



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: SEPTEMBER 18, 2014

Project Name: Amendments to Definition of Residential Unit and Residential Conversion Requirements

Case Number: 2014.1240T [Board File No. 140775]

Initiated by: Supervisor Avalos/ Introduced July 8, 2014

Staff Contact: Aaron Starr, Acting Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

Reviewed by: AnMarie Rodgers, Senior Policy Advisor
anmarie.rodgers@sfgov.org, 415-558-6395

Recommendation: **Recommend Approval**

1650 Mission St.
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PLANNING CODE AMENDMENT

This Ordinance would amend the Planning Code to amend the definition of Residential Unit and clarify the requirements for a Residential Conversion of a Residential Hotel Unit regulated under Administrative Code, Chapter 41; make environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

The Way It Is Now:

Per Section 317(f) of the Planning Code, Residential Conversion of a Residential Unit to Student Housing is prohibited. Moreover, the definition of a Residential Unit does not include "Residential Units in a Residential Hotel"; therefore, prohibition on the conversion of Residential Units to Student Housing does not apply to Residential Hotels. Currently, a Residential Hotel can be converted to Student Housing per the terms of Chapter 41 of the Administrative Code.

The Way It Would Be:

The proposed legislation would:

1. Amend the definition of Residential Unit so that it no longer excludes Residential Units in Residential Hotels, as defined in Chapter 41 of the Administrative Code.
2. Exempts the Residential Conversion of the Residential Unit from Planning Commission approval if the conversion is subject to the Residential Hotel Unit Conversion and Demolition Ordinance, San Francisco Administrative Code Chapter 41, and obtains a permit to convert in compliance with the requirements in Administrative Code Chapter 41.
3. Reorganizes portions of Planning Code Section 317 for clarity and to updated references.

ISSUES AND CONSIDERATIONS

Board File (BF) 130041: Demolition, Merger, Conversion and Conformity of Residential Units

Board File 130041 revised the criteria for residential demolition, merger and conversion, and standardized those definitions across use districts. It prohibited residential mergers where certain

evictions of tenants have occurred, and it also established a strong presumption in favor of preserving dwelling units in enforcement of Code requirements. The Commission heard this ordinance on October 24, 2013 and voted six to one to recommend approval with modifications to the Board of Supervisors.

The Commission recommended the following modifications:

1. That the prohibition be triggered by no-fault evictions that occur as of October 24, 2013; and,
2. That the prohibition last for ten years, as Supervisor Avalos recommends in his proposed language; and,
3. That Supervisor Avalos consider so-called “Owner Move-In” and other no-fault evictions differently than “Ellis Act” evictions.

Board File 130041 also amended Section 317(b)(12) by adding language that removed a “Residential Unit in a Residential Hotel” from the definition of a Residential Unit (See page 10, line 11 of Exhibit C). This change was made so that Residential Hotels would not have to go through both the conversion process under Chapter 41 of the Administrative Code and the conversion process in Section 317, instead relying solely on the more restrictive controls of the Chapter 41 of the Administrative Code. However, the unintended consequence of this change was that it removed the prohibition on the conversion of Residential Hotels to Student Housing—a substantive change that was neither intended by the legislators nor considered by this Commission. In fact, the Commission has previously voted quite strongly to not allow Residential Hotels to be converted to Student Housing. Specifically, Planning Commission Resolution 18652 passed on June 21, 2012 stated:

The Commission has recently taken two actions: first in November 2010 and later in 2011 to affirm that institutions seeking to establish Student Housing should build new housing and should not convert existing housing. For this reason, the Commission maintains that conversion of existing housing stock should generally be prohibited.

Residential Hotels have typically not been attractive for other residential uses but as demand for Student Housing increases, the threat to this affordable housing stock will increase unless institutions are encouraged to build new housing.

The Residential Hotel Ordinance regulates and protects the existing stock of residential hotels. This ordinance requires that residential hotel rooms replaced with tourist rooms should be replaced at a 1 to 1 ratio.

According to a 2009 report commissioned by the Human Services Agency, “The City of San Francisco is unable to meet [existing] residents’ demand for affordable housing. Many of the city’s most vulnerable populations, including families with children seniors and adults with disabilities, and other public service recipients, are often at risk for homelessness. SROs account for a substantial portion of San Francisco’s affordable housing stock, as they provide housing for more low-income people than all the city’s public housing developments”.

Planning Code Section 317

Per Section 317(f) Residential Conversion of a Residential Unit to Student Housing is prohibited. However, since BF 130041 was passed, the definition of a “Residential Unit” in Planning Code Section 317 no longer includes “Residential Units in a Residential Hotel.” As a consequence the prohibition on conversion no longer applies to these units, and a Residential Hotel can be converted to Student Housing per the terms of Chapter 41 of the Admin Code.

To address this issue, the proposed Ordinance removes the language that exempts “Residential Units in a Residential Hotel” from the definition of Residential Units, and to address the issue or requiring a redundant approval processes for the conversion of units in residential hotels, the Ordinance adds the following language:

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

Administrative Code Chapter 41

Chapter 41 of the Administrative Code regulates the conversion of Residential Hotel units into Tourist Hotels, and among other things requires a one-to-one replacement when such units are converted to other uses or demolished. The definition of Conversion in Chapter 41 does not recognize the occupancy of Residential Hotel units by students as a conversion; therefore the conversion of Residential Hotels to Student Housing would not trigger a one to one replacement and is not prohibited or controlled by Chapter 41.

The definition of Conversion in Chapter 41 is as follows:

(c) Conversion. The change or attempted change of the use of a residential unit as defined in subsection (q) below to a tourist use, or the elimination of a residential unit or the voluntary demolition of a residential hotel. However, a change in the use of a residential hotel unit into a non-commercial use which serves only the needs of the permanent residents, such as resident’s lounge, storeroom or common area, shall not constitute a conversion within the meaning of this Chapter.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

Recommend Approval

BASIS FOR RECOMMENDATION

This Ordinance is intended to fix an unintended consequence created by a previously approved ordinance. The Department is concerned that the loophole created by BF 130041 could be exploited by post-secondary educational institutions by allowing them to convert existing Residential Hotels to Student Housing by right. According to Chapter 41 of the Administrative Code, Residential Hotel units are endangered housing resources and must be protected, and the conversion of Residential Hotel units affects those persons who are least able to cope with displacement in San Francisco's housing market. The Board of Supervisors and the Mayor recognized this issue in 1979 and passed Chapter 41 to protect this form of housing from conversion to tourist hotel use. Planning Code Section 317 was also added to the Code to protect all of the City’s housing stock; however this recent change has put one of the City’s important sources of affordable housing at risk. Adopting this Ordinance would correct this error.

ENVIRONMENTAL REVIEW

The proposed Ordinance would result in no physical impact on the environment. The Project was determined to be exempt from the California Environmental Quality Act (“CEQA”) under the Non-Physical Exemption (CEQA Guidelines Section 15060(c)(2)) as described in the determination contained in the Planning Department files for this Project.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any comments about the proposed Ordinance.

RECOMMENDATION: Recommendation of Approval
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 140775, Version 1
- Exhibit C Board of Supervisors File No. 130041, Final Version



Exhibit A
**SAN FRANCISCO
PLANNING DEPARTMENT**

Planning Commission Draft Resolution

HEARING DATE SEPTEMBER 18, 2014

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Reviewed by: AnMarie Rodgers, Senior Policy Advisor
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Recommendation: **Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE AMENDING THE PLANNING CODE TO AMEND THE DEFINITION OF RESIDENTIAL UNIT AND CLARIFY THE REQUIREMENTS FOR A RESIDENTIAL CONVERSION OF A RESIDENTIAL HOTEL UNIT REGULATED UNDER ADMINISTRATIVE CODE, CHAPTER 41; MAKING ENVIRONMENTAL FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

WHEREAS, on July 8, 2014, Supervisor Avalos introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 140775, which would amend the Planning Code to amend the definition of Residential Unit and clarify the requirements for a Residential Conversion of a Residential Hotel Unit regulated under Administrative Code, Chapter 41; making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

WHEREAS, the proposed Ordinance has been determined not to be a project under the California Environmental Quality Act Section 15060(c)(2) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance.

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve** the proposed ordinance.

FINDINGS

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

1. The Commission finds that this Ordinance is intended to fix an unintended consequence created by a previously approved ordinance, Board File 130041.
2. The Commission is concerned that the loophole created by Board File 130041 could be exploited by post-secondary educational institutions by allowing them to convert existing Residential Hotels to Student Housing by right.
3. The Commission finds that Residential Hotel units are endangered housing resources and must be protected, and the conversion of Residential Hotel units affects those persons who are least able to cope with displacement in San Francisco's housing market. The Board of Supervisors and the Mayor recognized this issue in 1979 and passed Chapter 41 to protect this form of housing from conversion to tourist hotel use.
4. The Commission finds that Planning Code Section 317 was also added to the Code to protect all of the City's housing stock; however this recent change has put one of the City's important sources of affordable housing at risk.
5. The Commission finds that it passed Resolution 18652 on June 21, 2012, which strongly opposed allowing Residential Hotels to be converted to Student Housing.
6. **General Plan Compliance.** The proposed amendments to the Planning Code are consistent with the following Objectives and Policies of the General Plan.

HOUSING ELEMENT

OBJECTIVE 3

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

POLICY 3.1

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

The proposed Ordinance would reinstate previous restrictions the conversion of Residential Hotels to Student Housing, helping to preserve an important source of affordable rental housing in San Francisco.

7. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood-serving retail uses.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would help maintain existing housing and neighborhood character by ensuring that residential units in Residential Hotels could not be converted to Student Housing without public oversight. Conversion to Student Housing would not only impact the availability of housing available for low-income residents, it would also change the character of the neighborhoods where these buildings exist by potentially displacing existing residents.

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

The proposed Ordinance seeks to remove a provision in the Planning Code that would allow affordable housing to be converted into Student Housing without Planning Commission review.

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

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an impact on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have a negative effect on the City's Landmarks and historic buildings.

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

The proposed Ordinance would not have a negative effect on the City's parks and open space access to sunlight and vistas.

- 8. Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

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

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 18, 2014.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: September 18, 2014

Exhibit B

1 [Planning Code - Amending Definition of Residential Unit and Residential Conversion
2 Requirements]

3 **Ordinance amending the Planning Code to amend the definition of Residential Unit and**
4 **clarify the requirements for a Residential Conversion of a Residential Hotel Unit**
5 **regulated under Administrative Code, Chapter 41; making environmental findings, and**
6 **findings of consistency with the General Plan, and the eight priority policies of**
7 **Planning Code, Section 101.1.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

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

16 Section 1. Findings

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

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

(c) Pursuant to Planning Code Section 302, this Board finds that this Planning
Code Amendment will serve the public necessity, convenience, and welfare for the reasons

1 set forth in Planning Commission Resolution No. _____ and the Board incorporates such
2 reasons herein by reference.

3 Section 2. The Planning Code is hereby amended by revising Subsections 317(b) and
4 317(f) to read as follows:

5 * * * *

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

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

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

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

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

22 ~~— (D) as of August 10, 2010, it was owned, operated or otherwise controlled by a post-~~
23 ~~secondary Educational Institution that had an Institutional Master Plan on file with the Planning~~
24 ~~Commission, and where the occupancy by those other than students at that date was less than 20% of~~
25 ~~the total occupants. For purposes of determining occupancy, the post-secondary Educational~~

1 ~~Institution shall present to the Planning Department verified information regarding its rental or lease~~
2 ~~of units as of that date.~~

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

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

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

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

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

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

21 (4) "Front Facade" shall mean the portion of the Facade fronting a right-of-way,
22 or the portion of the Facade most closely complying with that definition, as in the case of a
23 flag lot. Where a lot has more than one frontage on rights-of-way. all such frontages shall be
24 considered Front Facades except where a facade meets the definition of "Rear Facade."
25

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

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

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

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

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

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

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

4 (12) "Residential Unit" shall mean a legal conforming or nonconforming dwelling
5 unit as defined in Planning Code Section 102.7, or a legal nonconforming Live/Work Unit as
6 defined in Planning Code Section 102.13, or Group Housing as defined in Planning Code
7 Section 209.2(a), (b), and (c). ~~; provided, however, this definition shall not include a Residential~~
8 ~~Unit in a Residential Hotel, as defined and regulated by Chapter 41 of the San Francisco~~
9 ~~Administrative Code.~~

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

13 * * * *

14 (f) Residential Conversion.

15 (1) Residential Conversion not otherwise prohibited or subject to Conditional
16 Use authorization by this Code, shall be prohibited, unless the Planning Commission
17 approves the building permit application at a Mandatory Discretionary Review hearing, or is
18 exempted from such approval as provided in subsections (f)(3) or (4) below. The conversion of
19 Residential Units to Student Housing is prohibited. For the purposes of this subsection,
20 Residential Units that have been defined as such by the time a First Certificate of Occupancy
21 has been issued by the Department of Building Inspection for new construction shall not be
22 converted to Student Housing.

23 (2) The Planning Commission shall consider the following criteria in the review
24 of applications for Residential Conversion:

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

4 (B) whether Residential Conversion would provide desirable new non-
5 residential use(s) appropriate for the neighborhood and adjoining district(s);

6 (C) in districts where Residential Uses are not permitted, whether
7 Residential Conversion will bring the building closer into conformance with the uses permitted
8 in the zoning district;

9 (D) whether conversion of the unit(s) will be detrimental to the City's
10 housing stock;

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

13 (F) whether the Residential Conversion will remove Affordable Housing,
14 or units subject to the Rent Stabilization and Arbitration Ordinance.

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

19 (A) it was built by the post-secondary Educational Institution;

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

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

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

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

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

9 * * * *

10 Section 3. Effective Date. This ordinance shall become effective 30 days after
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
13 of Supervisors overrides the Mayor’s veto of the ordinance.

14 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
18 additions, and Board amendment deletions in accordance with the “Note” that appears under
19 the official title of the ordinance

20
21 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

22 By: 
23 Kate H. Stacy
24 Deputy City Attorney

25 N:\anduse\kstacy\PlanningCode Corrections\Section317correctionsFINAL.doc

Exhibit C

1 [Planning Code - ~~Conversion~~, Demolition, Merger, Conversion and Conformity of Residential
2 Units]

3 **Ordinance amending the Planning Code to revise the criteria for residential demolition,**
4 **~~conversion, and merger~~ and conversion, and to standardize those definitions across**
5 **use districts and prohibit residential mergers where certain evictions of tenants have**
6 **occurred; establish a strong presumption in favor of preserving dwelling units in**
7 **enforcement of Code requirements; and making environmental findings and findings of**
8 **consistency with the General Plan and the eight priority policies of Planning Code**
9 **Section 101.1.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
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15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

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

18 Section 1. Findings.

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

23 (b) On July 18, 2013, the Planning Commission, in Resolution No. 18927, adopted
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. 130041, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
4 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
5 in Planning Commission Resolution No. 19009 and the Board incorporates such reasons
6 herein by reference.

7 Section 2. The Planning Code is hereby amended by revising Sections 180, 212, 317,
8 703.2 and the Zoning Control Tables of Sections 710 through 742, 803.8, and the Zoning
9 Control Tables of Sections 803.2, 810 through 818 and 827, to read as follows:

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

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

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

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

22 (2) A "noncomplying structure" is a structure which existed lawfully at the
23 effective date of this Code, or of amendments thereto, and which fails to comply with one or
24 more of the regulations for structures, including requirements for off-street parking and
25

1 loading, under Articles 1.2, 1.5, 2.5, 6, 7 and 8 of this Code, that then became applicable to
2 the property on which the structure is located.

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

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

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

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

1 (e) Lawfully existing structures and uses. Any structure or use for which a permit was
2 lawfully granted prior to May 2, 1960, pursuant to the ~~City~~ Planning Code provisions in effect
3 on that date, and which was thereafter commenced and completed in accordance with such
4 provisions, shall be deemed to have been a lawfully existing structure or use on that date. Any
5 structure or use for which a permit has been lawfully granted pursuant to the provisions of this
6 Code relating to amendments, and which has thereafter been commenced and completed in
7 accordance with such provisions, shall be deemed to be a lawfully existing structure or use at
8 the time of the amendment that causes it to become a noncomplying structure or a
9 nonconforming use.

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

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

19 (h) Preserving Dwelling Units. If the administrative record regarding a nonconforming unit
20 does not provide conclusive evidence that the unit is illegal, it shall be presumed to be a legal
21 nonconforming unit.

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

23 In the following C and M Districts, the permitted uses indicated in Sections 215 through
24 227 shall be subject to the additional requirements contained in this Section 212.

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

- 4 (1) Those uses indicated by an asterisk (*) in the column for the district;
5 (2) Accessory off-street parking and loading areas where permitted;
6 (3) Accessory outdoor dining areas where permitted;
7 (4) Accessory recreation areas where permitted; and,
8 (5) Mobile Food Facilities as defined in Section 102.34.

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

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

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

17 (2) **Applicability.**

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

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

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

25 (3) **Controls.**

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

5 (B) **All levels.** All other permitted uses shall be located either on stories
6 above or below the ground story or at a distance of not less than 20 feet behind each street
7 frontage at the ground story. No more than 1/3 the width of any lot, parallel to and facing such
8 street, shall be devoted to entrances to such other permitted uses.

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

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

21 **SEC. 317. LOSS OF DWELLING UNITS THROUGH DEMOLITION, MERGER AND,
22 CONVERSION, AND DEMOLITION.**

23 (a) **Findings.** San Francisco faces a continuing shortage of affordable housing. There
24 is a high ratio of rental to ownership tenure among the City's residents. The General Plan
25 recognizes that existing housing is the greatest stock of rental and financially accessible

1 residential units, and is a resource in need of protection. Therefore, a public hearing will be
2 held prior to approval of any permit that would remove existing housing, with certain
3 exceptions, as described below. The Planning Commission shall develop a Code
4 Implementation Document setting forth procedures and regulations for the implementation of
5 this Section 317 as provided further below. The Zoning Administrator shall modify economic
6 criteria related to property values and construction costs in the Implementation Document as
7 warranted by changing economic conditions to meet the intent of this Section.

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

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

- 21 (i) ~~(A)~~ (A) it was built by the post-secondary Educational Institution;
- 22 (ii) ~~(B)~~ (B) it is in a convent, monastery, or similar religious order facility;
- 23 (iii) ~~(C)~~ (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

1 Educational Institution for at least ten years as of the effective date of ~~this~~ Ordinance 188-12;

2 or

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

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

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

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

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

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

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

4 (4) "Front Facade" shall mean the portion of the Facade fronting a right-of-way,
5 or the portion of the Facade most closely complying with that definition, as in the case of a
6 flag lot. Where a lot has more than one frontage on rights-of-way. all ~~suek~~ such frontages shall
7 be considered Front Facades except where a facade meets the definition of "Rear Facade."

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

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

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

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

22 (9) "Removal" shall mean, with reference to a wall, roof or floor structure, its
23 dismantling, its relocation or its alteration of the exterior function by construction of a new
24 building element exterior to it. Where a portion of an exterior wall is removed, any remaining
25 wall with a height less than the Building Code requirement for legal head room shall be

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

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

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

11 (12) "Residential Unit" shall mean a legal conforming or ~~non-conforming~~
12 *nonconforming* dwelling unit as defined in Planning Code Section 102.7, or a legal ~~non-~~
13 *conforming nonconforming* Live/Work Unit as defined in Planning Code Section 102.13, or
14 Group Housing as defined in Planning Code Section 209.2(a), (b), and (c); provided, however, this
15 definition shall not include a Residential Unit in a Residential Hotel, as defined and regulated
by Chapter 41 of the San Francisco Administrative Code.

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

19 (c) **Applicability.** ~~Where an~~ An application for a permit that would result in the loss of
20 one or more Residential Units is required to obtain Conditional Use authorization ~~by other~~
21 ~~sections of this Code, in the RTO, RTO-M, NCT, and Upper Market NCD Zoning Districts, as well as~~
22 ~~the loss of any residential unit above the ground floor in the C-3 Zoning District. the~~ The application
23 for a replacement building or alteration permit shall also be subject to Conditional Use
24 requirements. When considering whether to grant Conditional Use authorization for the loss of
25 dwelling unit(s) in the C-3 districts, in lieu of the criteria set forth in Planning Code Section 303,

1 consideration shall be given to the adverse impact on the public health, safety, and general welfare of
2 the loss of housing stock in the district and to any unreasonable hardship to the applicant if the permit
3 is denied. Any application for a permit that would result in the loss or Removal of three or more
4 Residential Units, notwithstanding any other sections of this Code, shall require a Conditional
5 Use authorization for the Removal and replacement of the units. Approval of any other
6 application that would result in the loss or Removal of up to two Residential Units is prohibited
7 unless the Planning Commission approves such permit application and the replacement
8 structure permit application at a Mandatory Discretionary Review hearing, with certain
9 exceptions specified below.

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

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

17 (2) If Conditional Use authorization is required for approval of the permit to
18 ~~Demolish a~~ for Residential Demolition Building by other sections of this Code, the Commission
19 shall consider the replacement structure as part of its decision on the Conditional Use
20 application. If Conditional Use authorization is required for the replacement structure by other
21 sections of this Code, the Commission shall consider the demolition as part of its decision on
22 the Conditional Use application. In either case, Mandatory Discretionary Review is not
23 required, although the Commission shall apply appropriate criteria adopted under this Section
24 317 in addition to the criteria in Section 303 of the Planning Code in its consideration of
25 Conditional Use authorization. If neither permit application is subject to Conditional Use

1 authorization, then separate Mandatory Discretion Review cases shall be heard to consider
2 the permit applications for the demolition and the replacement structure.

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

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

23 (B) The Planning Commission, in the Code Implementation Document,
24 shall adopt criteria and procedures for determining the soundness of a structure proposed for
25 demolition, where "soundness" is an economic measure of the feasibility of upgrading a

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

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

10 (i) whether the property is free of a history of serious, continuing
11 Code violations;

12 (ii) whether the housing has been maintained in a decent, safe,
13 and sanitary condition;

14 (iii) whether the property is an "historical resource" under CEQA;

15 (iv) whether the removal of the resource will have a substantial
16 adverse impact under CEQA;

17 (v) whether the project converts rental housing to other forms of
18 tenure or occupancy;

19 (vi) whether the project removes rental units subject to the Rent
20 Stabilization and Arbitration Ordinance or *affordable housing*;

21 (vii) whether the project conserves existing housing to preserve
22 cultural and economic neighborhood diversity;

23 (viii) whether the project conserves neighborhood character to
24 preserve neighborhood cultural and economic diversity;

1 (ix) whether the project protects the relative affordability of existing
2 housing;

3 (x) whether the project increases the number of permanently
4 affordable units as governed by Section 415;

5 (xi) whether the project locates in-fill housing on appropriate sites
6 in established neighborhoods;

7 (xii) whether the project increases the number of family-sized units on-
8 site creates Quality, new family housing;

9 (xiii) whether the project creates new supportive housing;

10 (xiv) whether the ~~protect project promotes construction of well-~~
11 designed housing is of superb architectural and urban design, meeting all relevant design guidelines,
12 to enhance existing neighborhood character;

13 (xv) whether the project increases the number of on-site dwelling
14 units;

15 (xvi) whether the project increases the number of on-site
16 bedrooms;

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

20 (5) Nothing in this Section is intended to exempt buildings or sites where
21 demolition is proposed from undergoing review with respect to Articles 10 and 11 of the Code,
22 where the requirements of those articles apply. Notwithstanding the definition of "~~Demolition of~~
23 Residential Demolition Buildings" in this section and as further described in the Code
24 Implementation Document with regard to ~~the loss of Residential~~ Demolition Units, the criteria of
25

1 Section 1005 shall apply to projects subject to review under the requirements of Article 10
2 with regard to the structure itself.

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

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

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

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

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

17 ~~(iii) (C) whether the removal of the unit(s) will remove an affordable housing~~
18 ~~unit as defined in Section 415 of this Code or housing subject to the Rent Stabilization and Arbitration~~
19 ~~Ordinance; whether removal of the unit(s) will bring the building closer into conformance with the~~
20 ~~prevailing density in its immediate area and in the same zoning district;~~

21 ~~(iv) (D)~~ whether removal of the unit(s) will bring the building closer into
22 conformance with prescribed zoning;

23 ~~(E) 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 Rent Stabilization and Arbitration Ordinance, whether~~

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

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

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

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

17 (4) The Planning Commission shall not approve an application for merger if any
18 tenants have has been evicted pursuant to San Francisco Administrative Code Sections
19 37.9(a)(8) 37.9(a)(9) through 37.9(a)(14) where the tenant was served with a notice of eviction
20 after October 24, 2013 December 10, 2013 and if the notice was served within ten (10) years
21 prior to filing the application for merger. Additionally, the Planning Commission shall not
22 approve an application for merger if any tenant has been evicted pursuant to Administrative
23 Code Section 37.9(a)(8) where the tenant was served with a notice of eviction after December
24 10, 2013 if the notice was served within five (5) years prior to filing the application for merger.
25 This Subsection (e)(4) shall not apply provided that if an eviction has taken place if the tenant

1 was evicted under Section 37.9(a)(11), 37.9(a)(12) or 37.9(a)(14), then and the applicant(s)
2 shall certify that either (A) have certified that the original tenant reoccupied the unit after the
3 temporary eviction or (B) have submitted to the Planning Commission a declaration from the
4 property owner or the tenant certifying that the property owner or the Rent Board notified the
5 tenant of the tenant's right to reoccupy the unit after the temporary eviction and that the tenant
6 chose not to reoccupy it.

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

9 ***(f) Loss of Residential Units Through Conversion.***

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

17 (2) The Planning Commission shall consider ~~these~~ *the following* criteria in the
18 review of applications for *Residential Conversion Conversation of Residential Units*;

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

22 ~~(ii)~~ *(B)* whether *Residential Conversion conversation of the unit(s)* would
23 provide desirable new non-residential use(s) appropriate for the neighborhood and adjoining
24 district(s);

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

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

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

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

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

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

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

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

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

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

21 A use is the specific purpose for which a property or building is used, occupied,
22 maintained, or leased. Whether or not a use is permitted in a specific district is set forth or
23 summarized and cross-referenced in Article 7 of this Code for each district class.

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

No.	Zoning Control Categories for Uses	Section Number of Use Definition

.38 <u>.36</u>	Residential Conversion	§ <u>317 790.84</u>
.39 <u>.37</u>	Residential Demolition	§ <u>317 790.86</u>
<u>.38</u>	<u>Residential Division</u>	§ <u>207.8</u>
<u>.39</u>	<u>Residential Merger</u>	§ <u>317</u>

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

14 ****

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

21 ****

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

No.	Zoning Category	§ References	NC-2		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<i>711.36</i>	Residential Conversion	§ <i>317 790.84</i>	P	C	
<i>711.38</i>					
<i>711.37</i>	Residential Demolition	§ <i>317 790.86</i>	P	C	C
<i>711.39</i>					

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

No.	Zoning Category	§ References	NC-3		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<i>712.36</i>	Residential Conversion	§ <i>317 790.84</i>	P	C	C#
<i>711.38</i>					
<i>712.37</i>	Residential Demolition	§ <i>317 790.86</i>	P	C	C
<i>712.39</i>					

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1	728.39				
2	****				

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

5 ****

6 No.	Zoning Category	§ References	West Portal Avenue		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
7 8 9 10 11 12	729.36 Residential Conversion 729.38	§ 317 790.84	P		
	729.37 Residential Demolition 729.39 ****	§ 317 790.86	P	C	C

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

16 ****

17 No.	Zoning Category	§ References	Inner Sunset		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
18 19 20 21 22 23 24 25	730.36 Residential Conversion 730.38	§ 317 790.84	P		
	730.37 Residential Demolition 730.39 ****	§ 317 790.86	P	C	C

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

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

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

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

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

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

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

No.	Zoning Category	§ References	NCT-1		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>733A.36</u> <u>733A.38</u>	Residential Conversion	§ <u>317 790.84</u>	P		
<u>733A.37</u> <u>733A.39</u>	Residential Demolition	§ <u>317 790.86</u>	C	C	C
<u>733A.38</u>	Residential Division	§ 207.8	P	P	P

1	<u>733A.39a</u>				
2	<u>733.39</u>	<u>Residential Merger</u>	<u>§ 317</u>	<u>C</u>	<u>C</u>
3	****				

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

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

SEC. 735. SOMA NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE

No.	Zoning Category	§ References	SoMa <u>Transit</u>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>735.36</u>	Residential Conversion	§ <u>317 207.7, 790.84</u>	C	C	-
<u>735.37</u>					

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

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

9	****			Mission Street <u>Transit</u>		
10	No.	Zoning Category	§ References	Controls by Story		
11			§ 790.118	1st	2nd	3rd+
12	<u>736.36</u>	Residential Conversion	§ <u>317</u> 207.7, 790.84	C	C	C
13	<u>736.37</u>					
14	<u>736.37</u>	Residential Demolition	§ <u>317</u> 207.7, 790.86	C	C	C
15	<u>736.38</u>					
16	<u>736.38</u>	Residential Division	§ 207.8	P	P	P
17	<u>736.39</u>					
18	<u>736.39</u>	<u>Residential Merger</u>	§ <u>317</u>	<u>C</u>	<u>C</u>	<u>C</u>
19	****					

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

23	****			Ocean Ave. <u>Avenue Transit</u>		
24	No.	Zoning Category	§ References	Controls by Story		
25						

		§ 790.118	1st	2nd	3rd+
737.36 737.38	Residential Conversion	§ 317 790.84	C	C	
737.37 737.39	Residential Demolition	§ 317 790.86	C	C	C
737.38 737.39a	Residential Division	§ 207.8	P	P	P
737.39 ****	<u>Residential Merger</u>	§ 317	<u>C</u>	<u>C</u>	<u>C</u>

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

No.	Zoning Category	§ References	Glen Park <i>NCT Transit</i>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
738.36 738.38	Residential Conversion	§ 317 790.84	C	C	
738.37 738.39	Residential Demolition	§ 317 790.86	C	C	C
738.38 738.39a	Residential Division	§ 207.8	P	P	P
738.39 ****	<u>Residential Merger</u>	§ 317	<u>C</u>	<u>C</u>	<u>C</u>

**SEC. 739. NORIEGA STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Noriega Street <i>Neighborhood</i> <i>Commercial District</i>		
			Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
<u>739.36</u> <u>739.38</u>	Residential Conversion	§ <u>317.790.84</u>	P	C	
<u>739.37</u> <u>739.39</u> *****	Residential Demolition	§ <u>317.790.86</u>	P	C	C

**SEC. 740. IRVING STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Irving Street <i>Neighborhood</i> <i>Commercial District</i>		
			Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
<u>740.36</u> <u>740.38</u>	Residential Conversion	§ <u>317.790.84</u>	P	C	
<u>740.37</u> <u>737.39</u> *****	Residential Demolition	§ <u>317.790.86</u>	P	C	C

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

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

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

No.	Zoning Category	§ References	Judah Street <i>Neighborhood</i> <i>Commercial District</i>		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
<u>742.36</u> 742.38	Residential Conversion	§ <u>317 790.84</u>	P	C	
<u>742.37</u> 742.39	Residential Demolition	§ <u>317 790.86</u>	P	C	C

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

* * * *		
803.2.38a	Residential Conversion, Residential Hotels	§ 890.84 <i>Chapter 41, Admin. Code</i>
803.2.38b	Residential Demolition, Residential Hotels	§ 890.86 <i>Chapter 41, Admin. Code</i>
803.2.39a	Residential Conversion, Apartments	§ 890.84 317
803.2.39b	Residential Demolition, Apartments	§ 890.86 317
* * * *		

SEC. 803.8. HOUSING IN MIXED USE DISTRICTS.

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

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

Dwelling units and SRO units may be authorized in the SLI District as a conditional use pursuant to Sections 303, 316, 817.14, and 817.16 of this Code provided that such dwellings units shall be rented, leased or sold at rates or prices affordable to a household whose income is no greater than 80 percent of the median income for households in San Francisco

1 ("lower income household"), as determined by Title 25 of the California Code of Regulations
2 Section 6932 and implemented by the Mayor's Office of Housing.

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

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

- 10 (A) For a one-bedroom unit, a household of two persons;
- 11 (B) For a two-bedroom unit, a household of three persons;
- 12 (C) For a three-bedroom unit, a household of four persons;
- 13 (D) For a four-bedroom unit, a household of five persons.

14 (3) No conditional use permit will be approved pursuant to this Subsection
15 803.8(b) unless the applicant and City have agreed upon enforcement mechanisms for the
16 provisions of this Subsection which are acceptable to the City Attorney. Such enforcement
17 mechanisms may include, but not be limited to, a right of first refusal in favor of the City, or a
18 promissory note and deed of trust.

19 (4) The owner(s) of dwelling units authorized pursuant to this Subsection shall
20 submit an annual enforcement report to the City, along with a fee whose amount shall be
21 determined periodically by the ~~City~~ Planning Commission to pay for the cost of enforcement of
22 this Subsection. The fee shall not exceed the amount of such costs. The annual report shall
23 provide information regarding rents, mortgage payments, sales price and other housing costs,
24 annual household income, size of household in each dwelling unit, and any other information
25 the City may require to fulfill the intent of this Subsection.

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

2 (1) Amount Required. Nonresidential uses subject to Sections 815.26, 815.28,
3 815.30, 815.31 through 815.47, and 815.59 through 815.65, of this Code shall be permitted in
4 new construction in the Residential/Service District only if the ratio between the amount of
5 occupied floor area for residential use to the amount of occupied floor area of the above-
6 referenced nonresidential use is three to one or greater.

7 (2) Means of Satisfying the Housing Requirement.

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

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

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

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

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

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

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

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

	<i>Apartments</i>				
.39b	Residential Demolition	<u>§ 317</u>			
****	<i>Apartments</i>				

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

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

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

			Residential Enclave Districts		
No.	Zoning Category	§ References	Controls		
****			C		
813.12	Residential Conversion	<u>§ 317 803.9(a)</u>			

1	813.13	Residential Demolition	§ <u>317 803.9(a)</u>	C
2	****			

3
4 **Table 814**
5 **SPD – SOUTH PARK DISTRICT ZONING CONTROL TABLE**

6				South Park District
7	No.	Zoning Category	§ References	Controls
8	****			
9	814.12	Residential Conversion	§ <u>317 803.8(a)</u>	C
10	814.13	Residential Demolition	§ <u>317 803.8(a)</u>	C
11	****			

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

14				Residential/Service Mixed Use Districts
15	No.	Zoning Category	§ References	Controls
16	****			
17	815.12	Residential Conversion	§ <u>317 803.5(b)</u>	C
18	815.13	Residential Demolition	§ <u>317 803.5(b)</u>	C
19	****			

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

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

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

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

Table 818
SSO - SERVICE/SECONDARY OFFICE ZONING CONTROL TABLE

			Service/Light Industrial District
No.	Zoning Category	§ References	Controls

818.12	Residential Conversion	§ 317 803.5(b)	C
818.13	Residential Demolition	§ 317 803.5(b)	C

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

			Rincon Hill Downtown Residential Mixed Use District Zoning
No.	Zoning Category	§ References	Controls

.51	Residential Conversions	§ 317 790.84, Ch. 41 Admin. Code	C
.52	Residential Demolition	§ 317	C

Section 3. The Planning Code is hereby amended by deleting Sections 207.7, 790.84, 790.86, 890.84, and 890.86, to read as follows:

1 ~~SEC. 207.7. RESTRICTIONS ON DEMOLITION, CONVERSION, AND MERGER OF EXISTING~~
2 ~~DWELLING UNITS IN RTO, NCT, AND THE UPPER MARKET NEIGHBORHOOD~~
3 ~~COMMERCIAL DISTRICTS.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **~~SEC. 790.84. RESIDENTIAL CONVERSION.~~**

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

22 **~~SEC. 790.86. RESIDENTIAL DEMOLITION.~~**

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

1 **~~SEC. 890.84. RESIDENTIAL CONVERSION.~~**

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

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

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

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By:


23 KATE H. STACY
24 Deputy City Attorney

25 n:\legana\as2013\1300041\00890913.doc



City and County of San Francisco

Tails Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 130041

Date Passed: December 17, 2013

Ordinance amending the Planning Code to revise the criteria for residential demolition, merger and conversion, and to standardize those definitions across use districts and prohibit residential mergers where certain evictions of tenants have occurred; establish a strong presumption in favor of preserving dwelling units in enforcement of code requirements; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

July 29, 2013 Land Use and Economic Development Committee - CONTINUED TO CALL OF THE CHAIR

November 25, 2013 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

November 25, 2013 Land Use and Economic Development Committee - CONTINUED AS AMENDED

December 09, 2013 Land Use and Economic Development Committee - REFERRED WITHOUT RECOMMENDATION AS COMMITTEE REPORT

December 10, 2013 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

December 10, 2013 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

December 10, 2013 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

December 10, 2013 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

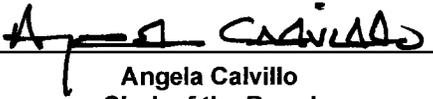
Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

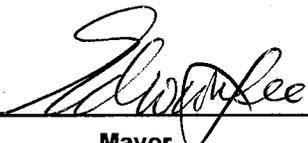
December 17, 2013 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 130041

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
12/17/2013 by the Board of Supervisors of
the City and County of San Francisco.


Angela Calvillo
Clerk of the Board


Mayor


Date Approved