

BOARD of SUPERVISORS



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December 17, 2018

File No. 181216

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On December 11, 2018, Supervisor Peskin introduced the following proposed legislation:

File No. 181216

Ordinance amending the Planning Code to increase penalties for violations of the Planning Code; provide new definitions for Residential Demolitions and Residential Flats, revise definitions for Alterations and Removal, require additional notice and impose new conditional use criteria for Residential Demolitions, Mergers, and Conversions; establish criteria for Major Expansions of Existing Residential Buildings; amending the Building Code to conform the definition of Residential Demolition, require pre-permit inspections and additional application requirements; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302; and instructing the Clerk to forward this Ordinance to the California Building Standards Commission upon final passage.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

1 [Planning, Building Codes - Controls on Residential Demolition, Merger, Conversion, and
Alteration]

2
3 **Ordinance amending the Planning Code to increase penalties for violations of the**
4 **Planning Code; provide new definitions for Residential Demolitions and Residential**
5 **Flats, revise definitions for Alterations and Removal, require additional notice and**
6 **impose new conditional use criteria for Residential Demolitions, Mergers, and**
7 **Conversions; establish criteria for Major Expansions of Existing Residential Buildings;**
8 **amending the Building Code to conform the definition of Residential Demolition,**
9 **require pre-permit inspections and additional application requirements; affirming the**
10 **Planning Department's determination under the California Environmental Quality Act;**
11 **making findings of consistency with the General Plan, and the eight priority policies of**
12 **Planning Code, Section 101.1; adopting findings of public convenience, necessity, and**
13 **welfare under Planning Code, Section 302; and instructing the Clerk to forward this**
14 **Ordinance to the California Building Standards Commission upon final passage.**

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

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

23 Section 1. General Findings.

24 (a) The Planning Department has determined that the actions contemplated in this
25 ordinance comply with the California Environmental Quality Act (California Public Resources
Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. _____ and is incorporated herein by reference. The Board
2 affirms this determination.

3 (b) On _____, the Planning Commission, in Resolution No. _____,
4 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
5 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
6 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
7 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

8 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
9 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
10 in Planning Commission Resolution No. _____ and the Board incorporates such reasons
11 herein by reference. A copy of said Resolution is on file with the Board of Supervisors in File
12 No. _____.

13 (d) On _____, the Building Inspection Commission considered this
14 ordinance at a duly noticed public hearing pursuant to Charter Section D3.750-5.

15
16 Section 2. California Health and Safety Code Section 18909(d). No local findings are
17 required under Health and Safety Code Section 17958.7 because the amendments to the
18 Building Code contained in this ordinance relate in their entirety to civil and administrative
19 procedures and remedies available for enforcing code violations, which are expressly
20 excluded from the definition of a "building standard" by Section 18909.

21
22 Section 3. Article 1.7 of the Planning Code is hereby amended by revising Sections
23 176 and 176.1, to read as follows:

24 **SEC. 176. ENFORCEMENT AGAINST VIOLATIONS.**

25 * * * *

1 (b) **Methods of Enforcement.** The Zoning Administrator shall have authority to
2 enforce this Code against violations thereof by any of the following actions:

3 (1) Serving notice requiring the cessation, removal or correction of any
4 violation of this Code ("Notice of Violation") upon the owner, agent or tenant of the property
5 that is the subject of the violation, or upon the architect, builder, contractor and any other
6 person who commits or assists in such violation;

7 * * * *

8 (c) **Penalties.**

9 (1) **Administrative Penalties.** In the notice requiring the cessation, removal
10 or correction of any violation of this Code, the Zoning Administrator may assess upon the
11 responsible party an administrative penalty for each violation in an amount up to ~~\$250.00~~1000
12 for each day the violation continues unabated in addition to any penalties required by Sections 317
13 or 319 of this Code. The "responsible party" is the owner(s) of the real property on which the
14 code violation is located, as listed in the records of the Assessor, and the current leaseholder
15 if different from the current owner(s) of the real property.

16 (A) The responsible party may request a Zoning Administrator's
17 hearing in order to show cause why the notice requiring the cessation, removal or correction
18 of the violation and any assessment of administrative penalties is in error and should be
19 rescinded. The Zoning Administrator may designate a member of Department staff to act as
20 the hearing officer in the Zoning Administrator's ~~his or her~~ place. The Department shall send a
21 notice of the date, hour, and place of the hearing to the responsible party at the address
22 specified in the request for hearing and to any member of the public who has expressed an
23 interest in the matter.

24 ~~The responsible party may also request that the Zoning Administrator terminate abatement~~
25 ~~proceedings under Section 176 and refer the matter to the Director for enforcement action under the~~

1 ~~process set forth in Section 176.1 of this Code. If the Zoning Administrator determines that the~~
2 ~~enforcement case will proceed under Section 176, that determination shall be made as part of the final~~
3 ~~written decision and is not appealable separately from the decision on the merits.~~

4 (B) The responsible party may waive the right to a Zoning
5 Administrator's hearing and proceed directly to an appeal to the Board of Appeals under
6 Section 308.2 of this Code. Administrative penalties shall not accrue during the period of time
7 that the matter is pending before the Zoning Administrator on a request for hearing or before
8 the Board of Appeals on appeal. If the responsible party elects to request a Zoning
9 Administrator's hearing, the request for hearing must be in writing and submitted to the Zoning
10 Administrator prior to the expiration date of the Notice of Violation and Penalty. If a request for
11 a Zoning Administrator's hearing is timely filed, any appeal to the Board of Appeals shall be
12 from the decision of the Zoning Administrator rendered after the hearing.

13 (C) The Zoning Administrator or the Zoning Administrator's designee,
14 after a full and fair consideration of the evidence and testimony received at the hearing, shall
15 render within thirty days following the conclusion of the hearing a written decision that either
16 rescinds the notice of violation and dismisses the proceedings, upholds the original decision,
17 or modifies the original decision. In rendering a decision, the Zoning Administrator or the
18 Zoning Administrator's designee shall consider:

19 * * * *

20 (J) whether the violation is easy to correct;~~and~~

21 (K) whether any provision of Section 317 has been violated; if so the
22 enforcement provisions of Section 317(j) shall apply;

23 (L) whether any provision of Section 319 has been violated; if so the
24 enforcement provisions of Section 319(d) shall apply; and

1 (M) such other factors as the Zoning Administrator or *the*
2 *Administrator's his or her* designee may consider relevant.

3 In hearing any appeal of the Zoning Administrator's determination, the Board of
4 Appeals shall consider the above factors. If the Board upholds the Zoning Administrator's
5 decision in whole or in part but reduces the amount of the penalty, it may not reduce the
6 amount of the penalty below ~~\$100.00~~500 for each day that the violation exists, excluding the
7 period of time that the matter has been pending either before the Zoning Administrator on a
8 request for hearing or before the Board of Appeals on appeal. *The Board of Appeals may not*
9 *reduce the penalty below the amount of any penalty imposed pursuant to Sections 317 or 319 of this*
10 *Code.*

11 In addition to any administrative penalties imposed under this subsection (c)(1)
12 *and any penalties imposed under Section 317 of this Code*, the Zoning Administrator may recover
13 any attorneys' fees and costs, including but not limited to expert witness fees, incurred by the
14 City in pursuing administrative remedies. The provision of administrative penalties is not
15 intended to be punitive in nature but is intended to secure compliance with the Planning Code
16 and to compensate the City for its costs of enforcement.

17 (2) **Civil Penalties.** Any individual, firm, partnership, corporation,
18 company, association, society, group, or other person or legal entity that violates any
19 provision of this Code shall be liable for the City's costs of enforcement and a civil penalty, of
20 not less than ~~\$200.00~~1,000 for each day such violation is committed or permitted to continue,
21 which penalty shall be assessed and recovered in a civil action brought in the name of the
22 people of the City and County of San Francisco by the City Attorney in any court of competent
23 jurisdiction. The City Attorney may seek recovery of any attorneys' fees and costs, including
24 but not limited to expert witness fees, incurred by the City in bringing such civil action. For civil
25 actions to enforce Municipal Code provisions related to general advertising signs, the

1 penalties, attorneys' fees and costs set forth in this Section 176 shall be in addition to those
2 authorized by Section 610 of this Code.

3 (3) **Criminal Penalties.** Any individual, firm, partnership, corporation,
4 company, association, society, group or other person or legal entity that violates any provision
5 of this Code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be
6 fined in an amount not less than ~~\$200.00~~1,000 or be imprisoned for a period not exceeding six
7 months or be both so fined and imprisoned. Each day such violation is committed or permitted
8 to continue shall constitute a separate offense and shall be punishable as such hereunder.

9 (4) **Planning Code Enforcement Fund.** Any fees and penalties
10 collected pursuant to this Section 176 shall be deposited in the Planning Code Enforcement
11 Fund established by Administrative Code Section 10.100-166. The Planning Department,
12 through the Planning Code Enforcement Fund, shall reimburse City departments and
13 agencies, including the City Attorney's Office, for all costs and fees incurred in the
14 enforcement of this Section 176.

15 (d) **Additional Methods of Enforcement and Penalties for Violation of Sign**
16 **Regulations.** Violation of the general advertising sign regulations set forth in Article 6 are
17 subject to the administrative penalties and enforcement procedures set forth in Section 610 of
18 this Code, in addition to those set forth in this Section 176.

19 (e) **Additional Methods of Enforcement and Penalties for Violation of Section 317.**
20 Violation of the provisions set forth in Section 317 of this Code shall be subject to the penalties and
21 enforcement procedures set forth in Section 317(j), in addition to those set forth in this Section 176.

22 (f) **Additional Methods of Enforcement and Penalties for Violation of Section 319.**
23 Violation of the provisions set forth in Section 319 of this Code shall be subject to the penalties and
24 enforcement procedures set forth in Section 319(d), in addition to those set forth in this Section 176.

1 (g) **Use of Penalties Collected.** All penalties collected under this Section
2 176 shall be deposited in the Planning Code Enforcement Fund established in Administrative
3 Code Section 10.100.166 and shall be used for the purposes specified in that section.

4 ~~(h)~~ Remedies under this Section 176 are non-exclusive, and, notwithstanding
5 subsection (b)(2), the City Attorney may at any time institute civil proceedings for injunctive
6 and monetary relief, including civil penalties, against any person for violations of the Planning
7 Code, without regard to whether the Zoning Administrator has issued a notice of violation,
8 instituted abatement proceedings, scheduled or held a hearing on a notice of violation, or
9 issued a final decision. For proceedings instituted under this subsection ~~(h)~~, the City
10 Attorney shall notify the Zoning Administrator or the Planning Director, as appropriate, and
11 collaborate, where mutually desired, on the prosecution of the action. The City Attorney may
12 seek recovery of any attorneys' fees and costs, including but not limited to expert witness
13 fees, incurred by the City in bringing a proceedings under this subsection ~~(h)~~.

14 (i) If any party fails to pay the administrative or civil penalties imposed by this
15 Section within thirty days of the Zoning Administrator's notice requiring the cessation, removal or
16 correction of any violation of this Code pursuant to Section 176 (c)(1) of this Code, or within thirty
17 days of the date the penalties have been upheld on appeal, the Zoning Administrator may take such
18 action to collect the fees as he or she deems appropriate, including (i) referral of the matter to the
19 Bureau of Delinquent Revenue Collection under Chapter 10, Article V, Section 10.39 of the
20 Administrative Code, initiation of lien proceedings under Chapter 10, Article XX, Sections 10.230 et
21 seq. of the Administrative Code, and/or a requesting that the City Attorney pursue collection of the
22 penalties imposed against the responsible party in a civil action. The City Attorney may request its
23 attorneys' fees in any action that he or she pursues to collect the administrative or civil penalties or to
24 enforce collection of the penalties.

25 ~~**SEC. 176.1. ADMINISTRATIVE ENFORCEMENT PROCEDURES.**~~

1 ~~—(a) **Purpose and Intent.**~~

2 ~~—(1) The Board of Supervisors finds that enforcement of the Planning Code is vital to~~
3 ~~ensuring the quality of life in San Francisco's neighborhoods and in the City as a whole. A~~
4 ~~comprehensive code enforcement program using a combination of judicial and administrative remedies~~
5 ~~is likely to be the most successful approach to secure compliance with Planning Code requirements.~~
6 ~~Therefore, it is in the best interests of the City and its citizens to provide an alternative method of~~
7 ~~administrative enforcement that is designed to induce compliance with the Planning Code through~~
8 ~~action by the Director to issue and record orders of abatement and assess administrative penalties.~~

9 ~~—(2) The alternative methods of administrative enforcement established by this Section do~~
10 ~~not replace but rather are intended to supplement the enforcement remedies established in Section 176~~
11 ~~and other penalties or methods of enforcement, both civil and criminal, that are authorized by law. The~~
12 ~~provision for administrative penalties is not intended to be punitive in nature but is intended to secure~~
13 ~~compliance with the Planning Code and to compensate the City for its costs of enforcement.~~

14 ~~—(3) By establishing multiple enforcement mechanisms, it is intended that the Department~~
15 ~~will elect to use the mechanism most likely to achieve an expeditious and effective resolution of the~~
16 ~~violation in a particular case with the best use of the City's resources. In exercising this discretion, the~~
17 ~~Department should usually elect to use the Director's authority under this Section 176.1 in those cases~~
18 ~~where the legal or factual issues are not complex and where an interpretation of the Planning Code is~~
19 ~~not at issue, and reserve the enforcement mechanisms in Section 176 for those cases that are more~~
20 ~~complex or where interpretations of the Planning Code are at issue.~~

21 ~~—(b) **Authority of the Director.** The Director may enforce against violations of the Planning~~
22 ~~Code through the alternative administrative remedies of this Section 176.1. The Director may designate~~
23 ~~a member of Department staff to act under his or her authority with respect to any action the Director~~
24 ~~is authorized to take in this Section 176.1.~~

1 —~~If the Department elects to use the administrative remedies of this Section, the Department~~
2 ~~must use the abatement process set forth in this Section. However, as provided in Section (d)(3) below,~~
3 ~~the Department is not precluded from pursuing the alternative remedies of Section 176 if abatement of~~
4 ~~the violation has not been achieved under this Section 176.1. In addition, the Department's election of~~
5 ~~this process shall not affect the City Attorney's Charter authority to pursue a civil action. If the City~~
6 ~~Attorney filed a civil action against the property prior to the Director's issuance of the notice of~~
7 ~~violation under this Section 176.1, at the City Attorney's election the process under this Section 176.1~~
8 ~~shall be terminated and abatement of the alleged violations shall be pursued by the City Attorney in the~~
9 ~~ongoing civil action.~~

10 —~~(c) Notice of Violation.~~

11 —~~(1) Issuance. After the Department has determined that a violation of this Code exists, the~~
12 ~~Director shall give written notice of the violation to the responsible party. For purposes of this Section~~
13 ~~176.1, "responsible party" means the owners(s) of the real property on which the code violation is~~
14 ~~located, as listed in the records of the San Francisco Assessor, and the current leaseholder if different~~
15 ~~from the current owner(s) of the real property.~~

16 —~~(2) Contents of Notice. The notice shall cite to this Section 176.1 and describe the~~
17 ~~violation(s) with specificity, including: the date and location of the violations and the approximate time~~
18 ~~the violations were observed; citation to applicable Code sections; and a description of how what was~~
19 ~~observed violated the Code sections. The notice of violation shall state that the responsible party has~~
20 ~~thirty days from the date of service to (i) correct all violations or (ii) file an application for a building~~
21 ~~permit or other authorization necessary to abate the violations and proceed diligently to obtain all~~
22 ~~approvals and complete the work, as specified by the Director's order and within the time periods~~
23 ~~required.~~

24 —~~The notice of violation shall inform the responsible party that if the action required in the~~
25 ~~notice of violation is not taken by the stipulated deadline, the Director will (i) will issue an order of~~

1 ~~abatement, (ii) cause the order of abatement to be recorded against the property's records in the Office~~
2 ~~of the Recorder of the City and County of San Francisco, and (iii) assess administrative penalties under~~
3 ~~Section 176.1(e). The notice of violation shall also inform the responsible party of the right to request a~~
4 ~~Director's hearing under Subsection (d)(3) below prior to issuance of an order of abatement and~~
5 ~~assessment of administrative penalties. Service of the notice of violation shall be as specified in Section~~
6 ~~(g) below.~~

7 ~~—(d) Order of Abatement.~~

8 ~~—(1) **Issuance; Administrative Penalties; Request for Hearing.** If a property remains in~~
9 ~~violation after the deadlines established in the notice of violation, the Director shall issue an order of~~
10 ~~abatement and assess administrative penalties against the responsible party by following the procedure~~
11 ~~set forth in Section 176.1(e). The order of abatement shall state the amount of penalty imposed, explain~~
12 ~~how and when the penalty shall be paid, and describe the consequences of failure to pay the penalty.~~
13 ~~The order of abatement shall inform the responsible party of the right to appeal the order of abatement~~
14 ~~and assessment of administrative penalties to an administrative law judge under Subsection (f) below.~~
15 ~~The Department shall not proceed to enforce the order of abatement or collect the administrative~~
16 ~~penalties until the time for appeal has passed or the order and penalties have been upheld on appeal.~~

17 ~~—(2) **Recording.** The Director shall record the order of abatement against the property's~~
18 ~~records in the Office of the Recorder of the City and County of San Francisco. The Department shall~~
19 ~~not record the order of abatement until the time for appeal has passed or the Director's decision has~~
20 ~~been upheld on appeal. Within fourteen business days after the violation has been finally abated and all~~
21 ~~fees and penalties have been paid, the Director shall record a notice of compliance that cancels the~~
22 ~~order of abatement.~~

23 ~~—(3) **Request for Hearing.** Prior to expiration of the compliance deadlines set forth in the~~
24 ~~notice of violation, the responsible party may request a Director's hearing in order to show cause why~~
25 ~~the order of abatement should not issue and administrative penalties should not be assessed. The~~

1 ~~responsible party may also request that the Department not proceed with abatement proceedings under~~
2 ~~this Section 176.1 but instead proceed under Section 176. The Director's decision to continue~~
3 ~~proceeding under Section 176.1 is final and not appealable.~~

4 ~~—— The Director may designate a member of Department staff to may act in his or her place~~
5 ~~as the hearing officer. The hearing officer shall have the same authority as the Director to hear and~~
6 ~~decide the case and to make any order provided for in this section. The responsible party may waive the~~
7 ~~right to a Director's hearing and proceed directly to an appeal under Subsection (f) below after the~~
8 ~~order of abatement is issued and administrative penalties have been assessed. If the responsible party~~
9 ~~requests a Director's hearing, the following procedure shall apply:~~

10 ~~—— (A) **Request for hearing; notice.** The responsible party shall submit a written request for~~
11 ~~a Director's hearing prior to expiration of the compliance deadlines set forth in the notice of violation~~
12 ~~on a form or in the manner required by the Director. The Director shall send a notice of the date, hour,~~
13 ~~and place of the hearing to the responsible party at the address specified in the request for hearing and~~
14 ~~to any member of the public who has expressed an interest in the matter.~~

15 ~~—— (B) **Decision.** The Director or the Director's designee, after a full and fair consideration~~
16 ~~of the evidence and testimony received at the hearing, shall render within thirty days following the~~
17 ~~conclusion of the hearing a written decision which either dismisses the proceedings or orders issuance~~
18 ~~of the order of abatement and assessment of the administrative penalties. In rendering a decision, the~~
19 ~~Director or the Director's designee shall consider the following:~~

20 ~~—— (i) whether the responsible party was properly identified;~~

21 ~~—— (ii) whether the accrual dates for the administrative penalties are accurate;~~

22 ~~—— (iii) the amount of documented staff time spent in order to secure abatement of the~~
23 ~~violation;~~

24 ~~—— (iv) the nature of the violation;~~

25 ~~—— (v) the duration of the violation;~~

1 ~~—— (vi) efforts made by the responsible party to correct the violation;~~
2 ~~—— (vii) the impact of the violation upon the community;~~
3 ~~—— (viii) any instance in which the responsible party has been in violation of the same or~~
4 ~~similar laws at the same or other locations in the City and County of San Francisco;~~
5 ~~—— (ix) the responsible party's good faith efforts to comply;~~
6 ~~—— (x) whether the violation is easy to correct; and~~
7 ~~—— (xi) such other factors as the Director or the Director's designee may consider~~
8 ~~relevant.~~

9 ~~— (e) **Administrative Penalties.**~~

10 ~~—— (1) **Assessment.** In an order of abatement issued under Subsection (d) above, the Director~~
11 ~~shall assess administrative penalties for violation of the Planning Code. A penalty shall be assessed for~~
12 ~~each violation observed. Payment of the penalty shall not excuse failure to correct the violations nor~~
13 ~~shall it bar further enforcement action by the City.~~

14 ~~—— (2) **Amount of Penalty.** The penalty assessed for each violation shall be \$100.00 if the~~
15 ~~violation has not been corrected within thirty days from the date of service of the notice of violation,~~
16 ~~\$250.00 if the violation has not been corrected within sixty days from the date of service of the notice of~~
17 ~~violation, and \$500.00 if the violation has not been corrected within ninety days from the date of~~
18 ~~service of the notice of violation. If at the end of the 90-day period the violation has not been corrected~~
19 ~~and the matter has not been appealed, the Zoning Administrator may exercise his or her discretion to~~
20 ~~initiate abatement proceedings under Section 176 of this Code or to refer the matter to the City~~
21 ~~Attorney or District Attorney for prosecution.~~

22 ~~—— (3) **Failure to Pay the Administrative Penalties.** If the responsible party fails to pay the~~
23 ~~administrative penalties to the Department within thirty days of service of the order of abatement, or~~
24 ~~within thirty days of the date the penalties have been upheld on appeal, the Director may take such~~
25 ~~action to collect the fees as he or she deems appropriate, including (i) referral of the matter to the~~

1 *Bureau of Delinquent Revenue Collection under Article V, Section 10.39 of the San Francisco*
2 *Administrative Code, initiation of lien proceedings under Article XX, Section 10.230 et seq. of the San*
3 *Francisco Administrative Code, and/or a requesting that the City Attorney pursue collection of the*
4 *penalties imposed against the Responsible Party in a civil action. The City Attorney may request its*
5 *attorneys' fees in any action that he or she pursues to collect the administrative penalties or to enforce*
6 *collection of the penalties.*

7 ~~—(f) **Appeal of Order of Abatement and Administrative Penalties.**~~

8 ~~—(1) **Method of Appeal; Fee.** The responsible party may appeal the issuance of an order of~~
9 ~~abatement and any the administrative penalties assessed in the order by filing a written request in the~~
10 ~~form required by the Department within fifteen days of the service of the order. The appeal shall~~
11 ~~describe in detail why the appellant believes that the order of abatement was issued in error or why the~~
12 ~~administrative penalty was assessed in error or should be modified.~~

13 ~~— The appeal shall be filed on a form or in the manner required by the Director and be~~
14 ~~accompanied by the payment of a fee of \$400.00. The Department shall increase this fee on an annual~~
15 ~~basis at a rate equal to that of the Consumer Price Index (CPI). In addition to the appeal fee and~~
16 ~~administrative penalties assessed in the order of abatement, the Director shall assess upon the~~
17 ~~responsible party the Department's cost of preparation for and appearance at the hearing and all prior~~
18 ~~and subsequent attendant costs of the enforcement action. These fees shall be waived if the responsible~~
19 ~~party would qualify for a waiver of court fees and costs under California Government Code Section~~
20 ~~68511.3.~~

21 ~~—(2) **Scheduling of Hearing.** Upon timely filing of the appeal and payment of the appeal fee,~~
22 ~~the Director shall schedule a hearing before an administrative law judge, who shall serve as the~~
23 ~~hearing officer. The hearing shall be scheduled for a date no later than thirty days after the request.~~
24 ~~The Director shall notify the responsible party and the appellant, if different from the responsible party,~~
25 ~~of the hearing date, hour, and place of the hearing as soon as the hearing is scheduled and in no event~~

1 *later than ten days prior to the hearing. Notice of the hearing shall also be given to any member of the*
2 *public who has expressed interest in the matter. Notice shall be given in the manner specified in*
3 *Subsection (g) below.*

4 ~~—(3) **Documentation to be Provided to the Administrative Law Judge.** The Director shall~~
5 ~~provide to the administrative law judge no later than ten days prior to the hearing a copy of the~~
6 ~~Department's case file, which shall include at a minimum the notice of violation, the order of~~
7 ~~abatement, other written communications between the Department and the responsible party, and~~
8 ~~communications submitted by interested members of the public concerning the case. The Director may~~
9 ~~also submit, but is not required to do so, written arguments on why the Director's order should be~~
10 ~~upheld. Anything submitted to the administrative law judge by either party to the appeal shall be served~~
11 ~~upon the other party at the same time and in the same manner as it is submitted to the administrative~~
12 ~~law judge.~~

13 ~~—(4) **Hearing and Decision.** The administrative law judge shall hold a public hearing to~~
14 ~~hear the appeal of the Director's order of abatement and/or assessment of administrative penalties. In~~
15 ~~considering the appeal, the administrative law judge shall consider the following:~~

- 16 ~~—(A) whether the responsible party was properly identified;~~
17 ~~—(B) whether the accrual dates for the administrative penalties are accurate;~~
18 ~~—(C) the amount of documented staff time spent in order to secure abatement of the~~
19 ~~violation;~~
20 ~~—(D) the nature of the violation;~~
21 ~~—(E) the duration of the violation;~~
22 ~~—(F) efforts made by the responsible party to correct the violation;~~
23 ~~—(G) the impact of the violation upon the community;~~
24 ~~—(H) any instance in which the responsible party has been in violation of the same or~~
25 ~~similar laws at the same or other locations in the City and County of San Francisco;~~

1 ~~— (I) the responsible party's good faith efforts to comply; and~~

2 ~~— (J) whether the violation is easy to correct; and~~

3 ~~— (K) such other factors as the administrative law judge may consider relevant.~~

4 ~~— The decision of the administrative law judge shall be based upon, but not limited to,~~
5 ~~provisions of the San Francisco Planning Code, any final Zoning Administrator interpretations, the San~~
6 ~~Francisco Building Code, building permits issued by the City, and any final decisions of the San~~
7 ~~Francisco Board of Appeals concerning the subject building or property.~~

8 ~~— The administrative law judge shall issue a written decision on the appeal within thirty~~
9 ~~days of the conclusion of the hearing. The decision shall be served on the responsible party by certified~~
10 ~~mail by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the~~
11 ~~responsible party at the address provided to the administrative law judge by the responsible party.~~
12 ~~Service shall be considered to have been completed at the time of deposit in the United States mail. A~~
13 ~~copy of the decision shall also be mailed to the Director of Planning at the offices of the Planning~~
14 ~~Department.~~

15 ~~— (5) **Continuance of Hearing.** The parties may by mutual agreement continue the hearing~~
16 ~~date. If the parties do not mutually agree on another hearing date, the party wanting a continuance~~
17 ~~may request the administrative law judge to grant the continuance by submitting a written request for a~~
18 ~~continuance and demonstrating good cause with supporting documentation. A written request for a~~
19 ~~continuance shall be made at the earliest possible date but in no event less than five days before the~~
20 ~~hearing unless unforeseen circumstances prevent such notification. The party requesting the~~
21 ~~continuance shall notify any other parties of the request in the most expeditious manner and provide~~
22 ~~them with copies of the complete request and the supporting documentation. A request for continuance~~
23 ~~made at the time of the hearing may be granted only in those exceptional cases where the requesting~~
24 ~~party demonstrates both good cause and that the party was unable through no fault of their own to~~
25 ~~make the request at an earlier time. The administrative law judge may grant more than one~~

1 ~~continuance, but the combination of all continuances granted shall be for no longer than forty-five~~
2 ~~days.~~

3 ~~— For purposes of this section, "good cause" may include:~~

4 ~~— (A) the illness of a party, an attorney or other authorized representative of a party, or a~~
5 ~~material witness of a party;~~

6 ~~— (B) verified travel of a party, attorney, or material witness outside of San Francisco~~
7 ~~scheduled before receipt of the notice of hearing;~~

8 ~~— (C) failure to receive timely notice of the hearing date; or~~

9 ~~— (D) any other reason which makes it impossible or infeasible to appear on the scheduled~~
10 ~~date due to unforeseen circumstances or verified pre-arranged plans that cannot be changed. Mere~~
11 ~~inconvenience in appearing shall not be considered sufficient good cause.~~

12 ~~— In deciding whether to grant the request for continuance, the administrative law judge~~
13 ~~shall also take into consideration the nature of the alleged violation and its impact on neighboring~~
14 ~~properties and the general public if the alleged violations are allowed to continue for an additional~~
15 ~~period of time.~~

16 ~~— (6) **Finality and Effect of the Decision.** The decision of the administrative law judge shall~~
17 ~~be the City's final administrative action on the matter and there shall be no further administrative~~
18 ~~appeals.~~

19 ~~— (7) **Compliance with Decision.** If the administrative law judge upholds the Director's~~
20 ~~order of abatement in whole or in part, the responsible party shall comply with the decision and pay to~~
21 ~~the Department any administrative penalties that were upheld within thirty days of the date the decision~~
22 ~~was served. If the responsible party is proceeding diligently to obtain required permits and to complete~~
23 ~~the abatement work, the Director may grant additional time to comply with the decision. If the~~
24 ~~responsible party fails to comply with the decision and/or to pay the administrative penalties within the~~
25 ~~time period required, the Director may take such action to collect the fees and enforce the decision as~~

1 ~~he or she deems appropriate, including (i) referral of the matter to the Bureau of Delinquent Revenue~~
2 ~~Collection under Article V, Section 10.39 of the San Francisco Administrative Code, initiation of lien~~
3 ~~proceedings under Article XX, Section 10.230 et seq. of the San Francisco Administrative Code, and/or~~
4 ~~a requesting that the City Attorney pursue enforcement of the decision and collection of the penalties~~
5 ~~imposed against the responsible party in a civil action.~~

6 ~~— If the administrative law judge overrules the Director and determines that the order of~~
7 ~~abatement was issued in error, the Department shall consider the case abated and all administrative~~
8 ~~penalties rescinded.~~

9 ~~— (8) **Rescission of Order of Abatement or Withdrawal of Appeal Prior to the Hearing.** If~~
10 ~~the Director rescinds the order of abatement in its entirety prior to the hearing, the case shall be~~
11 ~~considered abated and the appeal withdrawn, and any assessed administrative penalties shall be~~
12 ~~considered rescinded. The Department shall refund to the responsible party in a timely manner any~~
13 ~~appeal fees that he or she has paid.~~

14 ~~— If the responsible party elects to withdraw the appeal and comply with the order of~~
15 ~~abatement, the Department shall refund in a timely manner any appeal fees that he or she has paid.~~
16 ~~Any administrative penalties already assessed must be paid in full before the Department will consider~~
17 ~~the case abated. If the responsible party withdraws the appeal within ten days of the date the appeal~~
18 ~~was filed, he or she may apply to the Director in writing for a reduction in the amount of any assessed~~
19 ~~administrative penalties based upon the number of days between the filing of the appeal and its~~
20 ~~withdrawal. Any decision by the Director to grant or deny the request shall be at the Director's sole~~
21 ~~discretion and is not appealable.~~

22 ~~— (g) **Service of Notices and Orders; Proof of Service.** Service of a notice of violation, order~~
23 ~~of abatement, or other notice or order required by this Section 176.1 shall be given to the owner of the~~
24 ~~property or other person to be notified by depositing the notice or order in the United States mail in a~~
25 ~~sealed envelope, postage prepaid, addressed to the person to be notified at that person's last known~~

1 ~~business or residence address as shown in the Assessor's records. Service by mail shall be considered~~
2 ~~to have been completed at the time of deposit in the United States mail.~~

3 ~~—If the identity of the person or business entity owning the property in question is unknown,~~
4 ~~the notice of violation shall be posted in a conspicuous location on, or if access to the property is not~~
5 ~~available in a conspicuous location as close as practicable to, the building or property. The notice~~
6 ~~shall also be hand delivered to the person, if any, in real or apparent charge and control of the subject~~
7 ~~premises or property. Once the identity of the person or business entity is known, the notice of violation~~
8 ~~shall be mailed to such person or business entity without the delay affecting the time limits, fees, or~~
9 ~~administrative penalties imposed by this Section 176.1.~~

10 ~~—Proof of giving any notice may be made by the certificate of any officer or employee of the~~
11 ~~City and County of San Francisco or by affidavit of any person over the age of 18 years, which shows~~
12 ~~service in conformity with the San Francisco Municipal Code or any other applicable provisions of~~
13 ~~law.~~

14 ~~—(h) **Failure of the City to Comply with Timelines.** The failure of the Director, the~~
15 ~~Department, or the administrative law judge to comply with any of the timelines set forth in this Section~~
16 ~~176.1 shall not render the code violations unenforceable.~~

17 ~~—(i) **Use of Fees and Penalties Collected.** All fees and penalties collected under this Section~~
18 ~~176.1 shall be deposited in the Planning Code Enforcement Fund established in Administrative Code~~
19 ~~Section 10.100.166 and shall be used for the purposes specified in that section.~~

20 ~~—(j) Remedies under this Section 176.1 are non-exclusive, and the City Attorney may at any~~
21 ~~time institute civil proceedings for injunctive and monetary relief, including civil penalties, against any~~
22 ~~person for violations of the Planning Code, without regard to whether the Planning Director has issued~~
23 ~~a notice of violation, scheduled or held a hearing on a notice of violation, issued an order of abatement~~
24 ~~and/or an assessment of administrative penalties, or whether an appeal has been filed or decided.~~

1 Section 4. Article 3 of the Planning Code is hereby amended by revising Sections 311
2 and 317, and adding a new Section 319, to read as follows:

3
4 **SEC. 311. PERMIT REVIEW PROCEDURES.**

5 (a) **Purpose.** The purpose of this Section 311 is to establish procedures for
6 reviewing building permit applications to determine compatibility of the proposal with the
7 neighborhood and for providing notice to property owners and residents on the site and
8 neighboring the site of the proposed project and to interested neighborhood organizations, so
9 that concerns about a project may be identified and resolved during the review of the permit
10 *and prior to any approval action.*

11 (b) **Applicability.** Except as indicated herein, all building permit applications in
12 Residential, NC, NCT, and Eastern Neighborhoods Districts for a change of use;
13 establishment of a Micro Wireless Telecommunications Services Facility; establishment of a
14 Formula Retail Use; demolition, new construction, or alteration of buildings; and the removal
15 of ~~an authorized or a Residential Unit or an Un~~authorized residential ~~U~~unit shall be subject to the
16 notification and review procedures required by this Section 311. In addition, all building permit
17 applications that would establish Cannabis Retail or Medical Cannabis Dispensary Uses,
18 regardless of zoning district, shall be subject to the review procedures required by this Section
19 311. Notwithstanding the foregoing or any other requirement of this Section 311, a change of
20 use to a Child Care Facility, as defined in Section 102, shall not be subject to the review
21 requirements of this Section 311, *provided there is no increase in the exterior dimensions of the*
22 *building.* Notwithstanding the foregoing or any other requirement of this Section 311, building
23 permit applications to construct an Accessory Dwelling Unit pursuant to Section 207(c)(6)
24 shall not be subject to the notification or review requirements of this Section 311.
25

1 (1) **Change of Use.** For the purposes of this Section 311, a change of use is
2 defined as follows:

3 (A) **Residential, NC and NCT Districts.** For all Residential, NC, and
4 NCT Districts, a change of use is defined as a change to, or the addition of any of the
5 following land uses as defined in Section 102 of this Code: Adult Business, Bar, Cannabis
6 Retail, Fringe Financial Service, General Grocery, General Entertainment, Group Housing,
7 Health Service, Limited Financial Service, Limited Restaurant, Liquor Store, Massage
8 Establishment, Medical Cannabis Dispensary, Nighttime Entertainment, Outdoor Activity Area,
9 Post-Secondary Educational Institution, Private Community Facility, Public Community
10 Facility, Religious Institution, Residential Care Facility, Restaurant, Retail Professional Service,
11 School, Specialty Grocery, Tobacco Paraphernalia Establishment, Trade School, and Wireless
12 Telecommunications Facility. A change of use from a Restaurant to a Limited-Restaurant shall
13 not be subject to the provisions of this Section 311. Any accessory massage use in .the
14 Ocean Avenue Neighborhood Commercial Transit District shall be subject to the provisions of
15 this Section 311. For all Residential Uses, a change of use shall also be defined as a change of
16 occupancy, as defined and regulated by the Building Code, or any change in use, as defined and
17 regulated by the Planning Code, of any Residential Unit(s) or Unauthorized Unit(s) to a Non-
18 Residential or Student Housing use, even if cooking facilities are not removed.

19 * * * *

20 (2) **Alterations.** For the purposes of this Section 311, an alteration shall be
21 defined ~~as an~~ to include a Residential Demolition or any increase to the exterior dimensions of a
22 building except those features listed in subsections 136(c)(1), 136(c)(4), 136(c)(6), 136(c)(8)
23 through 136(c)(12), 136(c)(16), 136(c)(17), Section and 136(c)(20) through 136(c)(23). In addition,
24 an alteration in RH, RM, and RTO Districts shall also include the removal of more than 75% of
25 a residential building's existing interior wall framing or the removal of more than 75% of the

1 area of the existing framing, the addition of a garage, roof deck or penthouse, or the infilling of a
2 lightwell that blocks the windows on an adjacent building.

3 (3) **Demolition, New Construction, Removal of Residential Unit.** *For the purposes*
4 *of this Section 311, Demolition, New Construction and Removal shall be defined as set forth in Section*
5 *317 and 319 of this Code.*

6 (4) **Micro Wireless Telecommunications Services Facilities.** Building
7 permit applications for the establishment of a Micro Wireless Telecommunications Services
8 Facility, other than a Temporary Wireless Telecommunications Services Facility, shall be
9 subject to the review procedures required by this Section. Pursuant to Section 205.2,
10 applications for Temporary Wireless Telecommunications Facilities to be operated for
11 commercial purposes for more than 90 days shall also be subject to the review procedures
12 required by this Section.

13 (c) **Building Permit Application Review for Compliance.** Upon acceptance of
14 any application subject to this Section, the Planning Department shall review the proposed
15 project for compliance with the Planning Code and ~~any~~all applicable design guidelines
16 including, without limitation, the design policies and guidelines of the General Plan and any Area Plan
17 adopted by the Planning Commission, the design guidelines set forth in Articles 10 and 11 of the
18 Planning Code and Appendices thereto, and the Residential Design Guidelines approved by the
19 Planning Commission. Applications determined not to be in compliance with the standards
20 of Articles 1.2, 1.5, 2, ~~and~~ 2.5, 7, and 8 of the Planning Code, the Residential Design
21 Guidelines, including all applicable design guidelines for specific areas adopted by the Planning
22 Commission, or with any applicable conditions of previous approvals regarding the project,
23 shall be held until either the application is determined to be in compliance, is disapproved or a
24 recommendation for cancellation is sent to the Department of Building Inspection.

25 * * * *

1 (1) **Design Guidelines.** The construction of new buildings and alteration of
2 existing buildings shall be consistent with the design policies and guidelines of the General
3 Plan and with the "Residential Design Guidelines" and all other applicable design guidelines
4 as adopted and periodically amended for specific areas or conditions by the Planning
5 Commission. The design for new buildings with residential uses in RTO Districts shall also be
6 consistent with the design standards and guidelines of the "Ground Floor Residential Units
7 Design Guidelines" as adopted and periodically amended by the Planning Commission. The
8 Planning Director *mayshall* require modifications to the exterior of a proposed new building or
9 proposed alteration of an existing building in order to bring it into conformity with the
10 applicable design guidelines. These modifications may include, but are not limited to, changes
11 in *sitingsite design*, building envelope, scale, *height, form, materials, roofline, architectural features,*
12 *windows,* texture and detailing, openings, and landscaping.

13 (2) **Removal of Residential Units.** When removal or elimination of *a*
14 *Residential Unit or an ~~authorized or U~~unauthorized residential Unit* is proposed, the Applicant
15 shall provide notice as required in this Section 311, and shall include contact information for
16 the appropriate City agency or resource for assistance in securing tenant counseling or legal
17 services, as applicable. *The Applicant shall provide a list of all existing Residential or*
18 *Unauthorized Units in the subject property to the Zoning Administrator. Within five days of filing a*
19 *permit application to remove any Residential or Unauthorized Unit, the Applicant shall post a notice*
20 *of the application at least 30 inches by 30 inches in a conspicuous common area of the*
21 *subject property, and such sign shall be posted no later than the start date of the notification*
22 *period required by this Section 311 and shall remain posted until the conclusion of any*
23 *hearings on the permit before the Planning Commission, the Zoning Administrator, the Board*
24 *of Supervisors or the Board of Appeals. The Zoning Administrator shall determine any*
25 *additional notification procedures to be applied in such a case.*

1 (3) **Replacement Structure Required.** ~~Unless the building is determined to pose~~
2 ~~a serious and imminent hazard as defined in the Building Code, an application authorizing demolition~~
3 ~~of an historic or architecturally important building or of a dwelling shall not be approved and issued~~
4 ~~until the City has granted final approval of~~No permit authorizing demolition of a residential building
5 shall be issued until a Conditional Use authorization for the demolition and the replacement structure
6 has been finally approved pursuant to Section 317 of this Code and a building permit for
7 construction of the replacement building, consistent with the Conditional Use authorization has
8 been finally approved. A ~~building permit~~ Conditional Use authorization is finally approved if the
9 Board of ~~Appeals~~Supervisors has taken final action for approval on an appeal of the ~~issuance or~~
10 ~~denial of the permit or if the permit has been issued and~~ Conditional Use authorization or if the time
11 for filing an appeal with the Board has lapsed with no appeal filed.

12 (A) The demolition or alteration of any building, including but not limited
13 to historically and architecturally important buildings, may be approved administratively when
14 the Director of the Department of Building Inspection, the Chief of the Bureau of Fire
15 Prevention and Investigation, or the Director of Public Works ~~determines~~issues a written
16 determination, after consultation with the Zoning Administrator, that an imminent safety hazard
17 exists, and the Director of the Department of Building Inspection determines that ~~the proposed~~
18 demolition or ~~extensive~~ alteration of the structure, feature, or part thereof is the only feasible
19 means to correct the condition and secure the public safety; provided, however, that only such
20 work as is absolutely necessary to correct the unsafe or dangerous condition may be performed.

21 (4) **Completeness of Plans, and Accuracy of Demolition Calculations.** As a part of
22 the project review and prior to the notification required by this Section 311, the project planner
23 assigned to review the permit application shall confirm the accuracy and completeness of: (A) the
24 proposed plans submitted with the building permit application, including the existing and proposed
25 conditions of the subject building and site, and (B) the demolition calculation(s) including the

1 percentage of the interior and exterior elements of the existing structure to be demolished, destroyed or
2 removed, even temporarily. Modifications to the proposed plans shall be required as necessary to
3 insure their accuracy and completeness. The permit application shall either be held until complete
4 plans have been submitted or disapproved with a recommendation for cancellation sent to the
5 Department of Building Inspection. If necessary to confirm the existing conditions and demolition
6 calculations, the project planner shall conduct a site visit and consult with the Building Department.

7 (5) **Requirement for Conditional Use Authorization.** The Department shall
8 determine whether the proposed project would result in the Demolition of a Residential Building or in
9 the Removal of a Residential Unit or an Unauthorized Unit through Demolition, Merger or Conversion
10 pursuant to the requirements of Section 317 of this Code, or whether the proposed project is a Major
11 Expansion of a Residential Building pursuant to Section 319 of this Code. Upon such a determination
12 by the Department, the project sponsor shall be required to apply for a Conditional Use authorization
13 pursuant to the applicable provisions of this Code, unless exempt from Conditional Use authorization
14 pursuant to subsections 317(c)(2) or 319(c)(2) of this Code. For all projects subject to the Conditional
15 Use requirements of Sections 317 or 319 of this Code, the Department shall notify the Department of
16 Building Inspection that the building permit application shall be held pending action by the Planning
17 Commission to approve or disapprove all Conditional Use authorizations for the proposed project.

18 (d) **Notification.** Upon determination that an application is complete and in
19 compliance with the requirements and development standards of the Planning Code and all
20 applicable design guidelines, the Planning Department shall cause a notice to be posted on the
21 site pursuant to rules established by the Zoning Administrator and shall cause a written notice
22 describing the proposed project to be sent in the manner described below. This notice shall
23 be in addition to any notices required by the Building Code and shall have a format and
24 content determined by the Zoning Administrator. It shall include a description of the proposal
25 compared to any existing improvements on the site with accurate dimensions of the basic

1 features, elevations and site plan of the proposed project including the position of any
2 adjacent buildings, exterior dimensions and finishes, and a graphic reference scale, existing
3 and proposed uses or commercial or institutional business name, if known. The notice shall
4 describe the project review process and shall set forth the mailing date of the notice and the
5 expiration date of the notification period. The required contents of the notification package shall be
6 as set forth in subsection 311(e)(4), below.

7 (1) **Notification Group and Area.** Written notice shall be mailed to the
8 notification group which shall include the project sponsor, tenants of the subject property,
9 relevant neighborhood organizations as described in subsection 311(d)(4), all individuals
10 having made a written request for notification for a specific parcel or parcels and all owners
11 and, to the extent practical, occupants, of properties in the notification area. For the purposes
12 of Section 311(c)(2), written notice shall also be mailed to tenants of the subject property in
13 Unauthorized residential Units.

14 * * * *

15 (6) **Elimination of Duplicate Notice.** The notice provisions of this Section
16 may be waived by the Zoning Administrator for building permit applications for projects that
17 have been, or before approval will be, the subject of a duly noticed public hearing before the
18 Planning Commission or Zoning Administrator, provided that the notice of such public hearing
19 complies with all of the other notification requirements set forth in this subsection 311(d), including the
20 notification group and area, notification period, and contents of the notification package
21 for which the building permit application is required is both substantially included in the hearing
22 notice and is the subject of the hearing.

23 (7) **Notification Package.** The notification package for a project subject to
24 notice under this Section 311 shall include a written notice and reduced-size drawings of the
25 project, and shall include the names of the property owner or owners (if different from the project

1 sponsor), the contractor, and the design professional as well as the name and contact information for
2 any primary contact persons for the project.

3 (A) The written notice shall compare the proposed project to the
4 existing conditions at the development lot. Changes to basic features of the project that are
5 quantifiable shall be disclosed on the written notice. The basic features of existing and
6 proposed conditions shall include, where applicable, front setback, building depth, rear yard
7 depth side setbacks, building height, number of stories, dwelling unit count, building square
8 footage, and use of the building and number of parking spaces.

9 (B) The written notice shall describe whether the project is a
10 demolition, new construction or alteration project. If the project is an alteration, the type of
11 alteration shall be described: horizontal, vertical or both horizontal and vertical additions and
12 where the alteration is located. The project description shall also include, as applicable,
13 descriptions of (i) an addition or expansion of a garage, roof deck, parapet, penthouse; (ii) an
14 alteration of a ground floor storefront; (iii) alterations to existing fenestration pattern, material,
15 dimension or configuration; (iv) whether the structure is historic or over 50 years old; (v) whether the
16 project would partially or completely infill a light well or obstruct windows on adjacent buildings; and
17 (vi) demolition calculations as confirmed by the Planning Department.

18 (C) Written project description shall be part of the notice. In addition,
19 the notice shall describe the project review process, including whether the project will require a
20 Variance, Conditional Use authorization or amendment to the Planning Code or General Plan,
21 information on how to obtain additional information and the name, telephone number, and email
22 address of the project planner at the Planning Department assigned to review the application—contact
23 information of the Planning Department.

24 (D) The building permit application number(s) shall be disclosed in the
25 written notice. The start and expiration dates of the notice shall be stated. The written notice

1 *shall also provide a* description about the recipient's rights to request additional information, to
2 request Discretionary Review by the Planning Commission and to appeal to other boards or
3 commissions ~~shall be provided, and how to request receipt of notices of public hearings on the~~
4 *project.*

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

11 (F) The existing and proposed site plan shall illustrate the project
12 including the full lots and structures of the directly adjacent properties and, if a horizontal
13 addition is proposed, the site plan shall include the properties on the block within which the project is
14 located showing rear and front setbacks.

15 (G) The existing and proposed floor plans shall ~~illustrate~~ accurately show
16 the location and removal of all interior and exterior elements of the existing structure to be
17 demolished, destroyed or removed, even temporarily, and include ~~wall~~ the existing and proposed
18 square footage as well as the amount and location of existing square footage proposed to be
19 demolished. The existing and proposed dimensions, square footage, and uses of each room shall be
20 labeled. Significant dimensions shall be provided to document the changes proposed by the
21 project.

22 (H) The existing and proposed elevations shall document the change
23 in building volume: height and depth. Dimensional changes shall be documented, including
24 overall building height and also parapets, penthouses, roof decks, garage additions, and other
25 proposed vertical and horizontal building extensions. The front and rear elevations shall

1 include the full profiles of the adjacent structures including the adjacent structures' doors,
2 windows and general massing. Each side elevation shall include the full profile of the
3 adjacent building in the foreground of the project, and the adjacent windows, lightwells and
4 general massing shall be illustrated.

5 (I) Photographs shall be submitted depicting the relationship of the
6 proposed project to adjacent properties.

7 (J) The declaration of compliance with the San Francisco Rent Ordinance,
8 as required by Building Code Section 106A.1, shall be included in the notice package.

9 (K) The notification package shall include a list of all work done under any
10 and all previous permit applications, including revisions to permits, over the five years prior to filing of
11 the application.

12 * * * *

13 (e) **Requests for Planning Commission Review.** A request for the Planning
14 Commission to exercise its discretionary review powers over a specific building permit
15 application shall be considered by the Planning Commission if received by the Planning
16 Department no later than 5:00 p.m. of the last day of the notification period as described in
17 this Section 311, subject to guidelines adopted by the Planning Commission. The project
18 sponsor of a building permit application may request discretionary review by the Planning
19 Commission to resolve conflicts between the Director of Planning and the project sponsor
20 concerning requested modifications to comply with the Residential Design Guidelines, or other
21 applicable design guidelines.

22 (1) **Scheduling of Hearing.** The Zoning Administrator shall set a time for
23 hearing requests for discretionary review by the Planning Commission within a reasonable
24 period.
25

1 (2) **Notice.** Mailed notice of the discretionary review hearing by the Planning
2 Commission shall be given pursuant to the requirements of Section 333 of this Code.

3 (f) The Department shall retain in its files until completion of the project and final
4 inspection by the Department of Building Inspection the scale drawings, site plans, floor plans and
5 elevations for each project.

6
7 **SEC. 317. LOSS OF RESIDENTIAL AND UNAUTHORIZED UNITS THROUGH**
8 **DEMOLITION, MERGER, ~~AND~~ OR CONVERSION.**

9 (a) **Findings.** San Francisco faces a continuing shortage of affordable housing.
10 There is a high ratio of rental to ownership tenure among the City's residents. The General
11 Plan recognizes that existing housing is the greatest stock of rental and financially accessible
12 ~~Residential Units~~, and is a resource in need of protection. Therefore, a public hearing will be
13 held prior to approval of any permit that would remove existing housing, with certain
14 exceptions, as described below. ~~The Planning Commission shall develop a Code Implementation~~
15 ~~Document setting forth procedures and regulations for the implementation of this Section 317 as~~
16 ~~provided further below. The Zoning Administrator shall modify economic criteria related to property~~
17 ~~values and construction costs in the Implementation Document as warranted by changing economic~~
18 ~~conditions to meet the intent of this Section.~~

19 (b) **Definitions.** For the purposes of this Section 317, the terms below shall be as
20 defined below. Capitalized terms not defined below are defined in Section 102 of this Code.

21 (1) "Residential Conversion" or "Conversion" shall mean ~~the removal of~~
22 ~~cooking facilities~~, change of occupancy (as defined and regulated by the Building Code), or
23 change of use (as defined and regulated by the Planning Code), of any Residential Unit or
24 Unauthorized Unit to a Non-Residential or Student Housing use, even if cooking facilities are not
25 removed.

1 (2) "Residential Demolition" or "Demolition of a Residential Unit" shall mean
2 any loss of residential housing, including any one or more of the following:

3 (A) the total tearing down of an existing Residential Building; or

4 (B) Removal of one or more Residential Units or Unauthorized Units; or

5 (C) Removal of more than 50% of the sum of all existing above-grade
6 external elements from their function as all external elements; or

7 (D) Removal of more than 25% of the surface of all external walls facing a
8 public street or streets; or

9 (E) Removal of more than 25% of the building's existing internal structural
10 framework, interior bearing elements and/or floor plates.

11 To determine whether a project proposes Residential Demolition, calculation of the percentages
12 of Removal under this subsection (b)(2) shall include all work included in permits approved for the
13 property within the prior five years.

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

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

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

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

1 (3) — "Façade" is defined in Section 102 of this Code.

2 (4) — "Front Façade" is defined in Section 102 of this Code.

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

5 (6) — "Mandatory Discretionary Review" is defined in Section 102 of this Code.

6 (37) "Residential Merger" or "Merger" shall mean one or more of the following:

7 (A) the combining of two or more existing Residential or Unauthorized
8 Units within a Residential Building containing two or more such Units, resulting in a decrease in
9 the number of Residential Units and Unauthorized Units within a building, or

10 (B) the enlargement of one or more existing units by more than 10% of
11 its original floor area while ~~substantially~~ reducing the size of ~~others~~ one or more other existing units
12 by more than 25%10% of their original floor area, even if the number of units is not reduced.

13 The Planning Commission may reduce the numerical element of this criterion by up to 20% of
14 its value should it deem that adjustment is necessary to implement the intent of this Section 317, to
15 conserve existing housing and preserve affordable housing.

16 (8) — "Rear Façade" is defined in Section 102 of this Code.

17 (49) "Removal" shall mean, with reference to ~~a~~ the external wall, roof or floor of
18 a structure, internal wall, partition, floor or ceiling of a structure, or the internal structural
19 framework, interior bearing element or floor plate, its temporary or permanent dismantling, ~~its~~
20 relocation, or its alteration, and/or replacement of the exterior function by construction of a new
21 building element ~~exterior to it~~. Where a portion of an exterior or interior wall is removed, any
22 remaining wall with a height less than the Building Code requirement for legal head room shall
23 be considered ~~demolished~~ Removal for the purposes of this Section 317. Where Ordinary maintenance
24 and repair, the sole purpose and effect of which is to correct deterioration, decay or damage of existing
25 materials, where less than 10% of the exterior finishing and deteriorated elements of a building are

1 removed and replaced ~~for repair or maintenance~~, in kind with like materials, with no increase in
2 the extent of the element or volume of the building, ~~such replacement~~ shall not be considered
3 Removal for the purposes of this Section 317. ~~The foregoing does not supersede any requirements~~
4 ~~for or restrictions on noncomplying structures and their reconstruction as governed by Article 1.7 of~~
5 ~~this Code.~~

6 (510) "Removal" shall mean, with reference to a Residential or Unauthorized
7 Unit, its elimination of the Residential or Unauthorized Unit by Conversion, Demolition, or Merger
8 with another Residential or Unauthorized Unit as defined in this Section 317.

9 (11) ~~"Residential Building" is defined in Section 102 of this Code.~~

10 (612) "Residential Unit" shall mean a legal conforming or legal nonconforming
11 Dwelling Unit, a legal nonconforming Live/Work Unit or Group Housing, or an Accessory
12 Dwelling Unit. It shall not include a Residential Unit that is regulated by Chapter 41 of the
13 Administrative Code (the Residential Hotel Unit Conversion and Demolition Ordinance).

14 (713) "Unauthorized Unit" shall mean one or more rooms within a building that
15 have been used, without the benefit of a building permit, as a separate and distinct living or
16 sleeping space independent from Residential Units on the same property. "Independent" shall
17 mean that (A#) the space has independent access that does not require entering a Residential
18 Unit on the property and (B#) there is no open, visual connection to a Residential Unit on the
19 property.

20 (8) "Residential Flats" shall mean a housing typology consisting of two or more
21 Dwelling Units in a single building that have exposure onto open areas at the front and rear of the
22 property.

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

1 (c) **Conditional Use Authorization Required; Applicability, Exemptions, and**
2 **Conditions of Approval.**

3 (1) **Applicability.** *Conditional Use authorization pursuant to the requirements of this*
4 *Section 317 is required prior to:*

5 (A) *the approval of ~~Any~~ application for a permit that would result in:*
6 (i) *the Removal by Demolition, Merger or Conversion of one or*
7 *more Residential Units or Unauthorized Units; ~~is required to obtain Conditional Use authorization;~~*
8 *or*

9 (ii) *the Demolition of a Residential Building;*

10 (B) *the approval of an application for a replacement structure in the case of*
11 *a Residential Demolition, or*

12 (C) *the approval of an alteration permit in the case of a Conversion.*

13 For Unauthorized Units, this Conditional Use authorization will not be required for
14 Removal if the Zoning Administrator has determined in writing that the unit cannot be
15 legalized under any applicable provision of this Code. *The application for a replacement building*
16 *or alteration permit shall also be subject to Conditional Use Requirements.*

17 (2) ~~The Conditional Use requirement of Subsection (c)(1) shall apply to (A) any~~
18 ~~building or site permit issued for Removal of an Unauthorized Unit on or after March 1, 2016, and (B)~~
19 ~~any permit issued for Removal of an Unauthorized Unit prior to March 1, 2016 that has been~~
20 ~~suspended by the City or in which the applicant's rights have not vested.~~

21 (23) **Exemptions.**

22 (A) The Demolition, Merger or Conversion Removal of a Residential Unit
23 or the Demolition of a Residential Building that has received final approval from the Planning
24 Department through administrative approval or the Planning Commission through a
25 Discretionary Review or Conditional Use authorization prior to the effective date of the

1 Conditional Use requirement of ~~Subsection (e)(1)~~ Ordinance No. _____ ~~is does~~ not required to
2 ~~apply for~~ an additional approval under ~~Subsection (e)(1)~~ this Section 317 unless the construction
3 activity exceeds the Conditions of Approval or scope of work under a building permit, in which case the
4 provisions of subsection (h) shall apply.

5 (B) This Section 317 shall not apply to property:

6 (i) owned by the United States or any of its agencies;

7 (ii) owned by the State of California or any of its agencies, with the
8 exception of such property not used exclusively for a governmental purpose;

9 (iii) under the jurisdiction of the Port of San Francisco or the
10 Successor Agency to the Redevelopment Agency of the City and County where the application of this
11 Section is prohibited by State law; or

12 (iv) where demolition of the building or Removal of a Residential Unit
13 or Unauthorized Unit is necessary to comply with a court order that directs the owner to demolish the
14 building or remove the unit due to conditions that present an imminent threat to life safety, or where the
15 Director of the Department of Building Inspection or the Chief of the Bureau of Fire Prevention and
16 Public Safety has issued a written determination that an imminent safety hazard exists, and that the
17 proposed demolition or alteration of the structure, feature, or part thereof, is the only feasible means to
18 correct the condition and secure the public safety; provided, however, that only such work as is
19 absolutely necessary to correct the unsafe or dangerous condition may be performed.

20 (3) **Conditions of Approval.** The findings made by the Planning Commission, or by
21 the Board of Supervisors on appeal, in approving a Conditional Use authorization pursuant to this
22 Section 317 shall be incorporated into and become a part of both the Conditional Use authorization
23 and the building or site permit as Conditions of Approval. The Planning Commission, or the Board of
24 Supervisors on appeal, may prescribe such additional conditions as may be necessary to secure the

1 objectives of this Section 317 and the General Plan to protect existing housing as the greatest stock of
2 rental and financially accessible housing.

3 (4) ~~— The Removal of an Unauthorized Unit does not require a Conditional Use~~
4 ~~authorization pursuant to Subsection (e)(1) if the Department of Building Inspection has determined~~
5 ~~that there is no path for legalization under Section 106A.3.1.3 of the Building Code.~~

6 (5) ~~— The Demolition of a Single-Family Residential Building that meets the~~
7 ~~requirements of subsection (d)(3) below may be approved by the Department without requiring a~~
8 ~~Conditional Use authorization.~~

9 (d) **Building Inspection Review of Specified Projects.** For all projects subject to the
10 Conditional Use authorization requirement of this Section 317, Planning Department Staff shall
11 require the project sponsor to submit a report by a structural engineer for review by DBI. The results of
12 the engineering review shall be summarized in the Planning Department staff report for the
13 Conditional Use authorization hearing before the Planning Commission.

14 (e) **Issuance of Residential Demolition Permit; Approval of Replacement Structure**
15 **Required.**

16 (1) ~~No permit for a Residential Demolition of to Demolish a an existing~~
17 ~~Residential ~~Building~~Unit or an Unauthorized Unit in any zoning district shall be issued until a~~
18 ~~Conditional Use authorization for the Demolition and the replacement structure have been finally~~
19 ~~approved pursuant to the criteria set forth in this Section 317, and a building or site permit for the~~
20 ~~replacement structure consistent with the Conditional Use authorization has been issued. is finally~~
21 ~~approved, unless the building is determined to pose a serious and imminent hazard as defined in the~~
22 ~~Building Code. A building permit Conditional Use authorization is finally approved if the Board of~~
23 ~~Appeals Supervisors has taken final action for approval on an appeal of the issuance or denial of~~
24 ~~the permit Conditional Use authorization, or if the permit has been issued and the time for filing an~~
25 ~~appeal with the Board of Appeals Supervisors has lapsed with no appeal filed.~~

1 (2) ~~Conditional Use authorization is required for approval of the permit for~~
2 ~~Residential Demolition, and~~ The Commission shall consider the replacement structure as part
3 of its decision on the Conditional Use application for the Residential Demolition pursuant to the
4 criteria set forth in subsection 317(g)(5), below. If Conditional Use authorization is required for the
5 replacement structure by other sections of this Code, the Commission shall consider the
6 Residential ~~d~~Demolition as part of its decision on that the Conditional Use application provided
7 that the criteria for the Demolition set forth in subsection 317(g)(5)(A) shall apply.

8 (3) ~~— An application to demolish a Single-Family Residential Building on a site in a~~
9 ~~RH-1 or RH-1(D) District that is demonstrably not affordable or financially accessible housing is~~
10 ~~exempt from the Conditional Use authorization requirement of Subsection (c)(1). Specific numerical~~
11 ~~criteria for such analyses shall be adopted by the Planning Commission in the Code Implementation~~
12 ~~Document, in accordance with this Section 317, and shall be adjusted periodically by the Zoning~~
13 ~~Administrator based on established economic real estate and construction indicators.~~

14 (A) ~~— The Planning Commission shall determine a level of affordability or~~
15 ~~financial accessibility, such that Single-Family Residential Buildings on sites in RH-1 and RH-1(D)~~
16 ~~Districts that are demonstrably not affordable or financially accessible, that is, housing that has a~~
17 ~~value greater than at least 80% of the combined land and structure values of single family homes in~~
18 ~~San Francisco as determined by a credible appraisal, made within six months of the application to~~
19 ~~demolish, are not subject to a Conditional Use hearing. The demolition and replacement building~~
20 ~~applications shall undergo notification as required by other sections of this Code. The Planning~~
21 ~~Commission, in the Code Implementation Document, may increase the numerical criterion in this~~
22 ~~Subsection by up to 10% of its value should it deem that adjustment is necessary to implement the intent~~
23 ~~of this Section 317, to conserve existing housing and preserve affordable housing.~~

24 (B) ~~— The Planning Commission, in the Code Implementation Document, shall~~
25 ~~adopt criteria and procedures for determining the soundness of a structure proposed for demolition,~~

1 ~~where "soundness" is an economic measure of the feasibility of upgrading a residence that is deficient~~
2 ~~with respect to habitability and Housing Code requirements, due to its original construction. The~~
3 ~~"soundness factor" for a structure shall be the ratio of a construction upgrade cost (i.e., an estimate of~~
4 ~~the cost to repair specific habitability deficiencies) to the replacement cost (i.e., an estimate of the~~
5 ~~current cost of building a structure the same size as the existing building proposed for demolition),~~
6 ~~expressed as a percent. A building is unsound if its soundness factor exceeds 50%. A Residential~~
7 ~~Building that is unsound may be approved for demolition.~~

8 (34) Nothing in this Section 317 is intended to permit a Residential Demolition
9 in those areas of the City where other sections of this Code prohibit such a Demolition or a
10 replacement structure.

11 (45) Nothing in this Section 317 is intended to exempt ~~buildings or sites where a~~
12 ~~proposed demolition~~ Demolition is proposed from undergoing additional review ~~with respect under~~
13 ~~any other provision of this Code that regulates Demolition or replacement structures, including without~~
14 ~~limitation buildings or sites subject~~ to Articles 10 and 11 of this the Planning Code, where the
15 requirements of those articles also apply. ~~Notwithstanding the definition of "Residential~~
16 ~~Demolition" in this section and as further described in the Code Implementation Document with regard~~
17 ~~to Residential Demolition, the criteria of Section 1005 shall apply to projects subject to review under~~
18 ~~the requirements of Article 10 with regard to the structure itself.~~

19
20 (f) **Conversion to Student Housing.** The ~~e~~ Conversion of Residential Units to
21 Student Housing is prohibited. For the purposes of this subsection (f), Residential Units that
22 have been defined as such by the time a First Certificate of Occupancy has been issued by
23 the Department of Building Inspection for new construction shall not be converted to Student
24 Housing.

1 ~~(f) — **Residential Merger.** The Merger of Residential Units, not otherwise subject to~~
2 ~~Conditional Use authorization by this Code, shall be prohibited.~~

3 (g) **Conditional Use Criteria.**

4 (1) General.

5 (A) The Conditional Use criteria set forth in this Section 317 shall be in
6 addition to the criteria set forth in Section 303 of this Code, provided that in the event of a conflict, the
7 criteria set forth in this Section 317 shall apply.

8 (B) Prior to granting any Conditional Use authorization under this Section
9 317, the Planning Commission shall find, based upon substantial evidence, that the following criteria
10 are met: (i) the proposed project will not result in the loss or Removal of any affordable housing unit,
11 as defined in Section 401 of this Code, or any unit(s) subject to the Residential Rent Stabilization and
12 Arbitration Ordinance; and (ii) the proposed project will not result in the loss or Removal of any
13 housing unit(s) that is/are currently occupied by a tenant or tenants or was occupied by a tenant or
14 tenants at any time within five (5) years prior to the filing of the Conditional Use Application.

15 (2) The general Conditional Use Criteria of Section 317(g)(1)(B) shall not apply to
16 any building where all Residential Units have been withdrawn from residential rental pursuant to
17 Administrative Code Section 37.9(a)(13).

18 (3) **C-3 Districts.** When considering whether to grant Conditional Use
19 authorization for the loss or Removal of Residential or Unauthorized Unit(s) in the C-3
20 districts, ~~in lieu of the criteria set forth in Planning Code Section 303, consideration shall be given to~~
21 ~~the Planning Commission shall find, based upon substantial evidence, that, in addition to the criteria~~
22 ~~set forth in subsection (g)(1), the loss or Removal of the Residential or Unauthorized Unit(s) will have~~
23 ~~no~~ adverse impact on the public health, safety, and general welfare ~~of due to~~ the loss of
24 housing stock in the district ~~and to any unreasonable hardship to the applicant if the permit is~~
25 ~~denied.~~

1 (42) **Residential Merger.** In addition to the criteria set forth in subsection (g)(1),
2 The Planning Commission shall find, based upon substantial evidence, that the following criteria
3 are met before a Conditional Use authorization for the ~~consider the following criteria in the review of~~
4 applications to merge Merger of Residential Units or Unauthorized Units can be approved:

5 (A) Merger of the units would not result in any single Residential Unit larger
6 than 1,200 square feet or the average size of the existing Residential Units within 300 feet, whichever is
7 less; — whether removal of the unit would eliminate only owner-occupied housing, and if so, for how
8 long the unit(s) proposed to be removed have been owner-occupied; and

9 (B) Merger would not result in the elimination of one or more Residential
10 Flats or decrease the existing exposure of any Residential Flat or Residential Unit onto open
11 areas~~whether removal of the unit(s) and the merger with another is intended for owner occupancy;~~
12 and;

13 (C) Merger would not enlarge any existing Residential Unit or Units by more
14 than 10% of its original floor area or reduce the size of any other existing Residential Unit or Units by
15 more than 10% of its original floor area, even if the original number of Residential Units in the
16 building is not reduced.~~whether removal of the unit(s) will remove an affordable housing unit as~~
17 ~~defined in Section 401 of this Code or housing subject to the Residential Rent Stabilization and~~
18 ~~Arbitration Ordinance; and~~

19 The Planning Commission may reduce the numerical element of the criteria in these subsections
20 (g)(4)(A) or (C) by up to 5% of its value should it deem that adjustment is necessary to implement the
21 intent of this Section 317, to protect rental housing, to conserve existing housing and preserve
22 affordable housing.

23 ~~—————(D) ——— if removal of the unit(s) removes an affordable housing unit as defined in~~
24 ~~Section 401 of this Code or units subject to the Residential Rent Stabilization and Arbitration~~

1 ~~Ordinance, whether replacement housing will be provided which is equal or greater in size, number of~~
2 ~~bedrooms, affordability, and suitability to households with children to the units being removed;~~

3 ~~(E) — how recently the unit being removed was occupied by a tenant or tenants;~~

4 ~~(F) — whether the number of bedrooms provided in the merged unit will be~~
5 ~~equal to or greater than the number of bedrooms in the separate units;~~

6 ~~(G) — whether removal of the unit(s) is necessary to correct design or~~
7 ~~functional deficiencies that cannot be corrected through interior alterations;~~

8 ~~(H) — the appraised value of the least expensive Residential Unit proposed for~~
9 ~~merger only when the merger does not involve an Unauthorized Unit.~~

10 ~~The Planning Commission shall not approve an application for Residential Merger if any tenant~~
11 ~~has been evicted pursuant to Administrative Code Sections 37.9(a)(9) through 37.9(a)(14) where the~~
12 ~~tenant was served with a notice of eviction after December 10, 2013 if the notice was served within 10~~
13 ~~years prior to filing the application for merger. Additionally, the Planning Commission shall not~~
14 ~~approve an application for Residential Merger if any tenant has been evicted pursuant to~~
15 ~~Administrative Code Section 37.9(a)(8) where the tenant was served with a notice of eviction after~~
16 ~~December 10, 2013 if the notice was served within five (5) years prior to filing the application for~~
17 ~~merger. This Subsection (g)(2)(H) shall not apply if the tenant was evicted under Section 37.9(a)(11) or~~
18 ~~37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the unit~~
19 ~~after the temporary eviction or (B) have submitted to the Planning Commission a declaration from the~~
20 ~~property owner or the tenant certifying that the property owner or the Rent Board notified the tenant of~~
21 ~~the tenant's right to reoccupy the unit after the temporary eviction and that the tenant chose not to~~
22 ~~reoccupy it.~~

23 ~~(53) **Residential Conversion.** In addition to the criteria set forth in subsection~~
24 ~~(g)(1), The Planning Commission shall consider the following criteria in the review of applications~~

1 for Residential Conversion find, by substantial evidence, that the following criteria are met before a
2 Conditional Use authorization for a Residential Conversion can be approved.:

3 ~~(A) — whether conversion of the unit(s) would eliminate only owner-occupied~~
4 ~~housing, and if so, for how long the unit(s) proposed to be removed were owner-occupied;~~

5 ~~(AB) whether the Residential Conversion would will provide desirable new~~
6 ~~Non-Residential Use(s) appropriate for the neighborhood and that is permitted within the zoning~~
7 ~~adjoining district(s) in which it is located; and~~

8 ~~(BC) in districts where Residential Uses are not permitted, whether the~~
9 ~~Residential-Conversion will bring the building closer into conformance with the Uses permitted~~
10 ~~in the zoning district; and~~

11 ~~(D) whether conversion of the unit(s) will be detrimental to the City's housing~~
12 ~~stock;~~

13 ~~(CE) whether eConversion of the unit(s) is necessary to eliminate design,~~
14 ~~functional, or habitability deficiencies that cannot otherwise be corrected.~~

15 ~~(F) — whether the Residential Conversion will remove Affordable Housing, or~~
16 ~~units subject to the Residential Rent Stabilization and Arbitration Ordinance.~~

17 ~~(3) — Planning Commission approval shall not be required for the change of use or~~
18 ~~occupancy of a dwelling unit, group housing, or SRO to Student Housing if the dwelling unit, group~~
19 ~~housing, or SRO will be Student Housing owned, operated or otherwise controlled by a not for profit~~
20 ~~post-secondary Educational Institution and~~

21 ~~(A) — it was built by the post-secondary Educational Institution;~~

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

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

1 (D) ~~as of August 10, 2010, it was owned, operated or otherwise controlled by~~
2 ~~a post-secondary Educational Institution that had an Institutional Master Plan on file with the~~
3 ~~Planning Commission, and where the occupancy by those other than students at that date was less than~~
4 ~~20% of the total occupants. For purposes of determining occupancy, the post-secondary Educational~~
5 ~~Institution shall present to the Planning Department verified information regarding its rental or lease~~
6 ~~of units as of that date.~~

7 (4) ~~Planning Commission approval shall not be required for a Residential~~
8 ~~Conversion if the Residential Unit was subject to the Residential Hotel Unit Conversion and~~
9 ~~Demolition Ordinance, San Francisco Administrative Code Chapter 41, and obtained a permit to~~
10 ~~convert in compliance with the requirements set forth therein.~~

11 (5) **Residential Demolition; Replacement Structure.** ~~The Planning Commission~~
12 ~~shall consider the following additional criteria in the review of applications for Residential Demolition:~~
13 ~~As a condition precedent to granting a Conditional Use authorization for a Residential Demolition~~
14 ~~pursuant to the criteria set forth in subsection (5)(A), below, the Planning Commission shall have~~
15 ~~approved the structure to replace the demolished structure (hereinafter referred to as the~~
16 ~~“Replacement Structure”) pursuant to the criteria set forth in subsection (5)(B), below.~~

17 (A) **Residential Demolition:** ~~In addition to the criteria set forth in subsection~~
18 ~~(g)(1), above, and subsection (g)(5)(B), below, the Planning Commission shall find, based upon~~
19 ~~substantial evidence, that each of the following criteria are met before a Conditional Use authorization~~
20 ~~for a Residential Demolition can be approved:~~

21 _____ ~~whether the property is free of a history of serious, continuing~~
22 ~~Code violations;~~

23 (iB) ~~whether the project sponsor has housing has been maintained~~
24 ~~the property in a decent, safe, and sanitary condition and there are no curable outstanding~~
25 ~~Planning or Building Code violations at the time of submission of the project application; and~~

1 (ii) the existing Residential Building does not conform to the height,
2 scale or architectural details of the buildings on the block on which it is located; and

3 (iii) ~~(C)~~ whether the existing Residential Building property is not an
4 historic or architecturally important building and is not located within an existing or potential national
5 or local historic district, as identified in any local, state or national survey "historical resource" under
6 CEQA; and

7 (iv) ~~(D)~~ whether the removal of the existing Residential Building
8 resource could not will have a substantial adverse impact under CEQA.

9 (E) whether the project converts rental housing to other forms of tenure or
10 occupancy;

11 (F) ~~—~~ whether the project removes rental units subject to the Residential Rent
12 Stabilization and Arbitration Ordinance or affordable housing;

13 (G) ~~—~~ whether the project conserves existing housing to preserve cultural and
14 economic neighborhood diversity;

15 (H) ~~—~~ whether the project conserves neighborhood character to preserve
16 neighborhood cultural and economic diversity;

17 (I) ~~—~~ whether the project protects the relative affordability of existing housing;

18 (J) ~~—~~ whether the project increases the number of permanently affordable units
19 as governed by Section 415;

20 (K) ~~—~~ whether the project locates in-fill housing on appropriate sites in
21 established neighborhoods;

22 (L) ~~—~~ whether the project increases the number of family-sized units on-site;

23 (M) ~~—~~ whether the project creates new supportive housing;

24 (N) ~~—~~ whether the project is of superb architectural and urban design, meeting
25 all relevant design guidelines, to enhance existing neighborhood character;

1 ~~(O) — whether the project increases the number of on-site Dwelling Units;~~

2 ~~(P) — whether the project increases the number of on-site bedrooms;~~

3 ~~(Q) — whether or not the replacement project would maximize density on the~~
4 ~~subject lot; and~~

5 ~~(R) — if replacing a building not subject to the Residential Rent Stabilization~~
6 ~~and Arbitration Ordinance, whether the new project replaces all of the existing units with new~~
7 ~~Dwelling Units of a similar size and with the same number of bedrooms.~~

8 (B) **Replacement Structure:** The Planning Commission shall find, based
9 upon substantial evidence, that each of the following criteria are met as to the Replacement Structure:

10 (i) the architectural design of the replacement structure meets all
11 applicable design guidelines, including the Residential Design Guidelines in effect on the date of
12 project approval and conforms to the height, scale, form, materials, architectural details and character
13 of the surrounding neighborhood; and

14 (ii) the Replacement Structure requires no variances from applicable
15 provisions of the Planning Code and conforms to the zoning for the property on which the project is
16 located; and

17 (iii) if the Replacement Structure is located within an existing or
18 potential historic district, the project has been reviewed for compliance with the Secretary of Interior's
19 Standards and with any more specific guidelines that may apply; and

20 (iv) the Replacement Structure will provide both added density and
21 affordability equal to or greater than the Residential Unit(s) proposed for Demolition; and

22 (v) the Replacement Structure would not decrease the number of
23 permanently affordable units as compared to the existing Residential Building; and

1 _____ (vi) the envelope of the proposed Replacement Structure does not
2 exceed the average Floor Area Ratio of existing buildings within 300 feet of the project site within the
3 same Zoning District; and

4 _____ (vii) in a Replacement Structure of two or more units, the size of each
5 unit shall not exceed the lesser of the average size of existing Residential Units within 300 feet of the
6 proposed project site or 1,200 square feet; and

7 _____ (viii) the Replacement Structure would not include a garage; and

8 _____ (ix) the Replacement Structure will maximize the allowable density on
9 the lot upon which it is located.

10 (67) **Removal of Unauthorized Units.** In addition to each of the criteria set
11 forth in S subsections (g)(1) through (g)(4) above, the Planning Commission shall ~~consider~~ find
12 based upon substantial evidence, that the following criteria ~~below~~ are met before a Conditional Use
13 authorization for ~~in the review of applications~~ removal of Unauthorized Units ~~can be approved~~:

14 (A) The Unauthorized Unit or Units are not eligible for legalization under
15 Section 207.3 of this Code; or

16 (B) The Unauthorized Unit or Units are eligible for legalization under
17 Section 207.3 of this Code but

18 _____ ~~(B)(i) whether~~ the costs to legalize the Unauthorized Unit or Units
19 under the Planning, Building, and other applicable Codes is ~~reasonable based on how such cost~~
20 ~~compares to greater than 15% above~~ the average cost of legalization per unit derived from the
21 cost of projects on the Planning Department's Master List of Additional Dwelling Units
22 Approved required by Section 207.3(k) of this Code; and

23 _____ ~~(C)(ii) whether~~ it is not financially feasible to legalize the
24 Unauthorized Unit or Units. Such determination will be based on the costs to legalize the
25 Unauthorized Unit(s) under the Planning, Building, and other applicable Codes in comparison

1 to the added value that legalizing said Units would provide to the subject property. The gain in
2 the value of the subject property shall be based on the current value of the property with the
3 Unauthorized Unit(s) compared to the value of the property if the Unauthorized Unit(s) is/are
4 legalized. The calculation of the gain in value shall be conducted and approved by an
5 independent California licensed property appraiser who shall present the appraisal to the Planning
6 Commission as a part of the consideration of the Conditional Use authorization. Legalization would
7 be deemed financially feasible if gain in the value of the subject property is equal to or greater
8 than the cost to legalize the Unauthorized Unit pursuant to subsection (i), above.

9 ~~(C) — If no City funds are available to assist the property owner with the cost of~~
10 ~~legalization, whether the cost would constitute a financial hardship.~~

11 **(78) Denial of Application to Remove an Unauthorized Unit; Requirement**
12 **to Legalize the Unit.** If the Planning Commission denies an application to Remove an
13 Unauthorized Unit, the property owner shall file an application for a building permit to legalize
14 the Unit. Failure to do so within a reasonable period of time, as determined by the Zoning
15 Administrator, shall be deemed to be a violation of the Planning Code.

16 **(h) Notice of Conditional Use Hearing.** For any hearing to consider a Conditional
17 Use authorization required under ~~subsections (g)(2), (g)(3), (g)(4), or (g)(5)~~ this Section 317, the
18 Zoning Administrator shall provide notice as required by Section 333 of this Code, including
19 an explanation of the process for demolishing, merging, or converting Residential Units or
20 Unauthorized Units, and including a description of subsequent permits that would be required
21 from the Planning Department and Department of Building Inspection and how they could be
22 appealed, in addition to any other notice required under this Code, including without limitation
23 notice required by Section 311.

24 **(i) Enforcement Against Violations.** The failure to obtain a Conditional Use authorization
25 pursuant to the requirements of this Section 317 and/or any construction activity that exceeds the

1 Conditions of Approval of the Conditional Use authorization shall be unlawful, shall constitute a
2 violation of the Planning Code, and shall be subject to the enforcement provisions set forth in Section
3 176 of this Code.

4 (1) **Unlawful Demolition.** “Unlawful Demolition” shall mean the Demolition, as
5 defined in subsection 317(b)(2) above, of any building or structure containing one or more Residential
6 Units that takes place without a Conditional Use authorization as required by this Section 317, or any
7 alteration of a Residential Building that takes place beyond the scope of or in violation of an approved
8 Conditional Use authorization or building permit such that a Demolition has taken place. The
9 following restrictions and penalties shall apply to an Unlawful Demolition:

10 (A) The Zoning Administrator shall issue a Notice of Violation pursuant to
11 Section 176 of this Code and immediately request that the Building Inspection Department issue a stop
12 work order for the entire project.

13 (B) The Planning Department shall not approve any permit that legalizes any
14 work performed without a Conditional Use authorization, or beyond the scope of or in violation of a
15 Conditional Use authorization or building permit.

16 (C) In addition to the penalties set forth in Section 176 of this Code, and in
17 order to provide a disincentive for a property owner to violate the Code by preventing the owner from
18 receiving a windfall profit for the illegal activity, the City shall impose a penalty for the Unlawful
19 Demolition equal to any increase in the value of the property resulting from the project sponsor’s
20 illegal or wrongful conduct as measured by the difference in fair-market value of the property prior to
21 and after the illegal conduct. The Zoning Administrator shall engage a certified real property appraiser
22 to determine the fair-market value of the property prior to and after the illegal conduct and such costs
23 of procuring a certified real property appraiser shall be borne by the project sponsor.

24 (D) The Department shall place a Block Book Notation on the property
25 address. All permit applications for construction of the building or structure pursuant to this provision

1 shall be routed to the Planning Department for design review subject to the design review criteria for a
2 Replacement Structure under subsection 317(f)(6)(B) and for compliance with these requirements.
3 Permit applications shall be subject to public notice under Sections 311, and any other public notice(s)
4 required for a new project. The Planning Department shall approve no over-the-counter permits for the
5 building or site.

6 (2) **Unlawful Merger.** “Unlawful Merger” shall mean a Residential Merger, as
7 defined in subsection 317(b)(3), that takes place without a Conditional Use authorization as required
8 by this Section 317. The following restrictions and administrative penalty shall apply to an Unlawful
9 Residential Merger:

10 (A) The Zoning Administrator shall issue a Notice of Violation pursuant to
11 Section 176 of this Code, and shall request that the Building Inspection Department issue a stop work
12 order for the entire project.

13 (B) In addition to the administrative penalties set forth in Section 176 of this
14 Code, the Zoning Administrator shall impose an administrative penalty of up to \$50,000.

15 (C) The responsible party shall be required to restore the original Residential
16 or Unauthorized Units to their original condition, with the original number of Residential Units at their
17 original square footage, floor area, and location within the Residential Building. Failure to do so shall
18 be deemed to be a violation of the Planning Code subject to the administrative penalties set forth in
19 Section 176 of this Code, in addition to the penalties set forth in Section 317(i)(2)(B).

20 (D) The Department shall place a Block Book Notation on the property.

21 (3) **Unlawful Conversion.** “Unlawful Conversion” shall mean a Residential
22 Conversion, as defined in Section 317(b)(2), that takes place without a Conditional Use authorization
23 as required by this Section 317. The following restrictions and administrative penalty shall apply to an
24 Unlawful Conversion:

1 (A) The Zoning Administrator shall issue a Notice of Violation pursuant to
2 Section 176 of this Code, and immediately request that the Building Inspection Department issue a stop
3 work order for the entire project.

4 (B) In addition to the penalties set forth in Section 176 of this Code, the
5 Zoning Administrator shall impose an administrative penalty of up to \$50,000.

6 (C) The responsible party shall be required to restore the original residential
7 occupancy and/or use of the unit or units that were unlawfully converted. Failure to do so shall be
8 deemed to be a violation of the Planning Code subject to a fine of \$1,000 per day in addition to the
9 administrative penalties set forth in Section 176 of this Code.

10 (D) The Department shall place a Block Book Notation on the property
11 address and shall cause a Notice of Special Restrictions to be recorded against the property requiring
12 the restoration and maintenance of the original residential occupancy and/or use of unit or units.

13 (4) **Unlawful Demolition or Alteration of Historic Building.** In addition to the
14 penalties set forth in Section 176 of this Code or in this subsection 317(i), the Zoning Administrator
15 shall impose an additional administrative penalty of \$500,000 for the Unlawful Demolition or Unlawful
16 Alteration or Expansion of a building or structure that, prior to the demolition, or the removal or
17 alteration of architectural features, was an historic or architecturally significant building, or was
18 located within an existing or potential national or local historic district, as identified in any local, state
19 or national survey.

20
21 **SEC. 319. MAJOR EXPANSION OF AN EXISTING RESIDENTIAL BUILDING.**

22 **(a) Findings.**

23 (1) Passed by San Francisco voters as an advisory document in 1986, and rendered
24 a mandatory document by subsequent voter approval in 1995, the San Francisco General Plan
25 mandates, among other things, that existing housing and neighborhood character be conserved and

1 protected in order to preserve the cultural and economic diversity of San Francisco's neighborhoods.
2 The General Plan also includes a general goal of providing housing representing good standards for
3 all residents.

4 (2) Since at least 2015, the City has confronted the rampant and often extraordinary
5 expansion of single family homes with legislative remedies seeking to preserve existing housing,
6 conserve neighborhood character, and protect the cultural and economic diversity of San Francisco
7 neighborhoods.

8 (3) The permissive development potential of existing lots has fueled a speculative
9 real estate market that imperils residential tenants living in existing buildings and structures subject to
10 major expansions.

11 (4) The City, the broader Bay Area region and the State of California are
12 experiencing a housing crisis which, if not exacerbated by the investment of private funds in the major
13 expansion of existing housing, is not ameliorated by the expansion of existing Residential Units,
14 particularly when the expansion of existing Residential Units is not accompanied by any increase in the
15 number of Residential Units.

16 (5) Even in zoning districts that permit higher density of Residential Units per lot
17 and for Accessory Dwelling Units, demand for expanding single family homes without any
18 accompanying increase in that residential density impairs the City's ability to build out its substantial
19 housing capacity incrementally and citywide.

20 (6) The price per square foot of existing housing increases dramatically with the
21 increased development capacity of the lots on which they exist, and regulation should steer that
22 development capacity away from market constraints on the development of new housing and toward the
23 construction of additional units of housing.

24 (7) Neither existing nor prospective residents of the City benefit from the major
25 expansion of residential housing without any accompanying increase in residential density. By

1 imperiling residents in the City's existing housing, major expansions that fail to include added housing
2 units are inconsistent with the San Francisco General Plan and its Housing Element.

3 (8) A restraint on the expansion of existing homes, paired with a waiver for
4 proposed projects that demonstrably increase the number of housing units on a subject lot, will provide
5 value to the public in the form of added Residential Units. At scale, strong incentives for the building of
6 additional units of housing will make strides toward addressing the instant housing and displacement
7 crisis.

8 (b) **Definitions.** For the purposes of this Section 319, the terms below shall be as defined
9 below. Capitalized terms not defined below are defined in Section 102 of this Code.

10 (1) "Major Expansion of a Residential Building" or a "Major Expansion" shall
11 mean any work on a Residential Building that would increase the total square footage of the existing
12 building by 10% or more through a vertical addition or by 20% or more through a horizontal addition,
13 but that would not result in the Demolition of the building or in the Removal of Residential or
14 Unauthorized Units through Demolition, Merger or Conversion as those terms are defined in Section
15 317 of this Code.

16 (2) "Residential Building" shall be defined as any structure containing one or more
17 Residential Units as a principal use regardless of any other uses present in the building and regardless
18 of how the site is otherwise zoned.

19 (3) "Limited Horizontal Addition" shall mean a horizontal addition in the rear yard,
20 within the limits permitted under Section 136(c)(25), which allows for a rear addition of no more than
21 12 feet in depth from lot line to lot line for a one floor addition (a maximum of 300 square foot
22 expansion for a typical 25-foot wide lot), or no more than 12 feet in depth with a 5-foot setback from
23 the side lot lines for a two floor addition (a maximum 360 gross square foot expansion for a typical 25-
24 foot wide lot); and shall not occupy any space within the rear 25% of the total depth of the lot, or
25 within the rear 15 feet of the depth of the lot, whichever is greater.

1 (c) Conditional Use Authorization Required; Applicability, Exemptions, Department
2 Review; and Conditions of Approval.

3 (1) Applicability. Except as provided in subsection (c)(2) below, Conditional Use
4 authorization pursuant to the requirements of this Section 319 is required prior to the approval of any
5 application that would result in the Major Expansion of a Residential Building.

6 (2) Exemptions from Conditional Use Requirement.

7 (A) Permits that would result in the Major Expansion of an existing building
8 containing one or more Residential Units that have received final approval from the Planning
9 Department through administrative approval or the Planning Commission through a Discretionary
10 Review or Conditional Use authorization prior to the effective date of Ordinance No. _____ are not
11 required to apply for an additional approval under this Section 319 unless the construction activity
12 exceeds the Conditions of Approval or scope of work under a building permit, in which case the
13 provisions of subsection (h) shall apply.

14 (B) This Section 319 shall not apply to permits for:

15 (i) Limited Horizontal Additions within the limits permitted under
16 Section 136(c)(25) of this Code; or

17 (ii) The addition of one or more Accessory Dwelling Units under
18 Section 207(4) of this Code.

19 (C) This Section 319 shall not apply to property:

20 (i) owned by the United States or any of its agencies;

21 (ii) owned by the State of California or any of its agencies, with the
22 exception of such property not used exclusively for a governmental purpose; or

23 (iii) under the jurisdiction of the Port of San Francisco or the
24 Successor Agency to the Redevelopment Agency of the City and County where the application of this
25 Section is prohibited by State law.

1 (D) The Zoning Administrator may waive the requirement for Conditional
2 Use hearing and authorization from the Planning Commission under this Section 319 if the Zoning
3 Administrator makes a written determination, based on substantial evidence, that the proposed project
4 meets each of the criteria set forth in subsection (c)(4) below and would not result in the Removal of
5 Residential Units or Unauthorized Units through Demolition, Merger or Conversion as those terms are
6 defined in Section 317 of this Code. If the Zoning Administrator waives the requirement for Conditional
7 Use hearing and authorization, the notice provisions of Section 311 of this Code shall apply.

8 (3) **Planning Department Review.**

9 (A) The Department shall review the project to determine whether the
10 proposed project would result in a Major Expansion, pursuant to this Section 319, or in the Demolition
11 of a Residential Building, or in the Removal of Residential Units through Demolition, Merger or
12 Conversion subject to the requirements of Section 317 of this Code. The project sponsor shall be
13 required to apply for a Conditional Use authorization pursuant to the applicable provisions of this
14 Code.

15 (B) The Department shall notify the Department of Building Inspection that
16 the building permit application shall be held pending action by the Planning Commission to approve or
17 disapprove the Conditional Use authorization for the proposed project.

18 (4) **Conditional Use Criteria.** Except as provided in subsection (c)(2) above, all
19 applications for a permit that would result in the Major Expansion of an existing building containing
20 one or more Residential Units must obtain Conditional Use authorization. The Conditional Use criteria
21 set forth in this section 319 shall be in lieu of the criteria set forth in section 317 of this Code. Prior to
22 granting any Conditional Use authorization under this section 319, the Planning Commission shall find
23 that the following criteria are met:

1 (A) The proposed project would maximize the allowable density on the lot
2 upon which it is located without requiring a variance or modification from existing Planning Code
3 provisions; and

4 (B) The size of the unit(s) in the expanded building shall not exceed 1,200
5 square feet or the average size of existing Residential Units within 300 feet of the proposed project site,
6 whichever is less; and

7 (C) The proposed project would not require an amendment to the Planning
8 Code or General Plan; and

9 (D) No new garage or additional parking will be added; and

10 (E) The proposed project will not exceed the average FAR of buildings within
11 300 feet of the project site within the same zoning district; and

12 (F) Significant exterior architectural features that are integral to the overall
13 character of the building are not proposed for removal; and

14 (G) All exterior changes visible from a public street or other public place
15 shall conform to the height, scale and architectural details of the surrounding buildings and shall meet
16 all relevant design guidelines, including applicable Residential Design Guidelines; and

17 (H) If the existing building may be an eligible historic resource or is located
18 within an existing or potential national or local historic district, or identified in any local, state or
19 national survey, the project shall comply with the Secretary of the Interior's Standards and with any
20 more specific guidelines that may apply; and

21 (I) The proposed project will not result in (i) the loss or Removal of any
22 affordable housing unit, as defined in Section 401 of this Code, or (ii) the loss of any unit(s) subject to
23 the Residential Rent Stabilization and Arbitration Ordinance provided that this criteria shall not apply
24 to any building where all Residential Units have been withdrawn from residential rental pursuant to
25 Administrative Code Section 37.9(a)(13).

1 (5) Nothing in this Section 319 is intended to exempt any proposed project from
2 undergoing additional review under any other provision of this Code that regulates alteration to
3 existing buildings, including without limitation buildings or sites subject to Articles 10 and 11 of this
4 Code where the requirements of those articles apply.

5 (d) **Enforcement Against Violations.** In addition to the enforcement provisions and
6 penalties set forth in Section 176 of this Code, the Zoning Administrator shall enforce this Section 319
7 against violations thereof in accordance with the following provisions:

8 (1) **Unlawful Expansion.** “Unlawful Expansion” shall mean any expansion or
9 alteration of a building or structure meeting the definition of a Major Expansion that:

10 (A) takes place without a Conditional Use authorization as required by this
11 Section 319 or a waiver by the Zoning Administrator; or

12 (B) is beyond the scope of or in violation of an approved Conditional Use
13 authorization for a Major Expansion or building permit issued pursuant thereto; or

14 (C) was determined by the Department to be exempt from Conditional Use
15 authorization pursuant to subsection 319(c)(2) but which, as a result of any alterations or changes
16 prior to or during construction, with or without a building permit, meets the definition of a Major
17 Expansion.

18 (2) **Penalties for Unlawful Expansion.** The following restrictions and penalties
19 shall apply to an Unlawful Expansion:

20 (A) The Zoning Administrator shall issue a Notice of Violation pursuant to
21 Section 176 of this Code and immediately request that the Building Inspection Department issue a stop
22 work order for the entire project.

23 (B) The Planning Department shall not approve any permit that legalizes an
24 Unlawful Expansion.

1 (C) In addition to the penalties set forth in Section 176 of this Code, the City
2 shall impose a penalty for the Unlawful Expansion equal to any increase in the value of the property as
3 a result of the responsible party's illegal or wrongful conduct as measured by the difference in fair-
4 market value of the property prior to and after the illegal conduct. The Zoning Administrator shall
5 engage a certified property appraiser to determine the fair-market value of the property prior to and
6 after the illegal conduct and such costs of procuring a certified property appraiser shall be borne by
7 the responsible party.

8 (D) **Unlawful Alteration of Historic Building.** In addition to the penalties
9 set forth in Section 176 of this Code or in this Section 317(h), the Zoning Administrator shall impose an
10 additional administrative penalty of \$500,000 for the Unlawful Alteration or Expansion of a building or
11 structure that, prior to the expansion, was an historic or architecturally significant building, or was
12 located within an existing or potential national or local historic district, as identified in any local, state
13 or national survey.

14 (E) The department shall put a block book notation on the property address.
15 All permit applications for restoration or rebuilding of the building or structure shall be routed to the
16 Planning Department for design review subject to design review criteria for this Section 319 and for
17 compliance with these requirements. All permit applications shall be subject to public notice under
18 Section 311, and any other public notice(s) required for a new project. No over-the-counter permits
19 shall be issued for the building or site.

20 (F) If the Planning Department or the responsible party believes that the
21 Conditional Use criteria for an expansion can be met as in set forth in subsection 319(c)(4), the project
22 sponsor may file an application for a Conditional Use authorization for the project, which the Planning
23 Department shall review as a new project application for a Major Expansion, including, without
24 limitation, design review pursuant to conditional use criteria for a Major Expansion under subsection
25 319(c)(4) and compliance with CEQA. The application shall be subject to public notice under Sections

1 311 and/or 312, and any other public notice(s) required for a new project. If the Department
2 determines that the Conditional Use criteria for a Major Expansion can be met, a Planning
3 Commission hearing on the Conditional Use application will be scheduled. The Planning Commission
4 may either approve or deny the application for a Conditional Use authorization pursuant to the
5 requirements of subsection 319(c)(4) as follows:

6 (i) if the Planning Commission finds that the Conditional Use
7 criteria for a Major Expansion of a Residential Building are met, a Conditional Use authorization shall
8 be approved and the responsible party shall be relieved of the penalty assessed pursuant to subsection
9 319(d)(2)(C) above; provided however, that the responsible party shall not be relieved of the penalties
10 assessed pursuant to section 176 of this code for work done prior to the approval of the Conditional
11 Use authorization or for any penalties for the demolition or alteration of the features of a historic
12 building under Section 319(d)(2)(D); and provided further that the Department shall approve no over-
13 the-counter permits for the building or site until the project, pursuant to the approved Conditional Use
14 authorization, has been completed and a notice of occupancy has been issued.

15 (ii) if the Planning Commission determines that the Conditional Use
16 criteria for a Major Expansion of a residential building are not met, the Conditional Use application
17 shall be denied, and the restrictions and penalties for an unlawful alteration or expansion set forth in
18 subsection 319(d)(2) shall apply

19
20 Section 5. The Building Code is hereby amended by revising Sections 103A.3 and
21 202, and adding Sections 106A.4.1.2 and 106A.4.14, to read as follows:

22 **103A.3 ~~Restrictions of unlawful r~~Residential ~~d~~Demolition ~~r~~replacement.**

23 **103A.3.1 Demolition permit required.** A Residential Demolition, as defined below, shall require a
24 demolition permit. Prior to commencement of the project, a building inspector shall inspect the

1 building and site to confirm the existing conditions. No demolition to remove dry rot shall occur
2 without prior inspection by a building inspector and a demolition permit for the proposed removal.

3 **103A.3.2 ~~1~~ Demolition without permit.** Whenever the demolition of any building or structure
4 containing one or more ~~residential~~ units takes place without the issuance of a demolition
5 permit as required by Section 103A.3.1 this code, the site on which the unlawful demolition
6 occurred shall be subject to the following restrictions and penalties set forth in Section 103A.3.4. ~~÷~~

7 ~~For five years from the date of the unlawful demolition, no permit authorizing the construction~~
8 ~~or alteration of any building or structure for that site shall be issued, except for a permit for the~~
9 ~~construction or alteration of a building or structure with the same number of residential units, with the~~
10 ~~same proportion of residential to nonresidential units, and with the same or fewer square feet as the~~
11 ~~building or structure that was unlawfully demolished.~~

12 **103A.3.3~~2~~ Definitions.** For the purposes of this ~~s~~Section 103A.3, the following definitions shall
13 apply:

14 **RESIDENTIAL DEMOLITION** means ~~the total tearing down or destruction of a building~~
15 ~~containing one or more residential units, or any alteration which destroys or removes, as those terms~~
16 ~~are defined by the Building Official of the Department of Building Inspection, principal portions of an~~
17 ~~existing structure containing one or more residential units.~~ any of the following:

- 18 (1) the total tearing down of an existing Residential Building; or
19 (2) Removal of one or more Residential Units or Unauthorized Units; or
20 (3) Removal of more than 50% of the sum of all existing above-grade external
21 elements from their function as all external elements; or
22 (4) Removal of more than 25% of the surface of all external walls facing a public
23 street or streets; or
24 (5) Removal of more than 25% of the building's existing internal structural
25 framework, interior bearing elements and/or floor plates.

1 To determine whether a project proposes Residential Demolition, calculation of the percentages
2 of Removal under this subsection (b)(2) shall include all work included in permits approved for the
3 property within the prior five years.

4 ~~PRINCIPAL PORTION means that construction which determines the shape and size of the~~
5 ~~building envelope (such as the exterior walls, roof and interior bearing elements), or that construction~~
6 ~~which alters two-thirds or more of the interior elements (such as walls, partitions, floors or ceilings).~~

7 RESIDENTIAL UNIT means any dwelling unit, as defined in this code, or any guest
8 room, as defined in the ~~San Francisco~~ Housing Code, other than the following:

9 1. Any guest room in a building classified as a residential hotel pursuant to the
10 Residential Hotel Unit Conversion and Demolition Ordinance

11 2. Any ~~r~~Residential ~~u~~Unit in a building where the demolition or alteration is required to
12 comply with this code, the Housing Code or the ~~City~~ Planning Code.

13 **103A.3.4~~3~~ Hearing.** The Building Official shall hold a hearing within a reasonable period of
14 time after discovering that an unlawful demolition may have taken place. The Building Official
15 shall cause notice to be given to the owners of the affected property, and to the owners and
16 occupants of property on the same block as the affected property's site and across the street
17 from the site for one block (that is, on lots which abut the same street as that which abuts the
18 site to the nearest intersections on either side of the site), using the names and addresses of
19 the owners as shown on the last assessment rolls of the City and County of San Francisco.
20 For corner lots, notice shall be provided to the owners and occupants of property on the same
21 block as the affected property's site and for one block along both streets which the lot abuts
22 (that is, on lots which abut the two streets which the site abuts to the nearest intersection on
23 either side of the site) and, in addition, to the other corner lots at the intersection where the
24 site is located. Notice may be given either by personal service or any mail, not less than 30
25 days before the scheduled date of the hearing. Immediately after giving such notice, the

1 Building Official shall cause a copy of the notice, printed on a card of not less than 8 inches by
2 10 inches (203.2 mm × 254 mm), to be posted in a conspicuous place on the affected
3 property. The notice shall specify the date and nature of the hearing and that the following
4 issues will be determined at the hearing: whether an unlawful demolition has taken place as
5 described in Sections 103A.3.1 and 103A.3.2, and, if so, the number of ~~R~~Residential ~~U~~Units
6 that existed on the site, the proportion of residential to nonresidential units that existed on the
7 site and the total square feet of the building or structure that existed on the site. Upon
8 determination that an unlawful demolition has taken place, the Building Official shall promptly
9 record a notice in the official records of the Recorder of the City ~~and County of San Francisco~~;
10 the recorded notice shall state that the property is subject to the restrictions set forth in
11 Section 103A.3.5.1 of this code.

12 Upon determination that an unlawful demolition has taken place, the Building Official
13 shall send a notice of payment due to the property owner at the address shown on the City's last
14 assessment rolls assessing the owner all costs incurred by the City and County of San
15 Francisco in detecting violations of this section and conducting the Building Official's hearing
16 by sending a notice of payment due to the property owner at the address shown on the City's last
17 assessment rolls. The notice shall list the costs incurred by the City in detecting violations of ~~the~~
18 ~~ordinance~~ this Section 103A.3 and conducting the Building Official's hearing, advise the owner
19 that he or she is liable for these costs, and advise the owner that payment to the City is due
20 within 60 days of the mailing date of the notice. The notice shall also advise that, if payment of
21 the costs is not received within 30 days of the due date, a lien may be imposed on the
22 property pursuant to the report and confirmation procedure set forth in Sections 102A.18 and
23 102A.19 of this code.

24 **103A.3.54 Restrictions and penalties for unlawful demolition.**

1 **103A.3.5.1. Restriction.** *For five years from the date of the unlawful demolition, no permit*
2 *authorizing the construction or alteration of any building or structure for that site shall be issued,*
3 *except for a permit for the construction or alteration of a building or structure with the same number of*
4 *Residential Units, with the same proportion of residential to nonresidential units, and with the same or*
5 *fewer square feet as the building or structure that was unlawfully demolished.*

6 **103A.3.5.2. Civil penalties.** Any agent, contractor or other person acting on behalf of
7 the owner of a building or structure containing one or more ~~#~~Residential ~~#~~Units who causes or
8 permits the demolition of the building or structure with the knowledge that a demolition permit
9 has not been issued as required by this code shall be subject to a civil penalty of \$5,000. Any
10 owner who causes or permits the demolition of *the owner's ~~his or her~~* building or structure
11 containing one or more ~~#~~Residential ~~#~~Units with the knowledge that no demolition permit has
12 been issued as required by this code shall be subject to a civil penalty of \$1,000.

13 **103A.3.6 5 Penalties nonexclusive.** The penalties set forth in this section are not
14 exclusive, but are in addition to any other penalties set forth in this code *or other Municipal*
15 *Codes.*

16 **SECTION 106A – PERMITS**

17 **106A.1 Permits required.** Except as specified in Section 106A.2, no building or
18 structure regulated by this code shall be erected, constructed, enlarged, altered, repaired,
19 moved, improved, removed, converted or demolished unless a separate permit for each
20 building or structure has first been obtained from the Building Official.

21
22 * * * *

23 **106A.3.1 Application.** To obtain a permit, the applicant shall first file an application
24 therefor in writing on a form furnished by the code enforcement agency for that purpose.
25 Every such application shall:

1 * * * *

2 11. For any application for a building permit to construct, alter or demolish a structure
3 containing one or more Residential or Unauthorized Units, include a declaration attesting under oath
4 that:

5 (a) submitted plans accurately reflect the existing structure and any proposed
6 changes to the existing structure; and

7 (b) the permit application accurately reflects whether and how many existing tenants
8 reside in any Residential or Unauthorized Unit at the subject property; and

9 (c) if any existing residential tenants will be removed temporarily from any
10 Residential or Unauthorized Unit at the subject property, that Applicant has informed all tenants of
11 applicable provisions of the San Francisco Rent Stabilization and Arbitration Ordinance and provided
12 all tenants with contact information for the San Francisco Rent Board; and

13 (d) the project will not result in a substantial decrease in housing services without a
14 corresponding, reasonable and consensual reduction in any affected tenant's base rent; and

15 12. Include a declaration attesting under oath the construction means and methods that will
16 be employed to perform the project work.

17
18 **106A.3.1.1 Application processing.** The application, plans, specifications and other
19 information submitted shall be referred for such review and approval as is required under
20 applicable ordinances and laws. Each such reviewing bureau, department or agency shall
21 indicate in a manner determined by the Building Official its approval, approval with conditions,
22 or disapproval.

23
24 **106A.4 Permits issuance.**

25 * * * *

1 **106A.4.1.5 Permits to authorize work constructed without permit or beyond the scope of an issued**
2 **permit. The Department shall not issue after-the-fact a permit to authorize work done without benefit of**
3 **a permit or beyond the scope of an issued permit even if such work would comply with the requirements**
4 **of the Building Code or other Municipal Codes. Before a permit authorizing such work may be issued,**
5 **the property owner or the owner's authorized agent shall file and obtain a permit to remove the illegal**
6 **work and return the building and/or site to its pre-existing condition.**

7 **106A.4.1.6 Pre-inspection required. Before a permit is issued for work on a building classified by this**
8 **Code as a Residential Group R Occupancy to any person, property owner, contractor or permit**
9 **expeditor, or to a firm, corporation or other legal entity, with a prior violation for doing work without a**
10 **permit or going beyond the scope of an issued permit, the Department shall inspect the building and the**
11 **site to verify the existing conditions.**

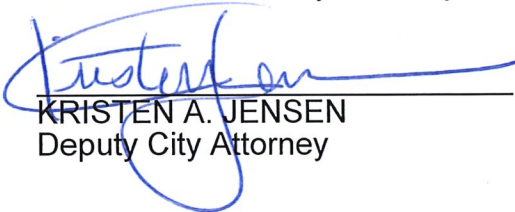
12
13 Section 6. Effective Date. This ordinance shall become effective 30 days after
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
16 of Supervisors overrides the Mayor's veto of the ordinance

17
18 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
22 additions, and Board amendment deletions in accordance with the "Note" that appears under
23 the official title of the ordinance.

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Section 8. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed to forward a copy of this ordinance to the California Building Standards Commission upon final passage.

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

By: 
KRISTEN A. JENSEN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning, Building Codes - Controls on Residential Demolition, Merger, Conversion, and Alteration]

Ordinance amending the Planning Code to increase penalties for violations of the Planning Code; provide new definitions for Residential Demolitions and Residential Flats, revise definitions for Alterations and Removal, require additional notice and impose new conditional use criteria for Residential Demolitions, Mergers, and Conversions; establish criteria for Major Expansions of Existing Residential Buildings; amending the Building Code to conform the definition of Residential Demolition, require pre-permit inspections and additional application requirements; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302; and instructing the Clerk to forward this Ordinance to the California Building Standards Commission upon final passage.

Existing Law

Enforcement of Violations

Planning Code Section 176 establishes methods of enforcement for violations of the Planning Code, as well as administrative, civil and criminal penalties. Current law provides that, in the notice requiring cessation of Planning Code violations, the Zoning Administrator may assess administrative penalties on the responsible party in an amount up to \$250 for each day the violation continues unabated. A responsible party may request a Zoning Administrator's hearing to challenge the notice and assessment of penalties, or may request that the Zoning Administrator terminate abatement proceedings and refer the matter to the Director for enforcement under the process set forth in Section 176.1 of the Code. In any appeal of the Zoning Administrator's determination, if the Board of Appeals upholds the Zoning Administrator's decision in whole or in part, it may not reduce the penalty below \$100 for each day the violation exists.

The City may also recover civil penalties in an amount of not less than \$200 for each day the violation is committed or permitted to continue, which penalty shall be recovered in a civil action brought by the City Attorney. Violation of the Planning Code is a misdemeanor subjecting violators to a fine in an amount of not less than \$200 or imprisonment for a period not exceeding six months, or both.

Permit Review Procedures

Planning Code Section 311 establishes procedures for reviewing building permit applications to determine compatibility with the neighborhood and providing notice to specified individuals

and organizations of the proposed project so that concerns about a project may be identified and resolved during permit review. Section 311 identifies the applications to which neighborhood notice and review requirements apply, defines Changes of Use, Alterations, and other uses subject to Section 311 review, and provides guidelines for building permit review. Where a project would remove an historic or architecturally important building or a dwelling, Section 311 prohibits issuance of a demolition permit until a building permit for a replacement structure has been finally approved. Section 311 allows administrative approval of a permit to demolish a building when the Director of the Department of Building Inspection, the Chief of the Bureau of Fire Prevention and Investigation or the Director of Public Works determines that an imminent safety hazard exists and the proposed demolition is the only means to secure the public safety.

Loss of Residential and Unauthorized Units by Demolition, Merger and Conversion

Current law requires conditional use authorization for the removal of any residential unit, for both legal and illegal existing units, with limited exceptions.

Permit Issuance; Residential Demolition

The Building Code defines Demolition, sets forth requirements for building permit applications, and prohibits construction for five years following the date of an unlawful demolition.

Amendments to Current Law

Enforcement of Violations

This ordinance would increase the daily amounts for administrative, civil and criminal penalties to \$1000 per day. If the responsible party requests a Zoning Administrator hearing on the notice or penalties, the Zoning Administrator shall consider, among other factors, whether the responsible party has violated any provision of new Sections 317 or 319. Thereafter, in any appeal of the Zoning Administrator's determination, if the Board of Appeals upholds the Zoning Administrator's decision in whole or in part, it may not reduce the penalty below \$500 for each day the violation exists.

The ordinance would provide that the penalty provisions of Section 176 are not exclusive. Any penalties imposed for violations under Section 176 would be in addition to those required by new Sections 317 and 319.

This ordinance would delete Section 176.1 from the Code.

Permit Review Procedures

This ordinance clarifies the application of and exemption from Section 311 notice requirements, revises the definition of Alterations, provides new definitions of Demolition, New

Construction and Removal of Residential Units. The Ordinance clarifies the requirement that building permit applications be reviewed for compliance with all applicable design guidelines, expands application requirements for proposed Removal of Residential Units, and clarifies that no permit for demolition of a Residential building shall be issued until a Conditional Use authorization for a replacement structure has been finally approved. The ordinance requires project applicants to submit additional plans and calculations with project applications, and requires that all proposed projects that would result in the Demolition of a Residential Unit or Removal of a Residential Building, or the Removal of a Residential Unit or Unauthorized Unit through Demolition, Merger or Conversion, or would result in a Major Expansion of a Residential Building (as defined in the ordinance), must obtain Conditional Use authorization. The ordinance also clarifies and expands the requirements for notification packets required for proposed projects.

Loss of Residential and Unauthorized Units by Demolition, Merger and Conversion

This ordinance revises the definitions of Residential Conversion, Residential Demolition, Residential Merger, Removal and Residential Unit, and adds new defined terms to the Code for Residential Flats, Unlawful Demolition, Unlawful Merger and Unlawful Conversion. The ordinance expands the applicability of Section 317's Conditional Use requirement, and provides limited exemptions. The ordinance requires that the Planning Department request Department of Building Inspection review of specified projects, and provides that no permit to for a Residential Demolition shall be issued until a Conditional Use authorization for a replacement structure has been finally approved. The ordinance also provides new criteria for Conditional Use authorizations reviewed under Section 317.

This ordinance prohibits the Planning Department from approving any permit to legalize work performed without a required Conditional Use authorization, or beyond the scope or in violation of a Conditional Use authorization or building permit. In addition, the ordinance imposes new penalties for Unlawful Demolitions, Unlawful Mergers and Unlawful Conversions. In the case of Unlawful Mergers and Unlawful Conversions, the ordinance also requires responsible parties to restore the original Residential or Unauthorized Units to their original condition, with the original number of units, in their original square footage and location. For Unlawful Demolition or Alteration of historic buildings, the ordinance provides new administrative penalties.

Major Expansion of an Existing Residential Building

This ordinance would add a new Section 319 to the Planning Code to define and regulate Major Expansions and Unlawful Expansions of Residential Buildings. Any project that qualifies as a Major Expansion under this code section would require a Conditional Use authorization and be subject to notice under Planning Code Sections 311 and/or 312. The ordinance provides limited exceptions to its applicability, establishes conditional use criteria applicable to Major Expansions, and creates enforcement procedures and penalties for

Unlawful Expansions. The ordinance provides new administrative penalties for unlawful alterations to historic buildings.

Permit Issuance; Residential Demolition

The ordinance would amend the Building Code to conform the definition of Residential Demolition with that in the revised Planning Code; require that a building inspector shall inspect the building and site to confirm existing conditions prior to commencement of a project involving Residential Demolition; prohibit demolitions to remove dry rot without prior inspection; and require that project sponsors provide additional materials and information in connection with building permit applications.

The ordinance would prohibit the Department of Building Inspection from issuing a permit to legalize work previously conducted without a permit or beyond the scope of an issued permit even if such work would comply with the requirements of applicable codes. Before such a permit may be issued, the property owner must obtain a permit to remove the illegal work and return the building or site to its pre-existing condition.

Before the Department of Building Inspection would issue a permit for work on a building classified as a Residential Group R Occupancy to any person or entity with a prior violation for performing work without or beyond the scope of an issued permit, the ordinance would require the department to inspect the building and the site to verify existing conditions.