

1 [Planning Code - Demolition and Replacement of Sound Housing]

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3 **Ordinance amending Planning Code Section 317 to require the Planning Commission**
4 **make certain findings when approving demolition of Residential Buildings that require**
5 **Mandatory Discretionary Review and to require replacement of sound housing with**
6 **units of like affordability; and making findings, including 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 ~~*strike-through italics Times New Roman*~~.
11 Board amendment additions are double-underlined;
12 Board amendment deletions are ~~strike-through normal~~.

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

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

16 (a) General Plan and Planning Code Findings.

17 (1) On December 17, 2009, at a duly noticed public hearing, the Planning
18 Commission in Resolution No. 18001 found that the proposed Planning Code amendments
19 contained in this ordinance were consistent with the City's General Plan and with Planning
20 Code Section 101.1(b). In addition, the Planning Commission recommended that the Board
21 of Supervisors adopt the proposed Planning Code amendments. A copy of said Resolution is
22 on file with the Clerk of the Board of Supervisors in File No. 091038 and is incorporated herein
23 by reference. The Board finds that the proposed Planning Code amendments contained in
24 this ordinance are consistent with the City's General Plan and with Planning Code Section
25 101.1(b) for the reasons set forth in said Resolution.

1 (2) Pursuant to Planning Code Section 302, the Board finds that the proposed
2 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
3 Planning Commission Resolution No. 18001, which reasons are incorporated herein by
4 reference as though fully set forth.

5 (b) Environmental Findings. The Planning Department has determined that the
6 actions contemplated in this Ordinance are in compliance with the California Environmental
7 Quality Act (California Public Resources Code section 21000 et seq.). Said determination is
8 on file with the Clerk of the Board of Supervisors in File No. 091038 and is incorporated herein
9 by reference.

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11 Section 2. The San Francisco Planning Code is hereby amended by amending Section
12 317, to read as follows:

13 **SEC. 317. LOSS OF DWELLING UNITS THROUGH MERGER, CONVERSION, AND**
14 **DEMOLITION.**

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

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

3 (1) "Conversion of Residential Unit" shall mean the removal of cooking facilities in a
4 Residential Unit or the change of occupancy (as defined and regulated by the Building Code),
5 or the change of use (as defined and regulated by the Planning Code), of any Residential Unit
6 to a non-residential use.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (d) Loss of Residential Units Through Demolitions.

22 (1) No permit to Demolish a Residential Building in any zoning district shall be
23 issued until a building permit for the replacement structure is finally approved, unless the
24 building is determined to pose a serious and imminent hazard as defined in the Building Code.
25 A building permit is finally approved if the Board of Appeals has taken final action for approval

1 on an appeal of the issuance or denial of the permit or if the permit has been issued and the
2 time for filing an appeal with the Board of Appeal has lapsed with no appeal filed.

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

14 (3) For those applications to Demolish a Residential Building in districts that require
15 Mandatory Discretionary Review, administrative review criteria shall ensure that only
16 applications to demolish Single-Family Residential Buildings that are demonstrably not
17 affordable or financially accessible housing, or Residential Buildings of two units or fewer that
18 are found to be unsound housing, are exempt from Mandatory Discretionary Review hearings.
19 Specific numerical criteria for such analyses shall be adopted by the Planning Commission in
20 the Code Implementation Document, in accordance with this Section 317, and shall be
21 adjusted periodically by the Zoning Administrator based on established economic real estate
22 and construction indicators.

23 (A) The Planning Commission shall determine a level of affordability or financial
24 accessibility, such that Single-Family Residential Buildings on sites in RH-1 Districts that are
25 demonstrably not affordable or financially accessible, that is, housing that has a value greater

1 than at least 80% of the combined land and structure values of single-family homes in San
2 Francisco as determined by a credible appraisal, made within six months of the application to
3 demolish, are not subject to a Mandatory Discretionary Review hearing. The demolition and
4 replacement building applications shall undergo notification as required by other sections of
5 this Code. The Planning Commission, in the Code Implementation Document, may increase
6 the numerical criterion in this subsection by up to 10% of its value should it deem that
7 adjustment is necessary to implement the intent of this Section 317, to conserve existing
8 housing and preserve affordable housing.

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

19 (C) The Planning Commission shall consider the following additional criteria in the
20 review of applications to demolish Residential Buildings and shall not approve the demolition
21 unless the Planning Commission finds that such approval is consistent with applicable Planning Code
22 and General Plan policies and public policy goals implicit therein for not less than a majority of the
23 following criteria:

24 (i) whether the property is free of a history of serious, continuing Code violations;
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- 1 (ii) whether the housing has been maintained in a decent, safe, and sanitary
2 condition;
- 3 (in) whether the property is an "historical resource" under CEQA;
- 4 (iv) whether the removal of the resource will have a substantial adverse impact
5 under CEQA;
- 6 (v) whether the project converts rental housing to other forms of tenure or
7 occupancy;
- 8 (vi) whether the project removes rental units subject to the Rent Stabilization and
9 Arbitration Ordinance;
- 10 (vii) whether the project conserves existing housing to preserve cultural and
11 economic neighborhood diversity;
- 12 (viii) whether the project conserves neighborhood character to preserve
13 neighborhood cultural and economic diversity;
- 14 (ix) whether the project protects the relative affordability of existing housing;
- 15 (x) whether the project increases the number of permanently affordable units as
16 governed by Section 315;
- 17 (xi) whether the project locates in-fill housing on appropriate sites in established
18 neighborhoods;
- 19 (xii) whether the project creates *Equality*, new family housing;
- 20 (xiii) whether the project creates new supportive housing;
- 21 (xiv) whether the project promotes construction of well-designed housing to enhance
22 existing neighborhood character;
- 23 (xv) whether the project increases the number of on-site dwelling units;
- 24 (xvi) whether the project increases the number of on-site bedrooms.
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1 (4) Nothing in this Section is intended to permit the Demolition of Residential
2 Buildings in those areas of the City where other sections of this Code prohibit such demolition
3 or replacement structure.

4 (D) Where the Planning Commission approves demolition of sound housing under this
5 subsection 317(d)(3), the Commission shall require replacement, on a one-to-one basis, of the
6 demolished units with units of like affordability, unless the proposed project meets the criteria of
7 subsections 317(d)(3)(C)(x) or (xiii) set forth above. This replacement housing may either be provided
8 as part of the proposed project or on a separate site.

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

16 (e) Loss of Residential Units Through Merger.

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

23 (2) The Planning Commission shall consider these criteria in the review of
24 applications to merge Residential Units:
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1 (i) whether removal of the unit(s) would eliminate only owner occupied housing,
2 and if so, for how long the unit(s) proposed to be removed have been owner occupied;

3 (ii) whether removal of the unit(s) and the merger with another is intended for owner
4 occupancy;

5 (iii) whether removal of the unit(s) will bring the building closer into conformance
6 with the prevailing density in its immediate area and in the same zoning district;

7 (iv) whether removal of the unit(s) will bring the building closer into conformance
8 with prescribed zoning;

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

11 (3) Administrative review criteria shall ensure that only those Residential Units
12 proposed for Merger that are demonstrably not affordable or financially accessible housing
13 are exempt from Mandatory Discretionary Review hearings. Applications for which the least
14 expensive unit proposed for merger has a value greater than at least 80% of the combined
15 land and structure values of single-family homes in San Francisco, as determined by a
16 credible appraisal, made within six months of the application to merge, are not subject to a
17 Mandatory Discretionary Review hearing. The Planning Commission, in the Code
18 Implementation Document, may increase the numerical criterion in this subsection by up to
19 10% of its value should it deem that adjustment is necessary to implement the intent of this
20 Section 317, to conserve existing housing and preserve affordable housing.

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

24 (f) Loss of Residential Units Through Conversion.
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1 (1) Conversion of Residential Units not otherwise subject to Conditional Use
2 authorization by this Code, shall be prohibited, unless the Planning Commission approves the
3 building permit application at a Mandatory Discretionary Review hearing.

4 (2) The Planning Commission shall consider these criteria in the review of
5 applications for Conversion of Residential Units;

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

8 (ii) whether conversion of the unit(s) would provide desirable new non-residential
9 use(s) appropriate for the neighborhood and adjoining district(s);

10 (iii) whether conversion of the unit(s) will bring the building closer into
11 conformance with the prevailing character of its immediate area and in the same zoning
12 district;

13 (iv) whether conversion of the unit(s) will be detrimental to the City's housing stock;

14 (v) whether conversion of the unit(s) is necessary to eliminate design, functional, or
15 habitability deficiencies that cannot otherwise be corrected.

16 (g) This Section 317 Shall Not Apply to Property:

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

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

20 (3) Under the jurisdiction of the Port of San Francisco or the San Francisco
21 Redevelopment Agency where the application of this ordinance is prohibited by State or local
22 law; or

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

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APPROVED AS TO FORM:
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By: _____
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