

1 [Prohibition on demolition of residential buildings without approval of the replacement  
2 structure.]

3 **Ordinance amending the Planning Code by adding Section 317 to make findings as to**  
4 **the need to preserve affordable housing in San Francisco and to prohibit the**  
5 **demolition of residential buildings unless the Planning Commission issues conditional**  
6 **use authorization for a replacement structure; making environmental findings and**  
7 **findings of consistency with the priority policies of Planning Code Section 101.1 and**  
8 **the General Plan.**

9 Note: Additions are *single-underline italics Times New Roman*;  
10 deletions are ~~*strikethrough italics Times New Roman*~~.  
11 Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. Findings. The Board of Supervisors of the City and County of San Francisco  
14 hereby finds and determines that:

15 (a) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this  
16 Ordinance will serve the public necessity, convenience and welfare for the reasons set forth in  
17 Planning Commission Resolution No. \_\_\_\_\_ and incorporates said Resolution  
18 herein by reference. A copy of said resolution is on file with the Clerk of the Board of  
19 Supervisors in File No. \_\_\_\_\_.

20 (b) This Board of Supervisors finds that this Ordinance is consistent with the General  
21 Plan and Priority Policies of Section 101.1(b) of the Planning Code for the reasons set forth in  
22 the Planning Commission Resolution No. \_\_\_\_\_ and incorporates said Resolution  
23 herein by reference. A copy of said resolution is on file with the Clerk of the Board of  
24 Supervisors in File No. \_\_\_\_\_.

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1 (c) Environmental Findings. The Planning Department has determined that the actions  
2 contemplated in this Ordinance are in compliance with the California Environmental Quality  
3 Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file  
4 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated  
5 herein by reference.

6 Section 2. The San Francisco Planning Code is hereby amended by adding Section  
7 317, to read as follows:

8 Section. 317. Demolition of Residential Buildings.

9 (a) Findings. The Board of Supervisors hereby finds and declares:

10 (1) Affordable housing is a paramount statewide concern. In 1980, the Legislature declared in  
11 Government Code Section 65580 that:

12 \_\_\_\_\_ (A) The availability of housing is of vital statewide importance, and the early attainment  
13 of decent housing and a suitable living environment for every California family is a priority of the  
14 highest order.

15 \_\_\_\_\_ (B) The early attainment of this goal requires the cooperative participation of  
16 government and the private sector in an effort to expand housing opportunities and accommodate the  
17 housing needs of Californians of all economic levels.

18 \_\_\_\_\_ (C) The provision of housing affordable to low- and moderate-income households  
19 requires the cooperation of all levels of government.

20 \_\_\_\_\_ (D) Local and state governments have a responsibility to use the powers vested in them  
21 to facilitate the improvement and development of housing to make adequate provision for the housing  
22 needs of all economic segments of the community.

23 (2) The Legislature further stated in Government Code Section 65581 that is was the intent of  
24 the Legislature to:

1           (A) Assure that counties and cities recognize their responsibilities in contributing to the  
2 attainment of the state housing goal.

3           (B) Assure that counties and cities will prepare and implement housing elements that  
4 will move toward attainment of the state housing goal.

5           (C) Recognize that each locality is best capable of determining what efforts are  
6 required by it to contribute to the attainment of the state housing goal.

7           (3) The California Legislature requires each local government agency to develop a  
8 comprehensive long-term general plan establishing policies for future development. As specified in the  
9 Government Code the plan must "conserve and improve the condition of the existing affordable housing  
10 stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or  
11 private action."

12           (4) San Francisco faces a continuing shortage of affordable housing for very low and low-  
13 income residents. The San Francisco Planning Department reported that for the past ten years, 3,199  
14 units of low and very low-income housing were built in San Francisco out of a total need of 15,103  
15 units for the same period. According to the state Department of Housing and Community Development,  
16 there will be a regional need for 230,743 new housing units in the nine Bay Area counties from 1999—  
17 2006. Of that amount, at least 58 percent, or 133,164 units, are needed for moderate, low and very  
18 low-income households. The Association of Bay Area Governments (ABAG) is responsible for dividing  
19 the total regional need numbers among its member governments which includes both counties and  
20 cities. ABAG estimates that San Francisco's low and very low-income housing production need through  
21 2006 is 7,370 units out of a total new housing need of 20,372 units. Within the past ten years, less than  
22 25% of the previously projected housing need was produced in San Francisco

23           (5) The 2000 Consolidated Plan for July 1, 2000 - June 30, 2005, issued by the Mayor's Office  
24 of Community Development and the Mayor's Office of Housing establishes that extreme housing  
25 pressures face San Francisco, particularly in regard to low-and moderate-income residents. Many

1 elements constrain housing production in the City. This is especially true of affordable housing. San  
2 Francisco is largely built out, and its geographical location at the northern end of a peninsula  
3 inherently prevents substantial new development. Because the cities located on San Francisco's  
4 southern border are also dense urban areas, San Francisco has no available adjacent land to be  
5 annexed. Thus, new construction of housing is limited to areas of the City not previously designated as  
6 residential areas, infill sites, or to areas with increased density. New market-rate housing absorbs a  
7 significant amount of the remaining supply of land and other resources available for development and  
8 thus limits the supply of affordable housing, including rental housing.

9 (6) There is a great need for affordable rental and owner-occupied housing in the City. The  
10 vacancy rate for residential rental property has dropped significantly since 1990 when the U.S. Census  
11 showed a 6.9 percent vacancy rate . Data from the 2000 US Census showed a residential rental  
12 vacancy rate of 2.5 percent. Data from the San Francisco rental market from RealFacts for 2000  
13 indicates a vacancy rate of 1.9 percent. Rents on newly occupied residential units have risen  
14 dramatically. Housing cost burden is one of the major standards for determining whether a locality is  
15 experiencing inadequate housing conditions. The Consolidated Plan defines a household expending 30  
16 percent or more of its gross income for housing costs as experiencing a cost burden. According to the  
17 2000 Census, 35 percent of San Franciscans experienced a cost burden in 2000.

18 (7) The San Francisco residential real estate market is one of the most expensive in the United  
19 States. The National Association of Realtors has found that San Francisco has one of the highest  
20 median prices of existing homes in the United States. In the 1980's average home prices in San  
21 Francisco rose nearly three times as fast as the overall cost of living in San Francisco according to  
22 data from the Bay Area Council and 1990 Census. Available data on housing sales demonstrates that  
23 the majority of market-rate homes for sale in San Francisco are priced out of the reach of low and  
24 moderate-income households.

1           (8) The Board readopts the findings of Planning Code Section 313.2 for the Jobs-Housing  
2 Linkage Program, Planning Code Sections 313 et seq., and Section 315.2 for the Residential  
3 Inclusionary Affordable Housing Program, Planning Code Sections 315 et seq., including those that  
4 relate to the shortage of affordable housing, the low vacancy rate of housing affordable to persons of  
5 lower and moderate income, and the decrease in construction of affordable housing in the City.

6           (9) A substantial portion of residential rental buildings contain affordable housing that is  
7 subject to the City's Residential Rent Stabilization and Arbitration Ordinance (Administrative Code  
8 Chapter 37). New housing, however, is not subject to the Residential Rent Stabilization and Arbitration  
9 Ordinance. Accordingly, the demolition of residential buildings in the absence of Planning  
10 Commission review and oversight could lead to the elimination or continuing loss of affordable  
11 housing.

12           (10) The City also has an interest in avoiding or minimizing blighting conditions, such as litter,  
13 unsightly conditions, growth and spread of weeds, and airborne dust, that result when a building is  
14 demolished and the underlying property remains vacant. For this reason, the City believes approval of  
15 the replacement structure as part of its consideration concerning demolition of the existing residential  
16 structure allows the property owner, neighborhood, and community stakeholders greater certainty as to  
17 future use of the property.

18           (11) The Planning Commission on December 11, 2003, adopted Resolution No. 16700, which  
19 established a policy requiring mandatory discretionary review of applications for demolition of  
20 residential structures. Said Resolution and its findings are incorporated herein by reference.

21           (12) For the reasons stated above, the Board of Supervisors intends to prohibit the demolition  
22 of residential buildings unless the Planning Commission issues conditional use authorization for the  
23 replacement structure.

24           **(b) Demolition of Residential Buildings.**  
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1           (1) The demolition of residential buildings shall be prohibited unless the Planning Commission  
2 issues a conditional use authorization for the replacement structure pursuant to Section 303; provided,  
3 however, that if the demolition already requires conditional use authorization, the Commission shall  
4 consider the replacement structure as part of its decision on the conditional use application.

5           (2) If the replacement structure already requires conditional use authorization, the Commission  
6 shall consider the demolition as part of its decision on the conditional use application.

7           (3) Nothing in this Section is intended to permit the demolition of residential buildings in those  
8 areas of the City where such demolition is already prohibited or where the replacement structure would  
9 be prohibited.

10           (4) This ordinance shall not apply to property:

11           (A) Owned by the United States or any of its agencies;

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

14           (C) Under the jurisdiction of the Port of San Francisco or the San Francisco  
15 Redevelopment Agency where the application of this ordinance is prohibited by State or local law; or

16           (D) Where demolition of the building is necessary to comply with a court order or City  
17 order that directs the owner to demolish the building due to conditions that present an imminent threat  
18 to life safety.

19           Section 3. This section is uncodified. This ordinance shall apply to all residential  
20 buildings where the owner has not obtained his or her final demolition permit on or prior to  
21 October 3, 2006. Further, in its consideration of conditional use authorization as set forth in  
22 this Ordinance, the Planning Commission, to the extent practicable, shall consider the  
23 parameters and follow the procedures of Planning Commission Resolution No. 167000 until  
24 the Planning Commission adopts subsequent rules to implement this Ordinance.

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

By: \_\_\_\_\_  
John D. Malamut  
Deputy City Attorney