighborhood</i> <i>Commercial District</i>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>739.36</u>	Residential Conversion	§ <u>317 790.84</u>	P	C	
<u>739.38</u>					
<u>739.37</u>	Residential Demolition	§ <u>317 790.86</u>	P	C	C
<u>739.39</u>					
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**SEC. 740. IRVING STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Irving Street <i>Neighborhood</i> <i>Commercial District</i>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>740.36</u>	Residential Conversion	§ <u>317 790.84</u>	P	C	

740.38					
740.37	Residential Demolition	§ <u>317 790.86</u>	P	C	C
737.39					
...					

**SEC. 741. TARAVAL STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Taraval Street <i>Neighborhood</i> <i>Commercial District</i>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
741.36	Residential Conversion	§ <u>317 790.84</u>	P	C	
741.38					
741.37	Residential Demolition	§ <u>317 790.86</u>	P	C	C
741.39					
...					

**SEC. 742. JUDAH STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Judah Street <i>Neighborhood</i> <i>Commercial District</i>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
742.36	Residential Conversion	§ <u>317 790.84</u>	P	C	
742.38					

1	<del>742.37</del>	Residential Demolition	§ <del>317.790.86</del>	P	C	C
2	<del>742.39</del>					
3	...					

4 **TABLE 803.2**  
5 **USE CATEGORIES PERMITTED IN THE CHINATOWN MIXED USE DISTRICTS**

6	...		
7	803.2.38a	Residential Conversion, Residential Hotels	<del>§ 890.84 Chapter 41, Admin.</del> <u>Code</u>
8	803.2.38b	Residential Demolition, Residential Hotels	<del>§ 890.86 Chapter 41, Admin.</del> <u>Code</u>
9	803.2.39a	Residential Conversion, <del>Apartments</del>	§ <del>890.84</del> <u>317</u>
10	803.2.39b	Residential Demolition, <del>Apartments</del>	§ <del>890.86</del> <u>317</u>
11	...		

14 **SEC. 803.8. HOUSING IN MIXED USE DISTRICTS.**

15  
16 (a) ~~Demolition or Conversion of Group Housing or Dwelling Units in South of Market Mixed~~  
17 ~~Use Districts. Demolition, or conversion to any other use, of a group housing unit or dwelling unit or~~  
18 ~~any portion thereof, in any South of Market Mixed Use District shall be allowed only subject to Section~~  
19 ~~233(a) and only if approved as a conditional use pursuant to Sections 303 and 316 of this Code,~~  
20 ~~notwithstanding any other provision of this Code. This provision shall extend to any premises whose~~  
21 ~~current use is, or last use prior to a proposed conversion or demolition was, in fact as a group housing~~  
22 ~~unit or dwelling unit as well as any premises whose legal use as shown in the records of the Bureau of~~  
23 ~~Building Inspection is that of a group housing or dwelling unit.~~

24 (b) **Low-Income Affordable Housing Within the Service/Light Industrial District.**

25 Dwelling units and SRO units may be authorized in the SLI District as a conditional use

1 pursuant to Sections 303, 316, 817.14, and 817.16 of this Code provided that such dwellings  
2 units shall be rented, leased or sold at rates or prices affordable to a household whose  
3 income is no greater than 80 percent of the median income for households in San Francisco  
4 ("lower income household"), as determined by Title 25 of the California Code of Regulations  
5 Section 6932 and implemented by the Mayor's Office of Housing.

6 (1) "Affordable to a household" shall mean a purchase price that a lower income  
7 household can afford to pay based on an annual payment for all housing costs of 33 percent  
8 of the combined household annual net income, a 10-percent down payment, and available  
9 financing, or a rent that a household can afford to pay, based on an annual payment for all  
10 housing costs of 30 percent of the combined annual net income.

11 (2) The size of the dwelling unit shall determine the size of the household in  
12 order to calculate purchase price or rent affordable to a household, as follows:

- 13 (A) For a one-bedroom unit, a household of two persons;
- 14 (B) For a two-bedroom unit, a household of three persons;
- 15 (C) For a three-bedroom unit, a household of four persons;
- 16 (D) For a four-bedroom unit, a household of five persons.

17 (3) No conditional use permit will be approved pursuant to this Subsection  
18 803.8(b) unless the applicant and City have agreed upon enforcement mechanisms for the  
19 provisions of this Subsection which are acceptable to the City Attorney. Such enforcement  
20 mechanisms may include, but not be limited to, a right of first refusal in favor of the City, or a  
21 promissory note and deed of trust.

22 (4) The owner(s) of dwelling units authorized pursuant to this Subsection shall  
23 submit an annual enforcement report to the City, along with a fee whose amount shall be  
24 determined periodically by the ~~City~~ Planning Commission to pay for the cost of enforcement of  
25 this Subsection. The fee shall not exceed the amount of such costs. The annual report shall

1 provide information regarding rents, mortgage payments, sales price and other housing costs,  
2 annual household income, size of household in each dwelling unit, and any other information  
3 the City may require to fulfill the intent of this Subsection.

4 **(b) ~~(e)~~ Housing Requirement in the Residential/Service District.**

5 (1) Amount Required. Nonresidential uses subject to Sections 815.26, 815.28,  
6 815.30, 815.31 through 815.47, and 815.59 through 815.65, of this Code shall be permitted in  
7 new construction in the Residential/Service District only if the ratio between the amount of  
8 occupied floor area for residential use to the amount of occupied floor area of the above-  
9 referenced nonresidential use is three to one or greater.

10 (2) Means of Satisfying the Housing Requirement.

11 (A) *Live/work units may satisfy the residential requirement pursuant to this*  
12 *Subsection and, when applicable, shall be subject to Sections 124(j) and/or 263.11(e)(3) of this Code;*  
13 *or*

14 ~~(B)~~ The residential space required pursuant to this Subsection may be satisfied by  
15 payment of a one-time in-lieu fee equal to \$30 per square foot of residential space required by  
16 this Subsection and not provided on-site payable to the City's Affordable Housing Fund  
17 administered by the Mayor's Office of Housing; or

18 ~~(B)~~ ~~(C)~~ The residential space requirement may be satisfied by providing  
19 the required residential space elsewhere within the South of Market Mixed Use District where  
20 housing is permitted or conditional and is approved as a conditional use.

21 **(c) ~~(A)~~ Housing Requirement in the Mixed Use – Residential (MUR) District.** In new  
22 construction in the MUR District, three square feet of gross floor area for residential use is  
23 required for every one gross square foot of permitted nonresidential use, subject to Section  
24 841 of this Code.

**Table 810**  
**CHINATOWN COMMUNITY BUSINESS DISTRICT ZONING CONTROL TABLE**

			Chinatown Community Business District		
			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
.38a	Residential Conversion, Residential Hotels	Ch. 41 Admin. Code			
.38b	Residential Demolition, Residential Hotels	Ch. 41 Admin. Code			
.39a	Residential Conversion <i>Apartments</i>	<u>§ 317</u>			
.39b	Residential Demolition <i>Apartments</i>	<u>§ 317</u>			

**Table 811**  
**CHINATOWN VISITOR RETAIL DISTRICT ZONING CONTROL TABLE**

			Chinatown Visitor Retail District		
			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
.38a	Residential Conversion, Residential Hotels	Ch. 41 Admin. Code			
.38b	Residential Demolition,	Ch. 41 Admin.			

	Residential Hotels	Code			
.39a	Residential Conversion <i>Apartments</i>	<u>§ 317</u>			
.39b	Residential Demolition <i>Apartments</i>	<u>§ 317</u>			

**Table 812  
CHINATOWN RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT ZONING  
CONTROL TABLE**

			Chinatown Residential Neighborhood Commercial District		
			Controls by Story		
<b>No.</b>	<b>Zoning Category</b>	<b>§ References</b>	<b>1st</b>	<b>2nd</b>	<b>3rd+</b>
.38a	Residential Conversion, Residential Hotels	Ch. 41 Admin. Code			
.38b	Residential Demolition, Residential Hotels	Ch. 41 Admin. Code			
.39a	Residential Conversion <i>Apartments</i>	<u>§ 317</u>			
.39b	Residential Demolition <i>Apartments</i>	<u>§ 317</u>			

**Table 813  
RED - RESIDENTIAL ENCLAVE DISTRICT ZONING CONTROL TABLE**

			Residential Enclave Districts
<b>No.</b>	<b>Zoning Category</b>	<b>§ References</b>	<b>Controls</b>



...			C
813.12	Residential Conversion	§ <u>317 803.9(a)</u>	
813.13	Residential Demolition	§ <u>317 803.9(a)</u>	C
...			

**Table 814  
SPD – SOUTH PARK DISTRICT ZONING CONTROL TABLE**

			<b>South Park District</b>
<b>No.</b>	<b>Zoning Category</b>	<b>§ References</b>	<b>Controls</b>
...			
814.12	Residential Conversion	§ <u>317 803.8(a)</u>	C
814.13	Residential Demolition	§ <u>317 803.8(a)</u>	C
...			

**Table 815  
RSD - RESIDENTIAL/SERVICE MIXED USE DISTRICT ZONING CONTROL TABLE**

			<b>Residential/Service Mixed Use Districts</b>
<b>No.</b>	<b>Zoning Category</b>	<b>§ References</b>	<b>Controls</b>
...			
815.12	Residential Conversion	§ <u>317 803.5(b)</u>	C
815.13	Residential Demolition	§ <u>317 803.5(b)</u>	C
...			

**Table 816**  
**SLR - SERVICE/LIGHT INDUSTRIAL/RESIDENTIAL MIXED USE DISTRICT ZONING CONTROL TABLE**

			Service/Light Industrial/ Residential Mixed Use District
No.	Zoning Category	§ References	Controls
...			
816.12	Residential Conversion	<u>§ 317 803.5(b)</u>	C
816.13	Residential Demolition	<u>§ 317 803.5(b)</u>	C
...			

**Table 817**  
**SLI - SERVICE/LIGHT INDUSTRIAL DISTRICT ZONING CONTROL TABLE**

			Service/Light Industrial District
No.	Zoning Category	§ References	Controls
...			
817.12	Residential Conversion	<u>§ 317 803.5(b)</u>	C
817.13	Residential Demolition	<u>§ 317 803.5(b)</u>	C
...			

**Table 818**  
**SSO - SERVICE/SECONDARY OFFICE ZONING CONTROL TABLE**

			Service/Light Industrial District
No.	Zoning Category	§ References	Controls
...			
818.12	Residential Conversion	<u>§ 317 803.5(b)</u>	C
818.13	Residential Demolition	<u>§ 317 803.5(b)</u>	C
...			

**Table 827**  
**RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE DISTRICT ZONING CONTROL TABLE**

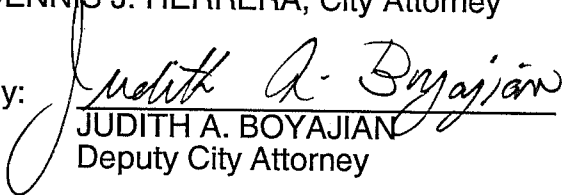
			Rincon Hill Downtown Residential Mixed Use District Zoning
No.	Zoning Category	§ References	Controls
...			
.51	Residential Conversions	<u>§ 317 790.84, Ch.</u> <u>41 Admin. Code</u>	C
.52	Residential Demolition	<u>§ 317</u>	C
...			

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

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

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By:

  
11 JUDITH A. BOYAJIAN  
12 Deputy City Attorney

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BOARD OF SUPERVISORS

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**LEGISLATIVE DIGEST**

[Planning Code - Conversion, Demolition, Merger, and Conformity of Residential Uses]

**Ordinance amending Planning Code, Section 317, and various other sections, and repealing Sections 790.84, 790.86, 890.84, and 890.86, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.**

Existing Law

Planning Code Sections 180 and 181 set forth requirements applicable to nonconforming uses, noncomplying structures, and substandard lots of record. Sections 207.7, 212, and 317 establish restrictions on the demolition, conversion, and merger of existing dwelling units and residential uses. Articles 7 and 8 and their Zoning Control Tables establish and regulate the uses in Neighborhood Commercial Districts and Mixed Use Districts, respectively. Sections 790.84, 790.86, 890.84, and 890.86 define Residential Conversion and Residential Demolition.

Amendments to Current Law

Section 180 is amended to establish a strong presumption in favor of preserving Dwelling Units in the enforcement of the Code. Section 181 is amended to permit alterations to noncomplying structures in order to comply with disabled access requirements and provide secure bicycle parking. Section 181 is further amended to allow enlargements, alterations, or reconstruction of housing in districts where a dwelling unit is a permitted use so long as any enlargement, alteration, or reconstruction does not increase any nonconformity in height, bulk, or required yards or setbacks.

Definitions for Residential Demolition, Residential Conversion, and Residential Merger are consolidated into Section 317 and the criteria are modified to prioritize preservation of housing and encourage the replacement of housing. Sections 207.7, 212, 703.2, 803.8, and the Zoning Control Tables in Articles 7 and 8 are amended to refer to the definitions of and criteria for Residential Demolition, Residential Conversion, and Residential Merger in Section 317

and deleted obsolete language. All the existing conditional use requirements or prohibitions on residential conversion, demolition, and merger in specific zoning districts are retained unchanged.

#### Background Information

The 2009 Housing Element of the General Plan includes several policies which call for the preservation of existing housing, including discouraging the demolition of sound housing (Policy 2.1), controlling the merger of existing units (Policy 2.2), preserving existing affordable housing (Policy 3.1), and which call for considering whether replacement housing is affordable (Policy 2.1). The Planning Code amendments in this ordinance are intended to bring the provisions of the Planning Code into harmony with the housing policies of the General Plan. The ordinance also improves the organization and usability of the Code by consolidating definitions and controls, updating zoning control tables to include applicable controls, and deleting obsolete provisions.

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

January 22, 2013

File No. 130041

Bill Wycko  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Mr. Wycko:

On January 15, 2013, Supervisor Avalos introduced the following proposed legislation:

**File No. 130041**

Ordinance amending the Planning Code, by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317, and various other sections, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

By: Alisa Miller, Committee Clerk  
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning  
Joy Navarrete, Environmental Planning

*Not a project pursuant to  
CEQA Guidelines Section  
15060(c)(2). (Individual  
projects will undergo physical  
environmental review.)  
Maurie L. Farrell  
January 22, 2013*



# SAN FRANCISCO PLANNING DEPARTMENT

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July 26, 2013

Ms. Angela Calvillo, Clerk  
Honorable Supervisor Avalos  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**Re: Transmittal of Planning Department Case Number 2013.0134T:  
Planning Code Amendment: Conversion, Demolition, and Mergers and  
Conformity of Residential Uses  
Board File No. 13-0041  
Planning Commission Recommendation: Approval with Modifications**

Dear Ms. Calvillo and Supervisor Avalos:

On July 18, 2013, the San Francisco Planning Commission conducted a duly noticed public hearing at the regularly scheduled meeting to consider the proposed amendments to the Planning Code introduced by Supervisor John Avalos as described in the draft Ordinance referenced above. At the hearing, the Planning Commission recommended approval with modifications. The modifications note, among other changes, that the Supervisor split the file so that the Commission can consider the proposed amendments to Planning Code Section 181 at a later date.

The proposed amendments have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2). Pursuant to San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-page Documents", the Department is sending electronic documents and one hard copy. Additional hard copies may be requested by contacting Sophie Hayward at 558-6372.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commissions.

Please find attached documents relating to the actions of both Commissions. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "AM - Rodgers", with a long horizontal line extending to the right.

AnMarie Rodgers  
Manager of Legislative Affairs



cc:

Supervisor John Avalos  
Jon Givner, Deputy City Attorney  
Judy Boyajian, Deputy City Attorney  
Jason Elliot, Mayor's Director of Legislative & Government Affairs

Attachments (two hard copies of the following):

Planning Commission Resolution 18927  
Draft Ordinance  
Planning Department Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No. 18927 Planning Code Text Change

HEARING DATE: JULY 18, 2013

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:* Conversion, Demolition, Merger, and Conformity of Residential Units  
*Case Number:* 2013.0134T [Board File No. 130041]  
*Initiated by:* Supervisor Avalos / Introduced January 15<sup>th</sup>, 2013  
*Staff Contact:* Sophie Hayward, Legislative Affairs  
sophie.hayward@sfgov.org, 415-558-6372  
*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* **Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO: 1) REVISE THE CRITERIA FOR REVIEWING AND THE DEFINITIONS OF RESIDENTIAL DEMOLITION, CONVERSION, AND MERGER OF UNITS; 2) PERMIT THE ALTERATION OF NON-CONFORMING UNITS IN REGARD TO DENSITY WITHOUT INCREASING THE NON-CONFORMITY IN OTHER ASPECTS; 3) ESTABLISH A PRESUMPTION IN FAVOR OF PRESERVING DWELLING UNITS IN ENFORCEMENT OF REQUIREMENTS FOR NON-CONFORMING USES AND STRUCTURES; AND TO 4) TO PERMIT ALTERATIONS TO NON-CONFORMING USES AND NON-COMPLYING STRUCTURES IN ORDER TO COMPLY WITH DISABLED ACCESS REQUIREMENTS OR TO PROVIDE SECURE BICYCLE PARKING; AND ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.

WHEREAS, on January 22, 2103, Supervisors Avalos introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 13-0041, which would amend Sections 207.7, 212(e), and 317 of the Planning Code regarding the loss of dwelling units, would amend Sections 180 and 181 regarding nonconforming units, and would make various amendments to consolidate criteria and references in the Planning Code;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 18, 2013; and,

WHEREAS, the proposed Ordinance has been determined to be exempt from environmental review under the General Rule Exclusion, 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 Commission hereby recommends that the Board of Supervisors *approve with modifications* the draft Ordinance and adopts the attached Resolution to that effect. The Planning Commission recommends the following modifications, described in detail in the attached Executive Summary:

1. **Split the draft Ordinance into two separate Ordinances:** one file that addresses the loss of dwelling units through demolition, merger, and conversion, as well as proposed amendments Section 180, and a second file that amends Planning Code Section 181 regarding enlargements and alterations of non-conforming uses. The modifications recommended in this Resolution reflect the Planning Commission's recommendations regarding the loss of dwelling units. The Commission will consider the proposed amendments to Planning Code Section 181 separately.
2. **Repeal Section 207.7 in its entirety.**
3. **Delete Section 212(e) in its entirety.**
4. **Add Requirements to and Amend Criteria in Section 317(c) and (d):**
  - a. Amend Section 317(c) Applicability in two ways: 1) Add language that requires Conditional Use authorization for the demolition of any units, the merger of two or more units, or the conversion of any unit within the RTO, RTO-M, NCT, and Upper Market NCD Zoning Districts; 2) Add language to Section 317 that addresses the loss of units by demolition, merger, or conversion in the C-3 Zoning Districts, and note that the criteria for review of the required Conditional Use authorization are different than those outlined in Section 303, and are applicable only to the C-3 Zoning District. The Commission recommends the following language:

317(c) **Applicability.** ~~Where~~ An application for a permit that would result in the loss of one or more Residential Units is required to obtain Conditional Use authorization by other sections of this Code ***in the RTO, RTO-M, NCT, and Upper Market NCD Zoning Districts, as well as the loss of any residential unit above the ground floor in the C-3 Zoning District.*** The application for a replacement building or alteration permit shall also be subject to Conditional Use requirements. ***When considering whether to grant Conditional Use authorization for the loss of dwelling unit(s) in the C-3 districts, in lieu of the criteria set forth in Planning Code Section 303, consideration shall be given to the adverse impact on the public health, safety, and general welfare of the loss of housing stock in the district and to any unreasonable hardship to the applicant if the permit is denied.***
  - b. Amend the language of 317(d)(3)(A) to clarify that buildings proposed for demolition in RH-1 ***and RH-1(d)*** districts are not subject to a Mandatory Discretionary Review if they meet the levels that define "demonstrably not affordable."
  - c. Amend Section 317(d) by adding the specific criteria for evaluating the loss of dwelling units currently listed in Section 207.7 that are not listed in Section 317(d) to maintain the

review and evaluation policies for the loss of units outlined currently in Section 207.7, developed through the Market-Octavia Plan. The Commission's recommendations are summarized in the Table 1 below:

**Table 1: Comparing the Criteria for Demolition in the Draft Ordinance to the Department's Proposed Modifications**

Draft Ordinance: Amended 317(d)(3)(C)(i-xvi) -- Criteria For Review of Demolition	Department's Proposed Modifications to Section 317(d)(3)(A)(i-xvi) of the Draft Ordinance
Whether the property is free of a history of serious, continuing Code violations;	(i) Whether the property is free of a history of serious, continuing Code violations;
Whether the housing has been maintained in a decent, safe, and sanitary condition;	(ii) Whether the housing has been maintained in a decent, safe, and sanitary condition;
Whether the property is an "historical resource" under CEQA;	(iii) Whether the property is an "historical resource" under CEQA;
Whether the removal of the resource will have a substantial adverse impact under CEQA;	(iv) Whether the removal of the resource will have a substantial adverse impact under CEQA;
Whether the project converts rental housing to other forms of tenure or occupancy;	(v) Whether the project converts rental housing to other forms of tenure or occupancy;
Whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;	(vi) Whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance <u>or Affordable Housing</u> ;
Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;	(vii) Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;
Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;	(viii) Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;
Whether the project protects the relative affordability of existing housing;	(ix) Whether the project protects the relative affordability of existing housing;
Whether the project increases the number of permanently affordable units as governed by <u>Article 4</u> ;	(x) Whether the project increases the number of permanently affordable units as governed by <u>Article 4 Section 415</u> ;
Whether the project locates in-fill housing on appropriate sites in established neighborhoods;	(xi) Whether the project locates in-fill housing on appropriate sites in established neighborhoods;
Whether the project creates quality, new family housing;	(xii) Whether the project creates Quality new family housing, <u>increases the number of family-sized units on-site</u> ;
Whether the project creates new supportive housing;	(xiii) Whether the project creates new supportive housing;
Whether the <del>protect</del> <u>project</u> promotes construction of well-designed housing to enhance existing neighborhood character;	(xiv) Whether the <del>project</del> <u>project</u> promotes construction of well designed housing <u>to is of superb architectural and urban design, meeting all relevant design guidelines</u> , to enhance existing neighborhood character;
Whether the project increases the number of on-site dwelling units;	(xv) Whether the project increases the number of on-site dwelling units;
Whether the project increases the number of on-site bedrooms.	(xvi) Whether the project increases the number of on-site bedrooms.
<u>If the Residential Demolition removes Affordable Housing or housing subject to the Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the housing to be demolished.</u>	<del>(xvii) If the Residential Demolition removes Affordable Housing or housing subject to the Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the housing to be demolished.</del>

5. Remove the new definition for “Residential Use” proposed in the draft Ordinance for Section 317(b)(13). Instead, amend the existing definition of “Residential Unit” in Section 317(b)(12) to include Group Housing, along with Dwelling Units and Live/Work units. The Commission recommends the following language for Section 317(b)(12):  
"Residential Unit" shall mean a legal conforming or non-conforming dwelling unit as defined in Planning Code Section 102.7, or a legal non-conforming Live/Work Unit as defined in Planning Code Section 102.13, **or Group Housing as defined in Planning Code Section 209.2(a)(b) and (c).**
6. Add Requirements to and Amend Criteria in Section 317(e).
  - d. Do not amend the criterion in Section 317(e)(2)(iv) that reads, “whether the removal of the unit will bring the building closer into conformance with the prescribed zoning.”
  - e. Amend the proposed new criterion in Section 317(e)(2)(D), and replace it with a new criterion that considers whether the merged unit will provide family-sized housing, by including the following language, **“whether the number of bedrooms provided in the merged unit will be equal to or greater than the number of bedrooms in the separate units.”**
  - f. Clarify the term “owner-occupied” as used in Section 317(e)(2)(i) and (ii).
7. Delete Inapplicable Language in Section 317(f).
  - g. Delete Section 317(f)(2)(C), which, as amended would require that the Commission consider whether, in districts in which residential uses are not permitted (such as industrial districts), the residential conversion will bring the building in closer conformity with uses permitted in the district.
  - h. Delete the proposed new Section 317(f)(2)(G), which evaluates the replacement housing as it compares to the existing housing.
8. Amend Section 180(h). In the proposed new Section 180(h), clarify the term “strong presumption in favor of preserving Dwelling Units” revising the section to read, **“Preserving Dwelling Units. If the administrative record regarding a nonconforming unit does not provide conclusive evidence that the unit is illegal, it shall be presumed to be a legal nonconforming unit.”**

## FINDINGS

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

1. The proposed Ordinance would amend the Planning Code in three ways: 1) consolidate and amend controls for the loss of dwelling units in Section 317 of the Planning Code; 2) add protection and flexibility for existing nonconforming units; and 3) simplify the Planning Code.
2. While the Commission is generally supportive of the amendments, careful consideration should be given to the potential for unintended implications to the affordability of existing nonconforming residential units.

3. Based on information from the Department's Information and Analysis group, of the approximately 360,000 dwelling units in the City, nearly 52,000 units exceed the permitted zoning of the parcel on which they are located, representing close to 14% of existing units in the City.
4. Generally speaking, these legal nonconforming units are in older buildings constructed prior to the establishment of current zoning districts.
5. The age of the structures, together with the existing prohibition to expand, means that very often nonconforming units are among the city's most affordable housing stock, and are often subject to rent control.
6. The Commission's recommendation, detailed above, is intended to provide oversight in cases that would expand nonconforming units in a manner that includes adding bedrooms, by requiring Conditional Use authorization. This recommendation is intended to provide increased flexibility while allowing the Commission to consider the impacts to affordability that a proposed expansion or alteration may have.
7. The draft Ordinance consolidates the controls and criteria for review for the loss of dwelling units in a single location in the Planning Code. The Commission is supportive of this amendment and is hopeful that this will help to improve consistency of review and public understanding of the controls.
8. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

#### **I. HOUSING ELEMENT**

##### **OBJECTIVE 2**

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

##### **POLICY 2.1**

Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

##### **POLICY 2.2**

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

##### **POLICY 2.4**

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

*The draft Ordinance will consolidate and clarify controls for the loss of dwelling units through demolition, merger, or conversion. In addition, the draft Ordinance will allow increased flexibility to expand nonconforming units, which may encourage maintenance of existing housing stock.*

##### **OBJECTIVE 3**

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS

**POLICY 3.1**

Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs.

**POLICY 3.4**

Preserve "naturally affordable" housing types, such as smaller and older ownership units.

*The Commission's recommended modifications would provide oversight in cases that would expand nonconforming units in a manner that includes adding bedrooms, by requiring Conditional Use authorization. This recommendation is intended to provide increased flexibility while allowing the Commission to consider the impacts to affordability that a proposed expansion or alteration may have.*

9. **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 amendments will not have a negative impact on neighborhood serving retail uses and will not impact 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 is intended to protect existing housing and neighborhood character through careful review of the loss of dwellings and expansion of nonconforming units.*

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

*The proposed Ordinance would maintain the existing criteria for the review of the loss of dwelling units. With the proposed modifications, the draft Ordinance will provide oversight intended to protect affordable housing provided through units that are nonconforming as relates to density.*

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

*The proposed Ordinance will 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 will not negatively impact the City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*Landmarks and historic buildings would not be negatively impacted by the proposed Ordinance.*

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

*The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed Ordinance.*

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board APPROVE WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 18, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES: Commissioners Borden, Fong, Moore, Sugaya, and Wu

NOES: Commissioner Antonini

ABSENT: Commissioner Hillis

ADOPTED: July 18, 2013





# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Planning Code Text Change

HEARING DATE: JULY 18, 2013

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:* Conversion, Demolition, Merger, and Conformity of Residential Units  
*Case Number:* 2013.0134T [Board File No. 130041]  
*Initiated by:* Supervisor Avalos / Introduced January 15<sup>th</sup>, 2013  
*Staff Contact:* Sophie Hayward, Legislative Affairs  
sophie.hayward@sfgov.org, 415-558-6372  
*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* Recommend Approval with Modifications

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317 to: 1) revise the criteria used for evaluating residential demolitions, conversions, and mergers, 2) standardize definitions of residential demolition, conversion, and merger across various use districts, 3) permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; 4) permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; 5) establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and 6) various technical amendments.

#### The Way It Is Now:

**Planning Code Section 181** describes the provisions for enlarging, altering, and reconstructing a nonconforming structure<sup>1</sup>. 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, only those units that exceed the permitted density are considered nonconforming. Those units that are the nonconforming units in the building may not be enlarged, altered, or reconstructed in a manner that increases their nonconformity.

**Planning Code Section 207.7** addresses specific requirements associated with the loss of dwelling units in the RTO (Residential, Transit-Oriented), NCT (Neighborhood Commercial, Transit-Oriented), and the Upper Market Neighborhood Commercial Districts. Section 207.7 outlines a single set of criteria to be used to evaluate the loss of a dwelling unit through demolition, merger, or conversion – this is distinct from Planning Code Section 317 (described below), which sets forth specific criteria for demolition that differ from those used to evaluate mergers and conversions. In districts for which this section is

<sup>1</sup> 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.”

applicable, the loss of any dwelling unit requires Conditional Use authorization by the Planning Commission, and the Commission must consider thirteen criteria for projects associated with the loss of a unit. The criteria for the review of the loss of dwelling units in the RTO, NCT, and Upper Market NCD districts are not identical to the criteria outlined in Section 317, as illustrated below in Table 1.

**Planning Code Section 212** defines additional requirements for uses in specific C (Commercial) and M (Industrial) districts. Section 212(b) prohibits any permitted use in the C-3 zoning district from including a "drive-in" component that would serve customers in parked cars, except for gas stations and car washes, where they are permitted. Section 212(e) requires that the loss of any dwelling unit above the ground floor require Conditional Use authorization, unless a building is deemed unsafe or dangerous. The criteria for review of the loss of dwelling units are specific: in lieu of the criteria outlined in Section 303, Section 212(e) states that the Commission shall consider the adverse impact on the public health, safety and general welfare of the loss of housing stock in the district and to any unreasonable hardship to the applicant if the permit is denied. As with Section 207.7, the criteria for evaluation of the loss of units included in Section 212 are not the same as those listed in Section 317.

**Planning Code Section 317** defines the terms and the controls associated with the loss of dwelling units through *demolition, merger, and conversion*. Project proposals that would result in the loss or removal of three or more dwelling units require Conditional Use authorization by the Planning Commission. Projects that would result in the loss of up to two dwelling units require a Mandatory Discretionary Review hearing before the Planning Commission. Section 317 identifies certain exceptions from the requirement for public hearings:

Section 317 provides the following exceptions for demolition proposals:

- Single-Family homes in RH-1 Zoning Districts that are demonstrably not affordable or financially accessible do not require a Mandatory Discretionary Review hearing<sup>2</sup>; and,
- Residential buildings with two units or fewer that are found to be unsound do not require a Mandatory Discretionary Review hearing.<sup>3</sup>

Section 317 provides the following exceptions for the loss of units through mergers:

- Applications in which the least expensive of the units proposed for a merger is demonstrably not affordable or financially accessible; and,
- Projects that meet four out of the five specific criteria used to evaluate the loss of residential units through mergers.

As noted above, Section 317 also defines the criteria that the Planning Commission and the Department must consider in reviewing applications for the loss of units through demolition, merger, and conversion. These criteria are not identical to those outlined in Section 207.7 and in Section 212(e).

There are 16 criteria for the evaluation of applications for *demolition*.

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<sup>2</sup> The specific language, including affordability thresholds are detailed in Planning Code Section 317(d)(3) and 317(d)(3)(A).

<sup>3</sup> The specific language for the exception and the procedure for determining a structure's soundness are detailed in Planning Code Section 317(d)(3)(B).

There are five criteria for the evaluation of applications for residential *mergers*, including whether the removal of the unit will bring the building closer into conformance with the prevailing density and the prescribed zoning in its immediate area and within the zoning district.

There are also five criteria for the evaluation of applications for residential *conversion*, including whether the conversion of the unit would bring the building closer into conformance with the prevailing character of the immediate area and the zoning district.

The following two tables compare the differences between the criteria for evaluating the loss of dwelling units in Section 207.7 and Section 317; please note that the criteria are not numbered and have been rearranged in order to clearly show where the existing criteria are the same or similar between the two Planning Code Sections.

Table 1: Comparing the Criteria of 207.7(b) to the Criteria for Demolition in Section 317 (*emphasis added*)

Existing 207.7(b)(1-13): Applies to Demolition, Merger, and Conversion in the RTO, NCT, and Upper Market NCD	Existing 317(d)(3)(C)(i-xvi) -- Criteria For Review of Demolition
There is no history of poor maintenance or Code <i>violations</i> ;	Whether the property is free of a history of serious, continuing Code <i>violations</i> ;
The units proposed for demolition are unsound, in accord with the Planning Commission's adopted definition of " <i>unsound</i> ";	Whether the housing has been maintained in a decent, <i>safe</i> , and sanitary condition;
The property is not a <i>historic resource</i> under CEQA;	Whether the property is an " <i>historic resource</i> " under CEQA;
	Whether the removal of the resource will have a substantial adverse impact under CEQA;
The proposed replacement project <i>preserves rental housing</i> on site from conversion to other forms of occupancy or tenure;	Whether the project <i>converts rental housing</i> to other forms of tenure or occupancy;
The proposed replacement project <i>restores rent control</i> to equivalent number of units on the site;	Whether the project <i>removes rental units</i> subject to the <i>Rent Stabilization and Arbitration Ordinance</i> ;
	Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;
	Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;
The proposed <i>replacement project features affordability</i> at least equivalent to the existing units;	Whether the project <i>protects the relative affordability of existing</i> housing;
The proposed replacement project serves as <i>supportive housing</i> or serves a special or underserved population;	Whether the project creates new <i>supportive housing</i> ;
The proposed replacement project represents <i>no net loss in the number of family-sized units</i> ;	Whether the project <i>creates quality, new family housing</i> ;
The proposed replacement project is of <i>superb architectural and urban design</i> , meets or exceeds all relevant design guidelines and Area Plan policies;	Whether the project promotes construction of <i>well-designed housing</i> to enhance existing neighborhood character;
The proposed replacement project results in a <i>net increase in the number of units</i> on-site;	Whether the project <i>increases the number of on-site dwelling units</i> ;
	Whether the project increases the number of on-site bedrooms.
	Whether the project locates in-fill housing on appropriate sites in established neighborhoods;
	Whether the project increases the number of permanently affordable units as governed by Section 415;
The proposed project seeks to convert a ground-floor, street-facing residential use to a commercial use in a neighborhood commercial district where such commercial uses are desirable; and	
The proposed replacement project serves a public interest or public use that cannot be met without the proposed demolition.	
The assessed value of the units proposed for demolition exceed that which is affordable to households earning 100% of median income;	

Table 2: Comparing the Criteria of Section 207.7(b) to the Criteria for Mergers and Conversions in Section 317 (*emphasis added*)

Existing 207.7(b)(1-13): Applies to <u>Demolition, Merger, and Conversion</u> in the RTO, NCT, and Upper Market NCD	Existing 317e(2)(A-E) – Criteria for Review of <u>Mergers</u>	Existing 317(f)(2)(A-E) – Criteria for Review of <u>Conversions</u>
	Whether removal of the unit(s) would <u>eliminate only owner occupied housing</u> , and if so, for how long the unit(s) proposed to be removed have been owner occupied;	Whether conversion of the unit(s) would <u>eliminate only owner occupied housing</u> , and if so, for how long the unit(s) proposed to be removed were owner occupied;
	Whether removal of the unit(s) and the merger with another is intended for owner occupancy;	
	Whether removal of the unit(s) will bring the building <u>closer into conformance</u> with the prevailing <u>density</u> in its immediate area and in the same zoning district;	Whether conversion of the unit(s) will bring the building <u>closer into conformance</u> with the prevailing <u>character</u> of its immediate area and in the same zoning district;
	Whether removal of the unit(s) will bring the building <u>closer into conformance</u> with prescribed <u>zoning</u> ;	
		Whether conversion of the unit(s) will be detrimental to the City's housing stock;
	Whether removal of the unit(s) is necessary to <u>correct design or functional deficiencies</u> that cannot be corrected through interior alterations.	Whether conversion of the unit(s) is necessary to <u>eliminate design, functional, or habitability deficiencies</u> that cannot otherwise be corrected.
The assessed value of the units proposed for demolition exceed that which is affordable to households earning 100% of median income;		
The units proposed for demolition are unsound, in accord with the Planning Commission's adopted definition of "unsound";		
There is no history of poor maintenance or Code violations;		
The property is not a historic resource under CEOA;		
The proposed replacement project results in a net increase in the number of units on-site;		
The proposed replacement project is of superb architectural and urban design, meets or exceeds all relevant design guidelines and Area Plan policies;		
The proposed replacement project preserves rental housing on site from conversion to other forms of occupancy or tenure;		
The proposed replacement project restores rent control to equivalent number of units on the site;		
The proposed replacement project features affordability at least equivalent to the existing units;		
The proposed replacement project represents no net loss in the number of family-sized units;		

Table 2: Comparing the Criteria of Section 207.7(b) to the Criteria for Mergers and Conversions in Section 317 (*emphasis added*)

Existing 207.7(b)(1-13): Applies to <i>Demolition, Merger, and Conversion</i> in the RTO, NCT, and Upper Market NCD	Existing 317e(2)(A-E) -- Criteria for Review of <i>Mergers</i>	Existing 317(f)(2)(A-E) -- Criteria for Review of <i>Conversions</i>
The proposed replacement project serves as supportive housing or serves a special or underserved population;		
The proposed project seeks to <i>convert a ground-floor, street-facing residential use to a commercial use in a neighborhood commercial district</i> where such commercial uses are desirable; and		Whether conversion of the unit(s) would <i>provide desirable new non-residential use(s)</i> appropriate for the neighborhood and adjoining district(s);
The proposed replacement project serves a public interest or public use that cannot be met without the proposed demolition.		

**The Way It Would Be:**

The draft Ordinance proposes amendments that may be divided into three topics: 1) consolidation and amendment of controls for the loss of dwelling units in Section 317 of the Planning Code; 2) added protection and flexibility for existing nonconforming units; and 3) simplification of the Planning Code.

**1. Consolidation and Amendment of Controls for Loss of Dwelling Units**

Much of Section 207.7 and Section 212(e) would be deleted and replaced with a reference to Section 317. This would simplify the Planning Code by consolidating the location of controls for the loss of dwelling units. Section 317 would be amended to change the evaluation criteria for the loss of units, as well as to remove the provision that allows for the administrative review of dwelling unit mergers.

**Planning Code Section 207.7** would be amended to apply only to RTO and RTO-M zoning districts. In these two zoning districts, all demolitions, mergers, or conversions would require Conditional Use authorization. The thirteen criteria for review of loss of units would be deleted, and replaced with a reference to the amended criteria for evaluating demolition applications listed in Section 317(d)(3)(C). The draft Ordinance does not completely repeal Section 207.7 in order to maintain the requirement that the loss of two or fewer units in the RTO zoning districts obtain Conditional Use authorization.<sup>4</sup>

**Planning Code Section 212** would be amended to explicitly state that no Drive-Up facility, as defined in Planning Code Section 790.30, is permitted in the C-3 district. Section 212(e) would be amended by removing the specific criteria for consideration of loss of dwelling units, and replacing the existing criteria with a reference to Section 317, as well as the general criteria for review for applications for Conditional Use authorizations listed in Section 303. This change would result in stricter criteria for the evaluation of the loss of residential units above the ground floor in the C-3 districts.

**Planning Code Section 317** would be amended to:

- Change the definitions related to the loss of dwelling units, in the following manner:
  1. Clarify that Section 317(b)(1), which defines “Residential Conversions,” would not apply to the conversion of residential hotels, which are governed by the Administrative Code.

<sup>4</sup> Planning Code Section 207.7 requires that the loss of any dwelling units requires Conditional Use authorization; in most other zoning districts, the loss of up to two dwelling units requires a Mandatory Discretionary Review by the Planning Commission.

2. Highlight in Section 317(b)(11) that the presence of one "live-work" unit as a principal use in a structure would make the building a "Residential Building" for the purposes of the review of loss of units;
  3. Add Section 317(b)(13) to define "Residential Use" as a Dwelling Unit or Group Housing as a principal use.
- Remove Section 317(e)(4), which allows for administrative review of proposed residential mergers that meet a super majority of the criteria for demolition. All proposals for residential mergers would be subject to a Mandatory Discretionary Review hearing unless the least expensive unit proposed for the merger is demonstrably not affordable or financially accessible.
  - Add a new, 17th criterion for review of residential *demolitions*. The new criterion would require the Commission to consider whether the demolition would remove Affordable Housing or housing subject to the Rent Stabilization Ordinance, and if so, whether the replacement housing would be equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the housing that is proposed for demolition (Section 317(d)(3)(C)(xvii)).
  - For the evaluation of residential *mergers*, two criteria would be removed, and two criteria would be added. The effect of this change would be to move emphasis for consideration away from existing zoning and prevailing density and toward consideration of the loss of affordable housing. Specifically, the changes would be:
    1. The criterion that requires the Commission to consider whether the removal of the unit will bring the building closer into conformity with the prevailing density of the immediate area would be removed. This existing criterion would be replaced with a criterion that would require the Commission to consider whether the removal of the unit would remove Affordable Housing or housing subject to rent control (Section 317(e)(2)(C)).
    2. The existing criterion that requires the Commission to consider whether the removal of the unit will bring the building closer into conformity with the prescribed zoning of the district would be removed, and replaced with a criterion that would require that the Commission, in cases in which Affordable or rent controlled units are lost, whether the replacement housing is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the units that may be removed (Section 317(e)(2)(D)).
  - For the evaluation of residential *conversions*, one existing criterion would be removed and replaced, and two additional criteria would be added. Similar to the amendments related to residential mergers, the effect of this change would be to shift emphasis in consideration away from the existing zoning and prevailing density and toward loss of affordable housing. Specifically, the changes would be:
    1. The criterion that requires that the Commission consider the prevailing character of the immediate area and its zoning district would be replaced with a criterion that would specifically address conversions in zoning districts that do not permit residential uses, and would require that the Commission considers whether the residential conversion

brings the building closer into conformity with uses permitted in the zoning district (Section 317(f)(2)(C)).<sup>5</sup>

2. Criteria would be added that would require the Commission to consider: (1) whether the conversion will remove Affordable Housing or rent controlled units, and (2) if so, whether replacement housing will be provided that is equal or greater in size, number of bedrooms, affordability, and suitability to families with children to the units being converted (Section 317(f)(2)(F) and (G)).

## 2. Added Protections and Flexibility for Nonconforming Units

Legal, nonconforming units would be allowed to be enlarged, and when the permit history of an existing nonconforming unit is unclear, the presumption would be that the unit was legally constructed.

**Planning Code Section 180**, which describes and defines nonconforming uses, would be amended to add subsection 180(h), to assert that in enforcing nonconforming uses, there would be a strong presumption in favor of preserving dwelling units.

**Planning Code Section 181**, which outlines provisions for enlargements, alterations, and reconstruction of nonconforming uses, would be amended to:

- Add a new Section 181(b)(5) that would allow alterations necessary in order to bring the building into conformity with disabled access or to provide secure bike parking;
- Amend Section 181(c) would be amended to allow, in zoning districts in which dwelling units are principally permitted, even the nonconforming units that exceed the zoning district's permitted density to be enlarged, altered, or reconstructed, provided that the alterations would not increase the nonconformity in permitted height, bulk, or required rear yards or setbacks.
- Amend Section 181(h) to include buildings with residential uses in the M-2 zoning district.

## 3. Simplification of the Planning Code

The proposed Ordinance would repeal, in their entirety, the following Planning Code Sections and subsections, and would instead provide consistent references in Articles 7 and 8 to the controls for loss of dwelling units consolidated into Section 317:

- 790.84 (Residential Demolition, defined for Neighborhood Commercial districts);
- 790.86 (Residential Merger, defined for Neighborhood Commercial districts);
- 803.8(a) (Housing in Mixed Use Districts – Demolition or Conversion of Group Housing or Dwelling Units in South of Market Mixed Use Districts);
- 890.84 (Residential Conversion, defined for Mixed-Use districts); and
- 890.86 (Residential Demolition, defined for Mixed-Use districts).

## 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.

<sup>5</sup> List districts in which residential uses are not permitted.

## RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The specific modifications recommended by the Department are detailed below.

## BASIS FOR RECOMMENDATION

As noted above, the draft Ordinance proposes a series of amendments that may be divided into three broad categories: 1) consolidation of and amendments to the controls for loss of residential units; 2) additional protections and flexibility for nonconforming units; and 3) general Planning Code "clean up" amendments to condense the controls for loss of dwelling units to Article 3. Many of the proposed amendments reduce duplicative references and serve to update the Code in a manner consistent with planning efforts in recent years, including the focus on increasing density near transit in a manner that is sensitive to existing neighborhood character.

The Department recommends the following modifications to the draft Ordinance:

### Consolidation and Amendment of Controls for Loss of Dwelling Units

Planning Code Section 207.7 was created as part of the Market and Octavia planning effort, and was added to the Planning Code in 2008.<sup>6</sup> It details restrictions on the loss of residential units that are specific to the RTO, NCT, and the Upper Market Neighborhood Commercial Districts.<sup>7</sup> The procedure outlined for the review of the loss of dwelling units is slightly different in Section 207.7 than in Section 317, as are the criteria for review. As proposed, the draft Ordinance would eliminate much of Section 207.7 and replace it with a reference to the controls and criteria of Section 317. It is important to note that as proposed, the draft Ordinance replaces the single set of criteria set forth in 207.7 (which applies to the loss of a dwelling unit through demolition, merger or conversion), with the contrasting approach outlined in Section 317, which uses separate criteria to evaluate demolitions, mergers, and conversions. The differences between the criteria for evaluation are summarized above in Table 1, which illustrates that while many of the criteria are similar, they are not exactly the same. Similarly, the draft Ordinance proposes deleting much of Section 212(e), which addresses the loss of residential units above the ground floor in the C-3 Districts, and adding a reference to Sections 303 and 317. Section 212(e) outlines a specific process as well as specific criteria for review, which are not the same as those outlined in Section 317.

The Department recommends the following modifications to the draft Ordinance related to the loss of dwelling units:

1. **Repeal Section 207.7 in its entirety.** The draft Ordinance maintains 207.7(a) and a portion of 207.7(b) in order to preserve the requirement that the loss of any number of units in the RTO zoning district obtain Conditional Use authorization, rather than the more typical requirement that a Mandatory Discretionary Review is required for the loss of up to two units and Conditional Use authorization for three or more units. In addition, the amendment would apply

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<sup>6</sup> Section 207.7 was added by Ordinance 72-08, Board File 071157.

<sup>7</sup> Section 207.7(a) includes the following explicit policy statement: that addresses the potential for the flexible density and parking controls in the Market-Octavia to encourage demolition: the controls are "intended to foster creative infill housing of moderate to high density while maintaining the character of the district. The intent of this flexibility, however, is not to encourage the demolition or removal of existing housing stock, particularly units in older buildings."



requirements in 207.7 to RTO-M zoning districts in the Mission District. The Department recommends that Section 207.7 be repealed in its entirety, and that the specific requirement for Conditional Use authorization for the loss of one and two units in the RTO and RTO-M districts be added to Section 317. As detailed below, the Department further recommends that the criteria for review of loss of dwelling units in Section 317 be amended to include the criteria developed through the Market-Octavia Plan currently listed in Section 207.7. These changes are proposed in the spirit of Code consolidation and clarity.

2. **Delete Section 212(e) in its entirety.** The draft Ordinance deletes most of Section 212(e), which includes controls and criteria for the review of the loss of dwelling units in the C-3 Zoning District, and replaces them with a reference to Sections 303 and 317. The criteria for review of the loss of dwelling units in the C-3 are less stringent than those used in residential and neighborhood commercial districts. The Department's proposed modification would delete the entire subsection, but would add new language to Section 317 to include the specific controls and criteria listed in Section 212(e). These changes are proposed in the spirit of Code consolidation and clarity, and maintain the current standards for review of the loss of dwelling units in the C-3 Zoning District.
3. **Add Requirements to and Amend Criteria in Section 317(c) and (d).** While the Department recommends repealing Section 207.7, it also recommends adding language to Section 317 to maintain the review and evaluation policies for the loss of units outlined currently in Section 207.7, developed through the Market and Octavia Plan, as well as the policies currently located in Section 212(e), applicable to the loss of dwelling units in the C-3 districts. These modifications would eliminate the need for Section 207.7 as well as Section 212(e). To this end, the Department recommends the following:

- a. Amend Section 317(c) Applicability in two ways: 1) Add language that requires Conditional Use authorization for the demolition of any units, the merger of two or more units, or the conversion of any unit within the RTO, RTO-M, NCT, and Upper Market NCD Zoning Districts; 2) Add language to Section 317 that addresses the loss of units by demolition, merger, or conversion in the C-3 Zoning Districts, and note that the criteria for review of the required Conditional Use authorization are different than those outlined in Section 303, and are applicable only to the C-3 Zoning District. The Department recommends the following language:

**317(c) Applicability.** ~~Where~~ ~~An~~ application for a permit that would result in the loss of one or more Residential Units is required to obtain Conditional Use authorization ~~by other sections of this Code~~ **in the RTO, RTO-M, NCT, and Upper Market NCD Zoning Districts, as well as the loss of any residential unit above the ground floor in the C-3 Zoning District.** The application for a replacement building or alteration permit shall also be subject to Conditional Use requirements. **When considering whether to grant Conditional Use authorization for the loss of dwelling unit(s) in the C-3 districts, in lieu of the criteria set forth in Planning Code Section 303, consideration shall be given to the adverse impact on the public health, safety, and general welfare of the loss of housing stock in the district and to any unreasonable hardship to the applicant if the permit is denied.**

- b. Amend the language of 317(d)(3)(A) to clarify that buildings proposed for demolition in RH-1 **and RH-1(d)** districts are not subject to a Mandatory Discretionary Review if they meet the levels that define "demonstrably not affordable."

- c. Amend Section 317(d) by adding the specific criteria for evaluating the loss of dwelling units currently listed in Section 207.7 that are not listed in Section 317(d) to maintain the review and evaluation policies for the loss of units outlined currently in Section 207.7, developed through the Market-Octavia Plan. The Department's recommendation are summarized in the table below; please note that the Section 317(d)(3)(C) subsection numbers have been added to the proposed modifications for clarity:

Table 3: Comparing the Criteria for Demolition in the Draft Ordinance to the Department's Proposed Modifications

Draft Ordinance: Amended 317(d)(3)(C)(i-xvi) -- Criteria For Review of Demolition	Department's Proposed Modifications to Section 317(d)(3)(A)(i-xvi) of the Draft Ordinance
Whether the property is free of a history of serious, continuing Code violations;	(i) Whether the property is free of a history of serious, continuing Code violations;
Whether the housing has been maintained in a decent, safe, and sanitary condition;	(ii) Whether the housing has been maintained in a decent, safe, and sanitary condition;
Whether the property is an "historical resource" under CEQA;	(iii) Whether the property is an "historical resource" under CEQA;
Whether the removal of the resource will have a substantial adverse impact under CEQA;	(iv) Whether the removal of the resource will have a substantial adverse impact under CEQA;
Whether the project converts rental housing to other forms of tenure or occupancy;	(v) Whether the project converts rental housing to other forms of tenure or occupancy;
Whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;	(vi) Whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance <b>or Affordable Housing</b> ;
Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;	(vii) Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;
Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;	(viii) Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;
Whether the project protects the relative affordability of existing housing;	(ix) Whether the project protects the relative affordability of existing housing;
Whether the project increases the number of permanently affordable units as governed by <u>Article 4</u> ;	(x) Whether the project increases the number of permanently affordable units as governed by <u>Article 4 Section 415</u> ;
Whether the project locates in-fill housing on appropriate sites in established neighborhoods;	(xi) Whether the project locates in-fill housing on appropriate sites in established neighborhoods;
Whether the project creates quality, new family housing;	(xii) Whether the project creates <del>Quality</del> new family housing, <b>increases the number of family-sized units on-site</b> ;
Whether the project creates new supportive housing;	(xiii) Whether the project creates new supportive housing;

Table 3: Comparing the Criteria for Demolition in the Draft Ordinance to the Department's Proposed Modifications

Draft Ordinance: Amended 317(d)(3)(C)(i-xvi) -- Criteria For Review of Demolition	Department's Proposed Modifications to Section 317(d)(3)(A)(i-xvi) of the Draft Ordinance
Whether the <del>protect</del> <i>project</i> promotes construction of well-designed housing to enhance existing neighborhood character;	(xiv) Whether the <i>project</i> promotes construction of well-designed housing <del>to</del> <i>is of superb architectural and urban design, meeting all relevant design guidelines</i> , to enhance existing neighborhood character;
Whether the project increases the number of on-site dwelling units;	(xv) Whether the project increases the number of on-site dwelling units;
Whether the project increases the number of on-site bedrooms.	(xvi) Whether the project increases the number of on-site bedrooms.
<i><u>If the Residential Demolition removes Affordable Housing or housing subject to the Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the housing to be demolished.</u></i>	<i><u>(xvii) If the Residential Demolition removes Affordable Housing or housing subject to the Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the housing to be demolished.</u></i>

4. **Remove the new definition for "Residential Use" proposed in the draft Ordinance for Section 317(b)(13).** Instead, amend the existing definition of "Residential Unit" in Section 317(b)(12) to include Group Housing, along with Dwelling Units and Live/Work units. This would require that the loss of housing in the form of Group Housing, as defined in Section 209.2(a-c), be considered in the same manner (and subject to the same fees and process) as the loss of dwelling units and live/work units – without the need for a new definition in Section 317(b). The Department recommends the following language for Section 317(b)(12):

"Residential Unit" shall mean a legal conforming or non-conforming dwelling unit as defined in Planning Code Section 102.7, or a legal non-conforming Live/Work Unit as defined in Planning Code Section 102.13, **or Group Housing as defined in Planning Code Section 209.2(a)(b) and (c).**

5. **Add Requirements to and Amend Criteria in Section 317(e).** In Section 317(e), which addresses **Mergers**, the effect of the changes proposed in the draft Ordinance would be to move emphasis for consideration away from existing zoning and prevailing density and toward consideration of the loss of affordable housing. While the Department agrees that more consideration should be given to the loss of affordable housing given the housing crisis in San Francisco, it seems this should be balanced with consideration of existing law. If the density controls in the existing Planning Code are believed to be too restrictive, then density limits should be explicitly amended. Therefore, the Department recommends the following modifications to the draft Ordinance, which would both preserve consideration of existing zoning laws and add consideration of the loss of affordable housing:
  - a. Do not amend the criterion in Section 317(e)(2)(iv) that reads, "whether the removal of the unit will bring the building closer into conformance with the prescribed zoning."
  - b. Amend the proposed new criterion in Section 317(e)(2)(D), and replace it with a new criterion that considers whether the merged unit will provide family-sized housing, by including the following language, "**whether the number of bedrooms provided in the**

merged unit will be equal to or greater than the number of bedrooms in the separate units."

- c. Clarify the term "owner-occupied" as used in Section 317(e)(2)(i) and (ii).
6. **Delete Inapplicable Language in Section 317(f).** In Section 317(f), which addresses Conversion of existing units from residential uses to non-residential uses, the Department recommends removing two new criteria proposed in the draft Ordinance, as they do not appear to be applicable or necessary. The Department recommends deleting the following criteria, in the spirit of Code consolidation and clarity:
    - a. Delete Section 317(f)(2)(C), which, as amended would require that the Commission consider whether, in districts in which residential uses are not permitted (such as industrial districts), the residential conversion will bring the building in closer conformity with uses permitted in the district. This is not necessary, as any new use proposed through a conversion would need to be consistent with the existing zoning, and would be subject to all Planning Code requirements.
    - b. Delete the proposed new Section 317(f)(2)(G), which evaluates the replacement housing as it compares to the existing housing. This criterion does not appear to be applicable to the conversion of a residential use to a non-residential use.

#### **Added Protections and Flexibility for Nonconforming Units**

Planning Code Sections 180 and 181, as noted above, define and outline controls for nonconforming uses, including dwelling units that lawfully exist, but that are in excess of the permitted density of the zoning district in which they are located. The draft Ordinance would amend Planning Code 181(c) to allow nonconforming units that exceed the permitted density to expand. The Department's proposed modifications would allow nonconforming units to expand, but would add an additional layer of oversight when the expansion may result in decreased affordability of expanded nonconforming units.

The following three modifications are suggested to both clarify the Code, as well as to protect affordability of existing housing:

1. **Amend Section 180(h).** In the proposed new Section 180(h), clarify the term "strong presumption in favor of preserving Dwelling Units" revising the section to read, "**Preserving Dwelling Units. If the administrative record regarding a nonconforming unit does not provide conclusive evidence that the unit is illegal, it shall be presumed to be a legal nonconforming unit.**"
2. **Delete Section 181(b)(5).** In the proposed new Section 181(b)(5), alterations to bring nonconforming uses into conformity with disabled access requirements and to provide secure bike parking are permitted. The Department recommends deleting this section, as any proposed alteration of a nonconforming unit may be altered to conform to such requirements through the existing Variance process.
3. **Amend Section 181(c).** In section 181(c), remove the proposed new language that would specify that nonconforming units that exceed the permitted density would only be allowed to expand "so long as such enlargements, alterations, or reconstruction do not otherwise increase nonconformity in permitted height, bulk, or required rear yards or setbacks." The Department recommends that the draft Ordinance be amended to explicitly state that dwellings that are

nonconforming as to density, in districts where a Dwelling Unit is a principally permitted use, may be expanded, altered, or enlarged. However, the Department also recommends that when a nonconforming unit is expanded or altered, Conditional Use authorization is required if the number of on-site bedrooms is increased. To that end, the Department recommends the following language:

181(c) A dwelling or other housing structure exceeding the permitted density of dwelling units or other housing units set forth in Sections 207.5, 208, 209.1, 209.2, or 215 of this Code for the district in which it is located shall be classified as a nonconforming use under Section 180 of this Code, but only to the extent that such dwelling or other housing structure exceeds the permitted density. This Section 181 shall *not* apply with respect to enlargements, alterations and reconstruction of the nonconforming portion of such dwelling or other housing structure, consisting of those dwelling units or other housing units which exceed the permitted density **in districts in which a Dwelling Unit is a principally permitted use. Dwelling Units that are nonconforming as to density in such districts may be altered, enlarged, or expanded. When the alteration would result in the addition of one or more bedroom(s) to the nonconforming unit, Conditional Use authorization shall be required.** Any dwelling unit or other housing unit coming within the density limit shall not be affected by this Section 181. Except as provided in Sections 181(h) and 182(e), no dwelling or other housing structure exceeding the permitted density of dwelling units or other housing units shall be altered to increase the number of dwelling units or other housing units therein, or to increase or create any other nonconformity with respect to the dwelling unit or other housing unit density limitations of Section 209.1 or Section 209.2.

## ISSUES AND CONSIDERATIONS

### Nonconforming Units and Affordability

The draft Ordinance proposes a series of amendments to the Planning Code, which, if adopted, would result in changes to the way that the loss of residential housing and alterations to nonconforming units are controlled and considered. While the Department is generally supportive of the amendments, careful consideration should be given to the potential for unintended implications to the affordability of existing nonconforming residential units.

For the purposes of this report, nonconforming units are legal units that do not conform to current existing density controls. Generally speaking, these units are in older buildings constructed prior to the establishment of current zoning districts; a typical example is a three-unit building located in an RH-2 zoning district, or a larger apartment building located on a corner parcel within an RH-2 zoning district. Currently, buildings that contain a greater number of units than is permitted by the zoning district in which they are located must designate units as either "conforming," or "nonconforming." Only those units that are conforming may be expanded or otherwise altered. Building owners may choose which units to designate as conforming or nonconforming, which means that most often the smallest or least desirable units are made the nonconforming units. The age of the structure, together with the prohibition to expand, means that very often nonconforming units are among the city's most affordable housing stock, and are often subject to rent control. While these units are affordable, they are not, by definition, so-called "secondary units," or "illegal in-law" units, as they were legally constructed with permits.<sup>8</sup>

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<sup>8</sup> Secondary units, distinct from nonconforming units, also provide an important source of affordable housing in San Francisco. The March, 2013 report "Our Hidden Communities: Secondary Unit Households in the Excelsior Neighborhood of San Francisco,"

Based on information from the Department's Information and Analysis group, of the approximately 360,000 dwelling units in the City, nearly 52,000 units exceed the permitted zoning of the parcel on which they are located, representing close to 14% of existing units in the City – and, as noted above, many of these units provide affordable housing. The amendments to controls for nonconforming units included in the draft Ordinance would provide increased flexibility, which could encourage the improvement, expansion, or production of family-sized housing. Alternatively, the amendments could result in expansions that would increase the cost of the units, including rental units, such that they are no longer affordable.<sup>9</sup> **At this point, the Department cannot fully predict the implications of such a change but encourages decision-makers to carefully consider these potential impacts to the city's most affordable, yet unsubsidized, form of housing.**

The Department's recommendation, detailed above, is intended to provide oversight in cases that would expand nonconforming units in a manner that includes adding bedrooms, by requiring Conditional Use authorization. This recommendation is intended to provide increased flexibility while allowing the Commission to consider the impacts to affordability that a proposed expansion or alteration may have. The proposed modification is consistent with the Department's support for the amendment to Section 317(e) in the draft Ordinance, which removes the administrative review criteria for residential mergers: such mergers may impact the city's naturally affordable units, and should also require careful review by the Commission.

In addition to concerns regarding impact to affordability of nonconforming units, the Department would like to make explicit the review process for enlarging or altering nonconforming units. As drafted, the proposed Ordinance would amend Section 181(c) allow nonconforming units to expand "so long as such enlargements, alterations, or reconstruction do not otherwise increase nonconformity in permitted height, bulk, or required rear yards or setbacks."<sup>10</sup> This may create a scenario by which, through serial permits, a nonconforming use could be expanded, provided that the conforming units are first enlarged, and then in a subsequent stage the nonconforming units are expanded into the new "buildable envelope."

#### **Consolidation and Amendment of Controls for Loss of Dwelling Units**

The draft Ordinance consolidates the controls and criteria for review for the loss of dwelling units in a single location in the Planning Code. The Department is supportive of this amendment and is hopeful that this will help to improve consistency of review and public understanding of the controls.

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by the Asian Law Caucus (available online at: <http://www.advancingjustice-alc.org/news-media/publications/our-hidden-communities-secondary-unit-households-excelsior-neighborhood-san> (July 10, 2013)) outlines the role of in-law units, the problems associated with their lack of legal standing, and provides policy recommendations to ensure health and safety as well as to preserve existing housing stock.

<sup>9</sup> The costs associated with alterations, expansions, and improvements to rental units may be passed through to existing tenants by petitioning the Rent Board for a Capital Improvement Passthrough. In buildings with five or fewer residential units, 100% of the improvement cost may be passed through to the tenant. In buildings with six or more units, in most cases 50% of the improvement cost may be passed through. (Information provided by the San Francisco Rent Board: <http://www.sfrb.org/index.aspx?page=947>).

<sup>10</sup> Language included in Section 181(c), lines 9-10 of the Draft Ordinance.

**ENVIRONMENTAL REVIEW**

The proposed Ordinance reviewed and determined to be not a project pursuant to CEQA Section 15060(c)(2) on January 22, 2013. Please note that individual projects will undergo physical environmental review.

**PUBLIC COMMENT**

Staff has received no public comment at the time of the publication of this report, although we continue to conduct outreach, in coordination with Supervisor Avalos and his staff, in order to further explore impacts to affordability of housing discussed above.

<b>RECOMMENDATION:</b> Recommendation of Approval with Modifications
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BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

January 22, 2013

**File No. 130041**

Bill Wycko  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Mr. Wycko:

On January 15, 2013, Supervisor Avalos introduced the following proposed legislation:

**File No. 130041**

Ordinance amending the Planning Code, by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317, and various other sections, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

By: Alisa Miller, Committee Clerk  
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning  
Joy Navarrete, Environmental Planning



BOARD of SUPERVISORS



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San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

January 22, 2013

Planning Commission  
Attn: Linda Avery  
1660 Mission Street, 5<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Commissioners:

On January 15, 2013, Supervisor Avalos introduced the following proposed legislation:

**File No. 130041**

Ordinance amending the Planning Code, by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317, and various other sections, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

By: Alisa Miller, Committee Clerk  
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning  
Scott Sanchez, Zoning Administrator  
Bill Wycko, Chief, Major Environmental Analysis  
AnMarie Rodgers, Legislative Affairs  
Monica Pereira, Environmental Planning  
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS



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# MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
Chris Schulman, Commission Secretary  
**Small Business Commission, City Hall, Room 448**

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee  
Board of Supervisors

DATE: January 22, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 130041**

Ordinance amending the Planning Code, by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317, and various other sections, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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RESPONSE FROM SMALL BUSINESS COMMISSION - Date: \_\_\_\_\_

- No Comment
- Recommendation Attached

\_\_\_\_\_  
Chairperson, Small Business Commission

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
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TDD/TTY No. 554-5227

## MEMORANDUM

TO: Tom Hui, Acting Director, Department of Building Inspection

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee  
Board of Supervisors

DATE: January 22, 2013

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Avalos on January 15, 2013. This matter is being referred to your department for informational purposes.

**File No. 130041**

Ordinance amending the Planning Code, by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317, and various other sections, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

If you do wish to submit any additional reports or documentation to be included as part of the file, please send those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: William Strawn, Legislative & Public Affairs, Department of Building Inspection  
Carolyn Jayin, Department of Building Inspection

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee:   
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee:
- 4. Request for letter beginning "Supervisor  inquires"
- 5. City Attorney request.
- 6. Call File No.  from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

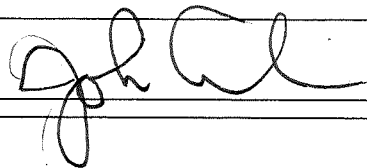
**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.**

**Sponsor(s):**

**Subject:**

**The text is listed below or attached:**

Signature of Sponsoring Supervisor: \_\_\_\_\_



For Clerk's Use Only:

0120

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