



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Amendment

HEARING DATE: SEPTEMBER 10, 2015

*Project Name:* Notice to Tenants of Dwelling Unit Merger or Demolition  
*Case Number:* 2015-008150PCA [Board File No. 150587]  
*Initiated by:* Supervisor Wiener / Introduced June 2, 2015  
*Staff Contact:* Diego R Sánchez, Legislative Affairs  
diego.sanchez@sfgov.org, 415-575-9082  
*Reviewed by:* Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Recommend Approval with Modifications**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Building Code to require an applicant to sign an affidavit and post a notice stating that the applicant is not removing a dwelling unit when submitting a building permit application proposing the removal of kitchens, stoves or bathrooms. It also amends the Building Code to require an applicant to post notice when proposing to eliminate a dwelling unit, whether established with benefit of permit or not.

The proposed Ordinance would amend Planning Code Sections 311 and 312 to require written notice of applicable projects to all tenants of the subject property, including to tenants residing in dwelling units established without benefit of permit ("unauthorized units"). It also amends those Sections to require mailed and posted notice to all tenants of a building in which demolition or merger of a dwelling unit is proposed.

#### The Way It Is Now:

1. The Planning Code requires written notice pursuant to Sections 311 and 312 to be mailed to owners and occupants of property within 150 feet of a subject property. However, the Planning Code does not explicitly require written notice to be mailed to tenants in unauthorized units of that subject property.
2. The Planning Code does not require notice to be mailed to tenants in buildings with less than three authorized units when the elimination of an unauthorized unit by demolition or merger is proposed.
3. The Planning Code requires Project Sponsors to provide the Planning Department with a list of individuals owning and/or residing in properties adjacent to a subject property proposing to eliminate at least one dwelling unit. However, it does not require Project Sponsors to provide the Zoning Administrator (ZA) with a list of all tenants, including those in unauthorized units, residing in the subject property.

4. The Planning Code requires Project Sponsors to post a notice visible from the public right of way on the same day written notice is mailed for the removal of an authorized dwelling unit.
5. The Planning Code requires the Planning Department to cause notice to be mailed when a project proposes to eliminate an authorized dwelling unit.

#### **The Way It Would Be:**

1. The Planning Code would explicitly require notice, pursuant to Sections 311 or 312, to be mailed to tenants residing in unauthorized units.
2. The Planning Code would require notice to be mailed to tenants in buildings with less than three authorized units when the elimination of an unauthorized unit by demolition or merger is proposed.
3. The Planning Code would require Project Sponsors to provide the ZA with a list of all tenants residing in a building when a building permit application proposes the elimination of at least one dwelling unit.
4. The Planning Code would require Project Sponsors to post a notice in a conspicuous common area of a subject building upon submission of an application to eliminate a residential unit in addition to the posted notice pursuant to Planning Code Sections 311 and 312,
5. The Planning Code would require the ZA to hand deliver or mail written notice to residential units when a project proposes to eliminate a residential unit.

## **BACKGROUND**

### **San Francisco Housing Crisis**

The escalation in housing costs, relative lack of new housing production and consistent loss of housing units from demolition in San Francisco is well documented. For example, Zillow indicates that the median home sale price in June 2015 was \$1,160,000, up more than 50% from the \$735,000 June 2010 price.<sup>1</sup> Mirroring that trend, the median asking rental rate for a one bedroom apartment reached \$3,500 in 2015, up from \$2,195 in 2011.<sup>2</sup>

A recent report from San Francisco Planning and Urban Research (SPUR) cites the lack of new housing production at all levels as one aspect fueling the housing crisis.<sup>3</sup> SPUR notes that while San Francisco

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<sup>1</sup> "San Francisco Home Prices and Values." Zillow. 18 August 2015. <http://www.zillow.com/san-francisco-ca/home-values/>

<sup>2</sup> Anderson, Lamar. "SF's Median Asking Rent for a One-Bedroom Tops Manhattan's." Curbed San Francisco. 18 August 2015. [http://sf.curbed.com/archives/2015/07/02/sfs\\_median\\_asking\\_rent\\_for\\_a\\_onebedroom\\_tops\\_manhattans.php](http://sf.curbed.com/archives/2015/07/02/sfs_median_asking_rent_for_a_onebedroom_tops_manhattans.php); "The San Francisco Rent Explosion." Priceonomics. 18 August 2015. <http://priceonomics.com/the-san-francisco-rent-explosion/>

<sup>3</sup> "How to Make San Francisco Affordable Again." SPUR. 18 August 2015. <http://www.spur.org/publications/article/2014-02-11/how-make-san-francisco-affordable-again>

produced on average 1,500 units a year over the last two decades, Seattle averaged twice that amount over the same period. Compounding this relative lack of production is a steady loss of units from demolition. The 2014 San Francisco Housing Inventory indicates that between 2010 and 2014, a total of 905 units were lost to demolition.<sup>4</sup> This is an average of 226 units a year over that five year period.

This is occurring while San Francisco's population is steadily growing. Over the past four years alone the population has increased from 805,000 in 2010 to 852,000 in 2014.<sup>5</sup> This population growth undoubtedly increases demand on the available housing stock.

Given this context it is extremely important to not only facilitate housing production but to stem the loss of existing residences as well.

### **Executive Directive 13-01: Housing Production and Preservation of Rental Stock**

On December 18, 2013 Mayor Edwin M. Lee issued Executive Directive 13-01 in recognition of the need to preserve and promote the City's rental housing stock. Among other policy directives, Executive Directive 13-01 directs the Planning Department to implement a Mandatory Discretionary Review policy for building permit applications proposing the removal of a dwelling unit, authorized or otherwise, in buildings with *more than two dwelling units*. Under this policy the Planning Commission must consider the reasons for the reduction in dwelling units, with special attention paid to preserving the City's rental stock.

As part of the implementation of Executive Directive 13-01, the Planning Department requires Project Sponsors seeking to remove an unauthorized unit to submit Mandatory Discretionary Review findings that outline why they are removing, rather than legalizing, the dwelling unit. For building permit applications to remove an unauthorized unit where there is a feasible path to legalize the unit, the Planning Department will recommend that the current housing affordability crisis creates an "exceptional and extraordinary" circumstance such that the Planning Commission should deny the building permit application and preserve the unit.

For building permit applications where there is no feasible path to legalize the unit, the Department will place the Discretionary Review on the Planning Commission's consent calendar with a recommendation to approve the building permit application.

### **Housing Balance Monitoring and Reporting**

In April 2015 the Board of Supervisors passed Ordinance 53-15, City Housing Balance Monitoring and Reporting.<sup>6</sup> The Ordinance has eight stated purposes, including the following three:

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<sup>4</sup>"2014 San Francisco Housing Inventory." San Francisco Planning Department. 18 August 2015. [http://www.sf-planning.org/ftp/files/publications\\_reports/2014\\_Housing\\_Inventory.pdf](http://www.sf-planning.org/ftp/files/publications_reports/2014_Housing_Inventory.pdf). For the purposes of the San Francisco Housing Inventory a demolished unit is a housing unit physically lost from either the elimination of an unauthorized unit and/or vacant unit, the remodeling/rehabilitation of a building and/or fire damage. These losses are reported to the Department of Building Inspection and include units subject to and not subject to rent stabilization.

<sup>5</sup>"State and County QuickFacts San Francisco County." United States Census Bureau. 18 August 2015. <http://quickfacts.census.gov/qfd/states/06/06075.html>.

- making housing available for all income levels and housing need types;
- offsetting the withdrawal of existing housing units from rent stabilization and the loss of single-room occupancy hotel (SRO) units; and
- ensuring adequate housing for families, seniors and the disabled community.

To realize its purposes Ordinance 53-15 amended the Planning Code, requiring the Planning Department to report on the City's *Housing Balance*. The Housing Balance is the ratio of affordable housing production, rehabilitation and entitlement, less the loss of rent controlled and SRO units ("protected units"), to all new housing production and entitlement. This figure covers a ten year period, starting with the first quarter of 2005 through the last quarter of 2014. Subsequent housing balance reports will cover the 10 years preceding the most recent quarter.

The first Housing Balance Report was released in July 2015.<sup>7</sup> The Housing Balance Report indicated that during the first reporting period the Citywide Cumulative Housing Balance was 21%. During this ten year period 8,417 affordable housing units were produced either through new construction or acquisition and rehabilitation. Another 3,034 affordable housing and public housing units were entitled or are slated for rehabilitation as well. However, the City also lost 5,470 protected units during this same period. This is concerning for three reasons. First, the magnitude of the loss is significant. Second, once lost this housing stock is extraordinarily difficult to replace given State law on the rent control of dwelling units. And third, protected units often provide adequate housing for families, seniors and members of the disabled community having a variety of income levels.

## **ISSUES AND CONSIDERATIONS**

### **Existing Notice Procedures**

The Planning Code requires many types of projects needing discretionary permits to notice adjacent and surrounding properties of their scope. The most common notification is for the improvement of property in the City's residential and neighborhood commercial zoning districts. In these zoning districts Planning Code Sections 311 and 312 require the Planning Department to cause notice to occur once a project application is determined to be compliant with applicable Planning Code Sections. These two Planning Code sections outline the procedures, required materials and responsibilities for Project Sponsors and the Planning Department in the notification process.

Sections 311 and 312 require notice of a proposed project be posted at the subject property and mailed to adjacent properties within a 150 foot area ("notification area"). For mailed notices, Project Sponsors provide the Planning Department with a list of owners and occupants of properties within the notification area. Project Sponsors attain this list from the San Francisco Assessor's office, which maintains records on the authorized uses of properties, including the number of authorized dwelling units. The Planning Department subsequently prepares and mails a notice describing the project in narrative form and providing a summary of existing and proposed conditions. The mailed notice also includes a plan set with a site plan, floor plans, elevations and other graphic materials for the purposes of

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<sup>6</sup><https://sfgov.legistar.com/View.ashx?M=F&ID=3731491&GUID=55158A10-A58F-419E-A018-FE7842D22732>

<sup>7</sup> <http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=9376>

clarifying the project's scope and the existing conditions. Contact information for the applicant and assigned Planning Department staff is included in the event there are questions about the project. The mailed notice allows a concerned member of the public to file a request for the Planning Commission to exercise its Discretionary Review powers over the application during a 30 day notification period.

For posted notices, the Planning Department provides projects sponsors with an 11" x 17" poster that contains the same descriptive content as the mailed notice. However, the posted notice excludes graphic materials such as a plan set. It is the responsibility of the Project Sponsor to post this notice in accordance with the posting instructions the Planning Department provides. This includes posting the poster in a manner that is visible from the public right of way on the same day the mailed notice is sent. The Project Sponsor must maintain the poster posted for the entire 30 day notification period.

#### **BF 150494: Residential Mergers**

On May 12, 2015, Supervisor John Avalos introduced BF 150494 Residential Mergers. BF 150494 proposes to amend the entitlement, review and notification procedures in Planning Code Section 317 as they concern the loss of residential units through dwelling unit merger. As currently drafted, BF 150494 would require Conditional Use authorization for eliminating unauthorized units and require notice to all residential units in the subject property. In this way, BF 150494 is similar to the proposed Ordinance as they both seek to notice tenants residing in unauthorized units of a proposed loss of dwelling units in their building. Should BF 150494 become effective as currently drafted, the requirement of Conditional Use authorization would supersede the Section 311 and 312 process as proposed in the proposed Ordinance. It is anticipated that BF 150494 will be before the Planning Commission for review by the end of 2015.

#### **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**

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. **Modify the Ordinance to highlight that the removal of a residential unit, including an unauthorized residential unit, is subject to Sections 311 and 312.** Specifically, Section 311(b) would be modified to read as follows:

Applicability. Except as indicated herein, all building permit applications for demolition and/or new construction, and/or alteration of residential buildings, including the removal of an authorized or unauthorized residential unit, in RH, RM and RTO districts shall be subject to the notification and review procedures required by this Section.

\*\*\*\*

Proposed Section 311(c)(2) would be modified as follows:

\*\*\*\*

Written notice shall be mailed to the notification group which shall include the project sponsor, tenants of the subject property, ~~irrespective of whether a tenant resides in a legal residential unit,~~ relevant neighborhood organizations as described in Subparagraph 311(c)(2)(C) below, all individuals having made a written request for notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical, occupants, of properties in the notification area. For the purposes of Section 311(g) below, written notice shall also be mailed to tenants of the subject property in unauthorized residential units.

\*\*\*\*

Section 312(b) would be modified to read as follows:

\*\*\*\*

Applicability. Except as indicated herein, all building permit applications for demolition, new construction, ~~the removal of an authorized or unauthorized residential unit,~~ changes in use to a formula retail use as defined in Section 303.1 of this Code or alterations which expand the exterior dimensions of a building shall be subject to the notification and review procedures required by Section 312(d).

\*\*\*\*

Proposed Section 312(d)(2) would be modified to read as follows:

\*\*\*\*

~~Written notice shall be mailed to the notification group which shall include the project sponsor, tenants of the subject property, irrespective of whether a tenant resides in a legal residential unit, relevant neighborhood organizations as described in Subparagraph 312(d)(2)(C) below, all individuals having made a written request for notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical, occupants, of properties in the notification area. For the purposes of Section 312(h) below, written notice shall also be mailed to tenants of the subject property in unauthorized residential units.~~

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2. **Modify proposed Subsection 311(g) and 312(h) for consistency with existing notification procedures.** Specifically, proposed Subsection 311(g) would be modified as follows:

~~(g) Removal of Residential Units. When removal or elimination of a residential unit is proposed, the Applicant shall provide notice to occupants of the subject property, by complying with the following notification procedures.~~

~~(1) The Applicant shall provide a list of all existing residential units in the subject property to the Zoning Administrator, including those units that may be unauthorized-unpermitted residential units.~~

~~(2) The Applicant shall post a notice of the application at least 15 30 inches by 15 30 inches in a conspicuous common area of the subject property, with the following information content as described in Subsections (c)(5)(A)-(D) above, and including the phone numbers of the agencies to contact regarding building permit issuance and appeal: permit number, filing date, address and phone number of the agency to contact for information regarding permit issuance; the date of permit issuance, if applicable; address and phone number of agency to contact to appeal issuance of permit; name, address and phone number of permittee. The sign shall also contain a list of indicate the appropriate City agency or resource to contact for assistance in securing tenant counseling or~~

legal services that can provide assistance to tenants with understanding and participating in the City's processes. The sign shall be posted ~~upon submittal of an application~~ no later than the start date of the notice required under Subsection (c)(5) and shall remain posted until the conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator, the Board of Supervisors or the Board of Appeals. Such notice shall also include contact information for translation services into Spanish, Chinese, and Russian.

~~(3) The Zoning Administrator shall deliver notice of such application via hand delivery or U.S. mail. The Planning Department shall cause notice to be mailed to all residential units in the building, irrespective of whether the unit is a legal or illegal residential unit including any unauthorized residential units.~~

Proposed Subsection 312(h) would be modified as follows:

(h) ~~Removal of Residential Units. When removal or elimination of a residential unit is proposed, the Applicant shall comply with the following notification procedures.~~

(1) The Applicant shall provide a list of all residential units in the subject property to the Zoning Administrator, including those units that may be ~~unauthorized-unpermitted-residential units.~~

(2) The Applicant shall post a notice of the application at least ~~15 30~~ inches by ~~15 30~~ inches in a conspicuous common area of the subject property, with the ~~following information content as described in Subsection (d)(2) above, and including the phone numbers of the agencies to contact regarding building permit issuance and appeal.:~~ permit number; filing date; address and phone number of the agency to contact for information regarding permit issuance; the date of permit issuance; address and phone number of agency to contact to appeal issuance of permit; name, address and phone number of permittee. The sign shall also contain a list of ~~indicate the appropriate City agency or resource to contact for assistance in securing~~ tenant counseling or legal services that can provide assistance to tenants with understanding and participating in the City's processes. The sign shall be posted ~~upon submittal of an application~~ no later than the mailing date of the notice required under Subsection (d)(2) and shall remain posted until the conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator, the Board of Supervisors or the Board of Appeals. Such notice shall also include contact information for translation services into Spanish, Chinese, and Russian.

~~(3) The Zoning Administrator shall deliver notice of such application via hand delivery or U.S. mail. The Planning Department shall cause notice to be mailed to all residential units in the building, irrespective of whether the unit is a legal or illegal residential unit including any unauthorized residential units.~~

## BASIS FOR RECOMMENDATION

The Department supports the intent of this Ordinance, which is to assure that all tenants residing in a building proposed for alteration receive adequate notice of the proposed work, irrespective of whether they reside in an unauthorized unit. The amendments to the Planning Code result in relatively minor procedural changes to the existing notification process, which the Department believes will be easily integrated into our existing procedures. However, the Department believes that some of the proposed amendments require modification for improved implementation.

**Recommendation 1: Modify the Ordinance to highlight that the removal of a residential unit, including an unauthorized residential unit, is subject to Sections 311 and 312.**

Staff recommends the amendments to subsections 311(b) and 312(b), the “Applicability” subsections, because they serve as a reminder to Planning Department staff and the general public that the removal of a residential unit, including an unauthorized residential unit, is subject to the permit review procedures of Planning Code Sections 311 and 312.

Staff recommends the amendments to subsections 311(c)(2) and 312(d)(2), the “Notification” subsections, because they specify that the additional notification is only required for the removal of residential units. It is important to make this distinction. The distinction avoids an interpretation of Sections 311 and 312 requiring notification to all tenants in unauthorized residential units in the notification area for any scope of work subject to Sections 311 and 312. This would be overly burdensome for the Project Sponsor. Obtaining accurate information on unauthorized units in the notification area would be very difficult given the likely reluctance of property owners in the notification area to disclose this information and absence of this information at the Assessor’s office.

**Recommendation 2: Modify proposed Subsection 311(g) and 312(h) for consistency with existing notification procedures.**

Staff recommends the addition of a subsection title for proposed subsections 311(g) and 312(h) because all subsections in Sections 311 and 312 are titled. The subsection title adds clarity and consistency to the proposed amendments.

Staff recommends requiring the proposed new posted notice be 30 inches by 30 inches because these are the minimum dimensions for most other posted notices, as specified in Planning Code Section 306.8, Posting of Signs Required. In addition, a larger poster is more visible and better serves the purpose of noticing within the notification area and the subject property.

Staff recommends amending the content of the proposed new poster to reflect the existing content of Section 311 and 312 posters, but with the addition of the phone numbers of the agencies to contact regarding building permit issuance and appeal. The existing Section 311 and 312 poster content includes the permit number, filing date, and the name, address and phone number of the permittee. The date of permit issuance cannot be known at the time of a Section 311 or Section 312 posting. By adding the phone numbers of the agencies that issue permits and handles their appeals, the proposed Staff modifications include all relevant information as proposed by the Ordinance.

Staff recommends modifying the requirement that the Planning Department provide lists of organizations or firms that provide tenant counseling or legal services and instead indicate an appropriate City agency or City resource guide to contact or reference for assistance in securing tenant counseling or legal services. The Planning Department does not keep lists of tenant or legal service providers. However, the Mayor’s Office of Housing and Community Development and the San Francisco Rent Board have created a housing resource guide and/or referral list that serves this purpose and referencing these eliminates duplicative work on the part of the Planning Department.<sup>8</sup>

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<sup>8</sup> San Francisco Housing Resource Guide. Mayor’s Office of Housing and Community Development. April 30, 2105. <http://www.sfmohcd.org/modules/showdocument.aspx?documentid=8077>; Rent Board Referral Listing August 2015. <http://www.sfrb.org/Modules/ShowDocument.aspx?documentid=1917>

Staff recommends aligning the date of posting the posted notice with the date of the mailing of the written notice as this is the current practice for notification pursuant to Sections 311 and 312. The Planning Department staff, after reviewing the proposal and confirming Planning Code compliance, would generate the poster and direct the Project Sponsor to post it at the subject property. This ensures that the posted notice provides accurate and consistent information and is not inappropriately or unnecessarily posted.

Staff recommends that the Planning Department be the agent to cause written notice to be mailed instead of the Zoning Administrator. This is in line with current notification practice where the Planning Department causes Section 311 and 312 notice to occur while the Zoning Administrator is responsible for notice in relation to other entitlement processes.

Staff recommends eliminating language implying the Zoning Administrator will hand deliver written notice. Not only would this be overly burdensome to have the Zoning Administrator hand deliver notices to tenants residing in unauthorized units, but also unprecedented. All other written notice is delivered by mail.

## **ENVIRONMENTAL REVIEW**

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because it does not result in a physical change in the environment.

## **PUBLIC COMMENT**

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

<b>RECOMMENDATION:</b>	<b>Recommendation of Approval with Modification</b>
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### **Attachments:**

Exhibit A: Draft Planning Commission Resolution  
Exhibit B: Board of Supervisors File No. 150587



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Draft Resolution

HEARING DATE SEPTEMBER 10, 2015

*Project Name:* Notice to Tenants of Dwelling Unit Merger or Demolition  
*Case Number:* 2015-008150PCA [Board File No. 150587]  
*Initiated by:* Supervisor Wiener / Introduced June 2, 2015  
*Staff Contact:* Diego R Sánchez, Legislative Affairs  
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*Reviewed by:* Aaron D Starr, Manager of Legislative Affairs  
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*Recommendation:* **Recommend Approval with Modifications**

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**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 311 AND 312 TO REQUIRE WRITTEN AND POSTED NOTICE TO ALL TENANTS OF A BUILDING IN WHICH DEMOLITION OR MERGER OF A DWELLING UNIT IS PROPOSED; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.**

WHEREAS, on June 2, 2015 Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150587, which would amend Sections 311 and 312 of the Planning Code to require written and posted notice to all tenants of a building in which demolition or merger of a dwelling unit is proposed;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 10, 2015; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c) 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; and

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

**The Commission recommended modifications are:**

1. **Modify the Ordinance to highlight that the removal of a residential unit, including an unauthorized residential unit, is subject to Sections 311 and 312.** Specifically, Section 311(b) would be modified to read as follows:

Applicability. Except as indicated herein, all building permit applications for demolition and/or new construction, and/or alteration of residential buildings, including the removal of an authorized or unauthorized residential unit, in RH, RM and RTO districts shall be subject to the notification and review procedures required by this Section.

\*\*\*\*

Proposed Section 311(c)(2) would be modified as follows:

\*\*\*\*

Written notice shall be mailed to the notification group which shall include the project sponsor, tenants of the subject property, ~~irrespective of whether a tenant resides in a legal residential unit~~, relevant neighborhood organizations as described in Subparagraph 311(c)(2)(C) below, all individuals having made a written request for notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical, occupants, of properties in the notification area. For the purposes of Section 311(g) below, written notice shall also be mailed to tenants of the subject property in unauthorized residential units.

\*\*\*\*

Section 312(b) would be modified to read as follows:

\*\*\*\*

Applicability. Except as indicated herein, all building permit applications for demolition, new construction, the removal of an authorized or unauthorized residential unit, changes in use to a formula retail use as defined in Section 303.1 of this Code or alterations which expand the exterior dimensions of a building shall be subject to the notification and review procedures required by Section 312(d).

\*\*\*\*

Proposed Section 312(d)(2) would be modified to read as follows:

\*\*\*\*

Written notice shall be mailed to the notification group which shall include the project sponsor, tenants of the subject property, ~~irrespective of whether a tenant resides in a legal residential unit~~, relevant neighborhood organizations as described in Subparagraph 312(d)(2)(C) below, all individuals having made a written request for notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical, occupants, of properties in the notification area. For the purposes of Section 312(h) below, written notice shall also be mailed to tenants of the subject property in unauthorized residential units.

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2. **Modify proposed Subsection 311(g) and 312(h) for consistency with existing notification procedures.** Specifically, proposed Subsection 311(g) would be modified as follows:

(g) *Removal of Residential Units.* When removal or elimination of a residential unit is proposed, the Applicant shall provide notice to occupants of the subject property, by complying with the following notification procedures.

(1) The Applicant shall provide a list of all existing residential units in the subject property to the Zoning Administrator, including those units that may be ~~unauthorized-unpermitted~~ residential units.

(2) The Applicant shall post a notice of the application at least ~~15 30~~ inches by ~~15 30~~ inches in a conspicuous common area of the subject property, with the ~~following information~~ *content as described in Subsections (c)(5)(A)-(D) above, and including the phone numbers of the agencies to contact regarding building permit issuance and appeal; permit number; filing date; address and phone number of the agency to contact for information regarding permit issuance; the date of permit issuance, if applicable; address and phone number of agency to contact to appeal issuance of permit; name, address and phone number of permittee.* The sign shall also ~~contain a list of~~ *indicate the appropriate City agency or resource to contact for assistance in securing* tenant counseling or legal services that can provide assistance to tenants with understanding and participating in the City's processes. The sign shall be posted ~~upon submittal of an application~~ *no later than the start date of the notice required under Subsection (c)(5) and shall remain posted until the conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator, the Board of Supervisors or the Board of Appeals.* Such notice shall also include contact information for *translation services into Spanish, Chinese, and Russian.*

(3) ~~The Zoning Administrator shall deliver notice of such application via hand delivery or U.S. mail. The Planning Department shall cause notice to be mailed to all residential units in the building, irrespective of whether the unit is a legal or illegal residential unit including any unauthorized residential units.~~

Proposed Subsection 312(h) would be modified as follows:

(h) *Removal of Residential Units.* When removal or elimination of a residential unit is proposed, the Applicant shall comply with the following notification procedures.

(1) The Applicant shall provide a list of all residential units in the subject property to the Zoning Administrator, including those units that may be ~~unauthorized-unpermitted~~ residential units.

(2) The Applicant shall post a notice of the application at least ~~15 30~~ inches by ~~15 30~~ inches in a conspicuous common area of the subject property, with the ~~following information~~ *content as described in Subsection (d)(2) above, and including the phone numbers of the agencies to contact regarding building permit issuance and appeal; permit number; filing date; address and phone number of the agency to contact for information regarding permit issuance; the date of permit issuance; address and phone number of agency to contact to appeal issuance of permit; name, address and phone number of permittee.* The sign shall also ~~contain a list of~~ *indicate the appropriate City agency or resource to contact for assistance in securing* tenant counseling or legal services that can provide assistance to tenants with understanding and participating in the City's processes. The sign shall be posted ~~upon submittal of an application~~ *no later than the mailing date of the notice required under Subsection (d)(2) and shall remain posted until the conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator, the Board of Supervisors or the Board of*

Appeals. Such notice shall also include contact information for translation services into Spanish, Chinese, and Russian.

~~(3) The Zoning Administrator shall deliver notice of such application via hand delivery or U.S. mail. The Planning Department shall cause notice to be mailed to all residential units in the building, irrespective of whether the unit is a legal or illegal residential unit including any unauthorized residential units.~~

## 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 recent escalation in housing costs, in combination with a relative lack of new housing production and consistent loss of housing units from demolition, has resulted in what many deem a citywide housing crisis.
2. The City of San Francisco, through Mayoral Executive Directive or legislation, has sought to document and slow the loss of residential units. The loss of rental units, and especially rental units subject to rent stabilization is of great concern. These units, sometime unauthorized by the City, provide housing to families, seniors and members of the disabled community of a variety of income levels.
3. Existing notice procedures covering the loss unauthorized residential units can be improved. Minor changes to the existing notice procedures can assure that all tenants residing in a building proposed for alteration receive adequate notice of any proposed change in residential unit count, irrespective of whether they reside in an unauthorized unit.
4. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

## HOUSING ELEMENT

### OBJECTIVE 2

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

#### Policy 2.2

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

*The proposed Ordinance helps to retain existing housing by adding a new noticing procedure to projects proposing the merger of residential units. The noticing procedure can help in the consideration of whether the proposed merger of residential units responds to an identified housing need rather than creating fewer, larger and more expensive units.*

### 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 helps to preserve rental units, and many of which are also rent controlled units, by creating a new noticing procedure that will alert tenants and other residents of the elimination of a residential unit. This new notice may help those residing in residential units proposed for removal by demolition or merger to exercise any relevant tenant rights.*

**BALBOA PARK STATION AREA PLAN**

**OBJECTIVE 4.6**

ENHANCE AND PRESERVE THE EXISTING HOUSING STOCK.

**Policy 4.6.1**

Maintain a presumption against the loss of existing housing units.

**Policy 4.6.2**

Discourage dwelling unit mergers.

*The proposed Ordinance creates a new notification process that can help preserve existing housing units and temper the rate of loss of housing units as a result of merger.*

**EAST SOMA AREA PLAN**

**OBJECTIVE 2.2**

RETAIN AND IMPROVE EXISTING HOUSING AFFORDABLE TO PEOPLE OF ALL INCOMES.

**Policy 2.2.1**

Adopt citywide demolition policies that discourage demolition of sound housing, and encourage replacement of affordable units.

*The proposed Ordinance creates a new notification process for projects proposing to demolish dwelling units. This notification process will apply across the City and will help raise awareness about the loss of housing.*

**MARKET AND OCTAVIA AREA PLAN**

**OBJECTIVE 2.3**

PRESERVE AND ENHANCE EXISTING SOUND HOUSING STOCK.

**Policy 2.3.1**

Prohibit residential demolitions unless they would result in sufficient replacement of existing housing units. Even when replacement housing is provided, demolitions should further be restricted to ensure affordable housing and historic resources are maintained.

**Policy 2.3.2**

Discourage dwelling-unit mergers

*The proposed Ordinance creates a new notification process that can help preserve existing housing units and address concerns about the loss of housing from demolition and dwelling unit merger.*

**MISSION AREA PLAN**

**OBJECTIVE 2.6**

CONTINUE AND EXPAND THE CITY'S EFFORTS TO INCREASE PERMANENTLY AFFORDABLE HOUSING PRODUCTION AND AVAILABILITY.

**Policy 2.6.2**

Explore housing policy changes at the citywide level that preserve and augment the stock of existing rental and ownership housing.

*The proposed Ordinance creates a new notification process for projects proposing to eliminate a dwelling unit through demolition or merger. This new process will be in effect citywide and can help temper the rate of housing loss.*

5. **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 and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail as the proposed Ordinance concerns itself with notification of residential projects.*

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 conserve the existing housing and neighborhood character of San Francisco's neighborhoods by creating a new notification process for projects proposing the elimination of residential units through demolition or merger.*

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

*The proposed Ordinance would help to preserve the City's supply of affordable housing by creating a new notification process to alert residents of the elimination of residential units.*

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 as the proposed Ordinance concerns itself with notification of residential projects.*

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 as the proposed Ordinance concerns itself with notification of residential projects.*

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 adverse effect on City's preparedness against injury and loss of life in an earthquake as the proposed Ordinance concerns itself with notification of residential projects.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings as the proposed Ordinance concerns itself with notification of residential projects.*

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

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas as the proposed Ordinance concerns itself with notification of residential projects.*

- 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 with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 10, 2015.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: September 10, 2015

1 [Building and Planning Codes - Notice to Tenants of Dwelling Unit Merger or Demolition]

2  
3 **Ordinance amending the Building and Planning Codes to require written and posted**  
4 **notice to all tenants of a building in which demolition or merger of a dwelling unit is**  
5 **proposed; requiring an affidavit and notice if kitchens, stoves or bathrooms would be**  
6 **removed; affirming the Planning Department's determination under the California**  
7 **Environmental Quality Act; and making findings of consistency with the General Plan,**  
8 **Planning Code, Section 302, and the eight priority policies of Planning Code, Section**  
9 **101.1.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
12 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.  
13 **Board amendment additions** are in double-underlined Arial font.  
14 **Board amendment deletions** are in ~~Arial font~~.  
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. 150587 and is incorporated herein by reference. The Board affirms  
23 this determination.

24 (b) On \_\_\_\_\_, 2015, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
25 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
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. 150587, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code, Section 302, this Board finds that the actions  
4 contemplated in this ordinance will serve the public necessity, convenience, and welfare for  
5 the reasons set forth in Planning Commission Resolution No. \_\_\_\_\_ and the Board  
6 incorporates such reasons herein by reference. A copy of the Planning Commission  
7 Resolution No. \_\_\_\_\_ is on file with the Clerk of the Board of Supervisors in File No. 150587.

8 (d) The Planning and Building Codes do not require that all tenants receive notice  
9 when permits are applied for or issued, even where the proposed work will affect their place of  
10 residence. Some tenants, particularly those residing in existing non-permitted units, are not  
11 aware of the issuance of a permit that may result in the removal of their unit. They are  
12 therefore unable to comment upon, be involved in, or potentially appeal the issuance of the  
13 permit, and are left with little recourse through the City processes.

14  
15 Section 2. The Building Code is hereby amended by revising Sections 106A.3.1,  
16 106A.3.2.3 and 106A.4.6 to read as follows:

17  
18 **106A.3.1 Application.** To obtain a permit, the applicant shall first file an application therefor  
19 in writing on a form furnished by the code enforcement agency for that purpose. Every such  
20 application shall:

- 21 1. Identify and describe the work to be covered by the permit for which application is  
22 made.
- 23 2. Describe the land on which the proposed work is to be done by legal description,  
24 street address or similar description that will readily identify and definitely locate the proposed  
25 building or work.

1           3. For new buildings or structures, indicate the use or occupancy of all parts of the  
2 building or structure for which the proposed work is intended. For alteration work, indicate the  
3 proposed use or occupancy and the most current legal use or occupancy of all portions of the  
4 building or structure affected by or relevant to the proposed work.

5           4. Be accompanied by plans, diagrams, computations and specifications and other  
6 data as required in Section 106A.3.2.

7           5. State the valuation of any new building or structure or any addition, remodeling or  
8 alteration to an existing building.

9           6. Be signed by the owner, or the owner's authorized agent, who may be required to  
10 submit evidence to indicate such authority. Such agent shall be responsible for advising the  
11 owner of all conditions attached to the application by the various approving agencies.

12           7. Give such other data and information as may be required by the building official.

13           8. Include, when available, the name, address and telephone number of the owner or  
14 contractor. When applicable, State and City license numbers shall be indicated.

15           9. Contain an agreement by the owner of the premises to hold harmless the City and  
16 County of San Francisco and its officials and employees from all costs, liability and damages  
17 resulting, whether directly or indirectly, from use or occupancy of the sidewalk, street or  
18 subsidewalk space, or from anything in connection with the work included in the permit. The  
19 agreement shall run with the land and be binding on all of the owner's successors in title.

20           10. Include an affidavit, signed under penalty of perjury, that the owner, or the owner's  
21 authorized representative, is not removing a legal or illegal dwelling unit, as defined in the Housing  
22 Code, when the work included in the permit is removal of a stove, kitchen, as defined in the Housing  
23 Code, or bathroom, as defined in the Housing Code. Such affidavit shall be posted prominently for at  
24 least fifteen (15) days in a conspicuous common area within the building where the work is proposed  
25 and shall be provided via hand delivery or U.S. mail to all tenants residing in the building.

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**106A.3.2.3 Substantial alterations – Notification, sign posting and affidavits.** In addition to any other requirements for notice set forth in this code, the following shall apply:

Any person filing an application to (1) substantially alter, as that term is defined by the Building Official, an apartment house or residential hotel (as defined in Section 41.4(p) of the *San Francisco* Administrative Code) that contains five or more dwelling units, or (2) remove a legal or illegal dwelling unit, as defined in the Housing Code, shall post a sign at least 15 inches by 15 inches (381 mm × 381 mm) in a conspicuous common area of the apartment house or residential hotel for at least 15 days with the following information: notice that the application has been made, the nature of the work to be performed, the means of obtaining information from the Department, and the procedure for appealing the issuance of building permits. When the permit application proposes to remove a legal or illegal dwelling unit, the posted sign shall also contain a list of tenant counseling or legal services that can provide assistance to tenants with understanding and participating in the City's processes, and notice of such application shall be delivered via hand delivery or U.S. mail to all tenants in the building. Such notice shall also include contact information for translation services into Spanish, Chinese, and Russian. In occupied residential unreinforced masonry buildings, required signs shall also include specified information provided by the Building Official. The applicant shall thereafter submit an affidavit signed under penalty of perjury stating that the sign has been posted as required by this section. See Section 110A, Table 1A-L – Public Information – for fee to defray the cost of maintaining records of said affidavits. The Building Official shall not approve the application until this affidavit is submitted. If there is reason to believe that the sign was not posted as required, the Building Official shall investigate the matter, shall provide the applicant an opportunity to respond to any complaint of noncompliance, shall determine whether the

1 requirements of this section have been substantially met, and shall cancel an application or  
2 revoke the permit if it is determined they have not been substantially met.

3  
4 **106A.4.6 Notice of permit issuance.** Within 24 hours after the issuance of a building permit  
5 authorizing the types of work described below, notice of such issuance shall be given in the  
6 manner set forth below.

7 1. For permits to demolish or erect a building or structure, or to move a structure to a  
8 new site, the permittee shall obtain from the Department a sign containing the following  
9 information: permit number; filing date; address and phone number of the agency to contact  
10 for information regarding permit issuance; the date of permit issuance; address and phone of  
11 agency to contact to appeal issuance of permit; name, address and phone number of  
12 permittee.

13 For unreinforced masonry buildings, additional information shall be provided, as  
14 required by the Building Official.

15 See Section 110A, Table 1A-L – Public Information – for applicable fee.

16 The permittee shall cause the sign to be erected on the site of the property to which the  
17 application applies.

18 **Location of sign.** The sign shall be clearly visible to passing motorists and passing  
19 pedestrians. In the case of moved buildings, the sign shall be posted at the site onto which the  
20 building is to be moved. The minimum dimensions shall be 30 inches by 30 inches (762 mm ×  
21 762 mm), unless the permit relates to a vacant site or a vacant building, in which case the  
22 Building Official may require a sign up to 8 feet (2.438 m) wide and 4 feet (1.219 m) high upon  
23 a determination that the larger sign will provide better public notice. If a larger sign is required,  
24 the permittee shall provide it, and it shall contain the information set forth above. The sign  
25 required herein shall be installed as follows: The bottom edge of the sign shall be at least 6

1 feet (1.829 m) above grade; the face of the sign shall be parallel to the main street frontage  
2 and shall be located 5 feet (1.524 m) or less from the street property line; the sign shall be  
3 attached to one or more posts substantially embedded into the ground in order to withstand  
4 wind or other load factors, or may be attached to an existing front building wall. The  
5 background color of the sign shall be white, and the color of the text shall be black; the letter  
6 size of the first line shall be a minimum of 8 inches (203.2 mm) high; the size and style of the  
7 text shall be such that the message is clear and legible from a distance of 10 feet (3.048 m) to  
8 a viewer with normal vision.

9 **Duration of sign posting.** The permittee shall cause the sign to be erected within 24  
10 hours after a permit is issued. The sign shall remain posted until either the conclusion of the  
11 hearing on the permit before the Board of Appeals or the time for filing such appeal has  
12 lapsed without an appeal being filed. Work under a demolition permit shall not begin until 15  
13 days after the date on which the permit is issued.

14 **Revocation for noncompliance.** The Building Official shall, after providing the  
15 permittee an opportunity to respond to any complaint of noncompliance, revoke any permit  
16 where the applicant has not substantially complied with the provisions of this section or  
17 Section 106A.3.2.3 requiring notice of permit application and issuance.

18 The requirements contained in this code relating to notice are not intended to give any  
19 right to any person to challenge in any administrative or judicial proceeding any action for  
20 which notice is given if such person would not otherwise have the legal right to do so.

21 2. For a permit which would authorize a structural addition to an existing building, the  
22 Department shall mail written notice to the owners of properties immediately adjacent to the  
23 subject building as shown on the current tax roll. See Section 110A, Table 1A-L – Public  
24 Information – for applicable fee.

1           3. For a permit which would authorize the demolition or moving of a building or  
2 structure, written notice shall be mailed to the owners of properties within 300 feet (91.44 m)  
3 in every direction from the edge of the property on which the proposed demolition work will  
4 take place, or from which the building will be moved. Owners notified shall be as shown on the  
5 last annual tax roll. Notice to interested organizations or groups shall be made as provided in  
6 Section 106A.4 of this code.

7           4. For changes in occupancy per this code, notice shall be provided as specified in  
8 Section 6 of the San Francisco Business and Tax Regulations Code. See Section 110A,  
9 Table 1A-L – Public Information – for applicable fee.

10           5. For a permit that would authorize removal of a legal or illegal dwelling unit, as defined in  
11 the Housing Code, permittee shall post a sign at least 15 inches by 15 inches (381 mm × 381 mm) in a  
12 conspicuous common area of the building where the work will occur, with the following information:  
13 permit number; filing date; address and phone number of the agency to contact for information  
14 regarding permit issuance; the date of permit issuance; address and phone number of agency to  
15 contact to appeal issuance of permit; name, address and phone number of permittee. The sign shall  
16 also contain a list of tenant counseling or legal services that can provide assistance to tenants with  
17 understanding and participating in the City's processes. The sign shall remain posted until either the  
18 conclusion of the hearing on the permit before the Board of Appeals or the time for filing such appeal  
19 has lapsed without an appeal being filed. Such notice shall also include contact information for  
20 translation services into Spanish, Chinese, and Russian.

21           **Revocation for noncompliance.** The Building Official shall, after providing the permittee an  
22 opportunity to respond to any complaint of noncompliance, revoke any permit where the applicant has  
23 not substantially complied with the provisions of this section or Section 106A.3.2.3 requiring notice of  
24 permit application and issuance.

1 Section 3. The Planning Code is hereby amended by revising Sections 311 and 312 to  
2 read as follows:

3  
4 **SEC. 311. RESIDENTIAL PERMIT REVIEW PROCEDURES FOR RH, RM, AND RTO**  
5 **DISTRICTS.**

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

12 (b) Applicability. Except as indicated herein, all building permit applications for  
13 demolition and/or new construction, and/or alteration of residential buildings in RH, RM, and  
14 RTO Districts shall be subject to the notification and review procedures required by this  
15 Section. Subsection 311(e) regarding demolition permits and approval of replacement  
16 structures shall apply to all R Districts.

17 (1) For the purposes of this Section, an alteration in RH and RM Districts shall  
18 be defined as any change in use, removal of more than 75 percent of a residential building's  
19 existing interior wall framing or the removal of more than 75 percent of the area of the existing  
20 framing, or an increase to the exterior dimensions of a residential building except those  
21 features listed in Section 136(c)(1) through 136(c)(24) and 136(c)(26).

22 (2) For the purposes of this Section, an alteration in RTO Districts shall be  
23 defined as a change of use described in Section 312(c), removal of more than 75 percent of a  
24 building's existing interior wall framing or the removal of more than 75 percent of the area of  
25

1 the existing framing, or an increase to the exterior dimensions of a building except those  
2 features listed in Section 136(c)(1) through 136(c)(24) and 136(c)(26).

3 (c) Building Permit Application Review for Compliance and Notification. Upon  
4 acceptance of any application subject to this Section, the Planning Department shall review  
5 the proposed project for compliance with the Planning Code and any applicable design  
6 guidelines approved by the Planning Commission. Applications determined not to be in  
7 compliance with the standards of Articles 1.2, 1.5, 2 and 2.5 of the Planning Code, Residential  
8 Design Guidelines, including design guidelines for specific areas adopted by the Planning  
9 Commission, or with any applicable conditions of previous approvals regarding the project,  
10 shall be held until either the application is determined to be in compliance, is disapproved or a  
11 recommendation for cancellation is sent to the Department of Building Inspection.

12 (1) Residential Design Guidelines. The construction of new residential buildings  
13 and alteration of existing residential buildings in R Districts shall be consistent with the design  
14 policies and guidelines of the General Plan and with the "Residential Design Guidelines" as  
15 adopted and periodically amended for specific areas or conditions by the Planning  
16 Commission. The design for new buildings with residential uses in RTO Districts shall also be  
17 consistent with the design standards and guidelines of the "Ground Floor Residential Units  
18 Design Guidelines" as adopted and periodically amended by the Planning Commission. The  
19 Planning Director may require modifications to the exterior of a proposed new residential  
20 building or proposed alteration of an existing residential building in order to bring it into  
21 conformity with the "Residential Design Guidelines" and with the General Plan. These  
22 modifications may include, but are not limited to, changes in siting, building envelope, scale  
23 texture and detailing, openings, and landscaping.

24 (2) Notification. Upon determination that an application is in compliance with  
25 the development standards of the Planning Code, the Planning Department shall cause a

1 notice to be posted on the site pursuant to rules established by the Zoning Administrator and  
2 shall cause a written notice describing the proposed project to be sent in the manner  
3 described below. This notice shall be in addition to any notices required by the Building Code  
4 and shall have a format and content determined by the Zoning Administrator. It shall include a  
5 description of the proposal compared to any existing improvements on the site with  
6 dimensions of the basic features, elevations and site plan of the proposed project including  
7 the position of any adjacent buildings, exterior dimensions and finishes, and a graphic  
8 reference scale. The notice shall describe the project review process and shall set forth the  
9 mailing date of the notice and the expiration date of the notification period.

10 Written notice shall be mailed to the notification group which shall include the project  
11 sponsor, tenants of the subject property, irrespective of whether a tenant resides in a legal  
12 residential unit, relevant neighborhood organizations as described in Subparagraph  
13 311(c)(2)(C) below, all individuals having made a written request for notification for a specific  
14 parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent  
15 practical, occupants, of properties in the notification area.

16 (A) The notification area shall be all properties within 150 feet of the  
17 subject lot in the same Assessor's Block and on the block face across from the subject lot.  
18 When the subject lot is a corner lot, the notification area shall further include all property on  
19 both block faces across from the subject lot, and the corner property diagonally across the  
20 street.

21 (B) The latest City-wide Assessor's roll for names and addresses of  
22 owners shall be used for said notice.

23 (C) The Planning Department shall maintain a list, available for public  
24 review, of neighborhood organizations which have indicated an interest in specific properties  
25

1 or areas. The organizations having indicated an interest in the subject lot or its area shall be  
2 included in the notification group for the proposed project.

3 (3) Notification Period. All building permit applications shall be held for a period  
4 of 30 calendar days from the date of the mailed notice to allow review by residents and  
5 owners of neighboring properties and by neighborhood groups.

6 (4) Elimination of Duplicate Notice. The notice provisions of this Section may  
7 be waived by the Zoning Administrator for building permit applications for projects that have  
8 been, or before approval will be, the subject of a duly noticed public hearing before the  
9 Planning Commission or Zoning Administrator, provided that the nature of work for which the  
10 building permit application is required is both substantially included in the hearing notice and  
11 is the subject of the hearing.

12 (5) Notification Package. The notification package for a project subject to notice  
13 under this Section 311 shall include a written notice and reduced-size drawings of the project.

14 (A) The written notice shall compare the proposed project to the existing  
15 conditions at the development lot. Change to basic features of the project that are quantifiable  
16 shall be disclosed on the written notice. The basic features of existing and proposed  
17 conditions shall include, where applicable, front setback, building depth, rear yard depth side  
18 setbacks, building height, number of stories, dwelling unit count and use of the building.

19 (B) The written notice shall describe whether the project is a demolition,  
20 new construction or alteration project. If the project is an alteration, the type of alteration shall  
21 be described: horizontal, vertical or both horizontal and vertical additions and where the  
22 alteration is located.

23 (C) Written project description shall be part of the notice. In addition, the  
24 notice shall describe the project review process, information on how to obtain additional  
25 information and the contact information of the Planning Department.

1 (D) The building permit application number(s) shall be disclosed in the  
2 written notice. The start and expiration dates of the notice shall be stated. A description about  
3 the recipient's rights to request additional information, to request Discretionary Review by the  
4 Planning Commission and to appeal to other boards or commissions shall be provided.

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

11 (F) The existing and proposed site plan shall illustrate the project  
12 including the full lots and structures of the directly adjacent properties.

13 (G) The existing and proposed floor plans shall illustrate the location and  
14 removal of interior and exterior walls. The use of each room shall be labeled. Significant  
15 dimensions shall be provided to document the change proposed by the project.

16 (H) The existing and proposed elevations shall document the change in  
17 building volume: height and depth. Dimensional changes shall be documented, including  
18 overall building height and also parapets, penthouses and other proposed vertical and  
19 horizontal building extensions. The front and rear elevations shall include the full profiles of  
20 the adjacent structures including the adjacent structures' doors, windows and general  
21 massing. Each side elevation shall include the full profile of the adjacent building in the  
22 foreground of the project, and the adjacent windows, lightwells and general massing shall be  
23 illustrated.

24 (d) Requests for Planning Commission Review. A request for the Planning  
25 Commission to exercise its discretionary review powers over a specific building permit

1 application shall be considered by the Planning Commission if received by the Planning  
2 Department no later than 5:00 p.m. of the last day of the notification period as described  
3 under Subsection (c)(3) above, subject to guidelines adopted by the Planning Commission.  
4 The project sponsor of a building permit application may request discretionary review by the  
5 Planning Commission to resolve conflicts between the Director of Planning and the project  
6 sponsor concerning requested modifications to comply with the Residential Design  
7 Guidelines.

8 (1) Scheduling of Hearing. The Zoning Administrator shall set a time for  
9 hearing requests for discretionary review by the Planning Commission within a reasonable  
10 period.

11 (2) Notice. Mailed notice of the discretionary review hearing by the Planning  
12 Commission shall be given not less than 10 days prior to the date of the hearing to the  
13 notification group as described in Paragraph 311(c)(2) above. Posted notice of the hearing  
14 shall be made as provided under Planning Code Section 306.8.

15 (e) Demolition of Dwellings, Approval of Replacement Structure Required. Unless the  
16 building is determined to pose a serious and imminent hazard as defined in the Building Code  
17 an application authorizing demolition in any R District of an historic or architecturally important  
18 building or of a dwelling shall not be approved and issued until the City has granted final  
19 approval of a building permit for construction of the replacement building. A building permit is  
20 finally approved if the Board of Appeals has taken final action for approval on an appeal of the  
21 issuance or denial of the permit or if the permit has been issued and the time for filing an  
22 appeal with the Board has lapsed with no appeal filed.

23 (1) The demolition of any building whether or not historically and architecturally  
24 important may be approved administratively where the Director of the Department of Building  
25 Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines, after

1 consultation with the Zoning Administrator, that an imminent safety hazard exists, and the  
2 Director of the Department of Building Inspection determines that demolition or extensive  
3 alteration of the structure is the only feasible means to secure the public safety.

4 (f) Wireless Telecommunications Services Facility as Accessory Use, Notification and  
5 Review Required. Building permit applications for new construction of a wireless  
6 telecommunications services facility as an accessory use under Article 2 of the Planning Code  
7 in RH and RM Districts shall be subject to the notification and review procedures required by  
8 this Section.

9 (g) When removal or elimination of a residential unit is proposed, the Applicant shall provide  
10 notice to occupants of the subject property, by complying with the following notification procedures.

11 (1) The Applicant shall provide a list of all existing residential units in the subject  
12 property to the Zoning Administrator, including those units that may be unpermitted residential units.

13 (2) The Applicant shall post a notice of the application at least 15 inches by 15 inches  
14 in a conspicuous common area of the subject property, with the following information: permit number;  
15 filing date; address and phone number of the agency to contact for information regarding permit  
16 issuance; the date of permit issuance, if applicable; address and phone number of agency to contact to  
17 appeal issuance of permit; name, address and phone number of permittee. The sign shall also contain  
18 a list of tenant counseling or legal services that can provide assistance to tenants with understanding  
19 and participating in the City's processes. The sign shall be posted upon submittal of an application  
20 and shall remain posted until the conclusion of any hearings on the permit before the Planning  
21 Commission, the Zoning Administrator, the Board of Supervisors or the Board of Appeals. Such notice  
22 shall also include contact information for translation services into Spanish, Chinese, and Russian.

23 (3) The Zoning Administrator shall deliver notice of such application via hand delivery  
24 or U.S. mail to all residential units in the building, irrespective of whether the unit is a legal or illegal  
25 residential unit.

1                   (4) If an application proposes the kind of work set forth in Section 311(b) above, the  
2 Applicant shall comply with the notification requirements set forth in Section 311(c) above, in addition  
3 to the on-site notification requirements set forth in this Section 311(g), but this Section 311(g) shall not  
4 require compliance with such notification requirements if they are otherwise not required.

5  
6 **SEC. 312. PERMIT REVIEW PROCEDURES FOR ALL NC, RED, AND EASTERN**  
7 **NEIGHBORHOODS MIXED USE DISTRICTS.**

8           (a) Purpose. The purpose of this Section is to establish procedures for reviewing  
9 building permit applications for lots in NC, RED, and Eastern Neighborhoods Mixed Use  
10 Districts in order to determine compatibility of the proposal with the neighborhood and for  
11 providing notice to property owners, occupants and residents on the site and neighboring the  
12 site of the proposed project and to interested neighborhood organizations, so that concerns  
13 about a project may be identified and resolved during the review of the permit.

14           (b) Applicability. Except as indicated herein, all building permit applications for  
15 demolition, new construction, changes in use to a formula retail use as defined in Section  
16 303.1 of this Code or alterations which expand the exterior dimensions of a building shall be  
17 subject to the notification and review procedures required by Subsection 312(d). Subsection  
18 312(f) regarding demolition permits and approval of replacement structures shall apply to all  
19 NC, RED, and Eastern Neighborhoods Mixed Use Districts. For the purposes of this Section,  
20 addition to a building of the features listed in Section 136(c)(1) through 136(c)(24) and  
21 136(c)(26) shall not be subject to notification under this Section.

22           (c) Changes of Use. In NC Districts, all building permit applications for a change of  
23 use to a bar, as defined in Section 790.22, a liquor store, as defined in Section 790.55, a  
24 walkup facility, as defined in Section 790.140, other large institutions, as defined in Section  
25 790.50, other small institutions, as defined in Section 790.51, a Limited Restaurant, as defined

1 in Section 790.90, a Restaurant, as defined in Section 790.91, a massage establishment, as  
2 defined in Section 790.60, an outdoor activity, as defined in Section 790.70, an adult or other  
3 entertainment use, as defined in Sections 790.36 and 790.38, a fringe financial service use,  
4 as defined in Section 790.111, or Group Housing as defined in Section 790.88(b) shall be  
5 subject to the provisions of Subsection 312(d); provided, however, that a change of use from  
6 a Restaurant to a Limited-Restaurant shall not be subject to the provisions of Subsection  
7 312(d). In all RED and Eastern Neighborhoods Mixed Use Districts all building permit  
8 applications for a change of use from anyone land use category to another land use category  
9 shall be subject to the provisions of Subsection 312(d). In addition, any accessory massage  
10 use in the Ocean Avenue Neighborhood Commercial Transit District shall be subject to the  
11 provisions of Subsection 312(d).

12 For the purposes of this Subsection, "land use category" shall mean those categories  
13 used to organize the individual land uses which appear in the use tables in Article 8,  
14 immediately preceding a group of individual land uses, and include the following: residential  
15 use, institutional use, retail sales and service use, assembly, recreation and entertainment  
16 use, office use, motor vehicle services use, industrial home and business service use, or other  
17 use.

18 (d) Building Permit Application Review for Compliance and Notification. Upon  
19 acceptance of any application subject to this Section, the Planning Department shall review  
20 the proposed project for compliance with the Planning Code and any applicable design  
21 guidelines approved by the Planning Commission. Applications determined not to be in  
22 compliance with the standards of Articles 1.2, 1.5, 2 and 2.5 of the Planning Code, including  
23 design guidelines for specific areas adopted by the Planning Commission, or with any  
24 applicable conditions of previous approvals regarding the project, shall be held until either the  
25

1 application is determined to be in compliance, is disapproved or a recommendation for  
2 cancellation is sent to the Department of Building Inspection.

3 (1) Neighborhood Commercial Design Guidelines. The construction of new  
4 buildings and alteration of existing buildings in NC Districts shall be consistent with the design  
5 policies and guidelines of the General Plan as adopted and periodically amended for specific  
6 areas or conditions by the Planning Commission. The Director of Planning may require  
7 modifications to the exterior of a proposed new building or proposed alteration of an existing  
8 building in order to bring it into conformity with the General Plan. These modifications may  
9 include, but are not limited to, changes in siting, building envelope, scale texture and detailing,  
10 openings, and landscaping.

11 (2) Notification. Upon determination that an application is in compliance with  
12 the development standards of the Planning Code, the Planning Department shall cause a  
13 notice to be posted on the site pursuant to rules established by the Zoning Administrator and  
14 shall cause a written notice describing the proposed project to be sent in the manner  
15 described below. This notice shall be in addition to any notices required by the Building Code  
16 and shall have a format and content determined by the Zoning Administrator. It shall include a  
17 description of the proposal compared to any existing improvements on the site with  
18 dimensions of the basic features, elevations and site plan of the proposed project including  
19 the position of any adjacent buildings, exterior dimensions and finishes, a graphic reference  
20 scale, existing and proposed uses and commercial or institutional business name, if known.  
21 The notice shall describe the project review process and shall set forth the mailing date of the  
22 notice and the expiration date of the notification period.

23 Written notice shall be mailed to the notification group which shall include the project  
24 sponsor, tenants of the subject property *irrespective of whether a tenant resides in a legal*  
25 *residential unit*, relevant neighborhood organizations as described in Subparagraph

1 312(d)(2)(C) below, all individuals having made a written request for notification for a specific  
2 parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent  
3 practical, occupants, of properties in the notification area.

4 (A) The notification area shall be all properties within 150 feet of the  
5 subject lot in the same Assessor's Block and on the block face across from the subject lot.  
6 When the subject lot is a corner lot, the notification area shall further include all property on  
7 both block faces across from the subject lot, and the corner property diagonally across the  
8 street.

9 (B) The latest City-wide Assessor's roll for names and addresses of  
10 owners shall be used for said notice.

11 (C) The Planning Department shall maintain a list, updated every six  
12 months with current contact information, available for public review, and kept at the Planning  
13 Department's Planning Information Counter, and reception desk, as well as the Department of  
14 Building Inspection's Building Permit Counter, of neighborhood organizations which have  
15 indicated an interest in specific properties or areas. The organizations having indicated an  
16 interest in the subject lot or its area shall be included in the notification group for the proposed  
17 project. Notice to these groups shall be verified by a declaration of mailing signed under  
18 penalty of perjury. In the event that such an organization is not included in the notification  
19 group for a proposed project as required under this subsection, the proposed project must be  
20 re-noticed.

21 (3) Notification Period. All building permit applications shall be held for a period  
22 of 30 calendar days from the date of the mailed notice to allow review by residents,  
23 occupants, owners of neighboring properties and by neighborhood groups.

24 (4) Elimination of Duplicate Notice. The notice provisions of this Section may  
25 be waived by the Zoning Administrator for building permit applications for projects that have

1 been, or before approval will be, the subject of a duly noticed public hearing before the  
2 Planning Commission or Zoning Administrator, provided that the nature of work for which the  
3 building permit application is required is both substantially included in the hearing notice and  
4 is the subject of the hearing.

5 (e) Requests for Planning Commission Review. A request for the Planning  
6 Commission to exercise its discretionary review powers over a specific building permit  
7 application shall be considered by the Planning Commission if received by the Planning  
8 Department no later than 5:00 p.m. of the last day of the notification period as described  
9 under Subsection (d)(3) above, subject to guidelines adopted by the Planning Commission.

10 The project sponsor of a building permit application may request discretionary review  
11 by the Planning Commission to resolve conflicts between the Director of Planning and the  
12 project sponsor concerning requested modifications to comply with relevant design guidelines  
13 of the General Plan.

14 (1) Scheduling of Hearing. The Zoning Administrator shall set a time for  
15 hearing requests for discretionary review by the Planning Commission within a reasonable  
16 period.

17 (2) Notice. Mailed notice of the discretionary review hearing by the Planning  
18 Commission shall be given not less than 10 days prior to the date of the hearing to the  
19 notification group as described in Paragraph 312(d)(2) above. Posted notice of the hearing  
20 shall be made as provided under Planning Code Section 306.8.

21 (f) Demolition of Dwellings, Approval of Replacement Structure Required. Unless the  
22 building is determined to pose a serious and imminent hazard as defined in the Building Code  
23 an application authorizing demolition in any NC or Eastern Neighborhoods Mixed Use District  
24 of an historic or architecturally important building or of a dwelling shall not be approved and  
25 issued until the City has granted final approval of a building permit for construction of the

1 replacement building. A building permit is finally approved if the Board of Appeals has taken  
2 final action for approval on an appeal of the issuance or denial of the permit or if the permit  
3 has been issued and the time for filing an appeal with the Board has lapsed with no appeal  
4 filed.

5 (1) The demolition of any building whether or not historically and architecturally  
6 important may be approved administratively where the Director of the Department of Building  
7 Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines, after  
8 consultation with the Zoning Administrator, that an imminent safety hazard exists, and the  
9 Director of the Department of Building Inspection determines that demolition or extensive  
10 alteration of the structure is the only feasible means to secure the public safety.

11 (g) Wireless Telecommunications Services Facility as Accessory Use, Notification and  
12 Review Required. Building permit applications for new construction of a wireless  
13 telecommunications services facility as an accessory use under Article 7 or 8 of the Planning  
14 Code in all NC, RED, or Eastern Neighborhoods Mixed Use Districts shall be subject to the  
15 notification and review procedures required by this Section.

16 (h) When removal or elimination of a residential unit is proposed, the Applicant shall comply  
17 with the following notification procedures.

18 (1) The Applicant shall provide a list of all residential units in the subject property to the  
19 Zoning Administrator, including those units that may be unpermitted residential units.

20 (2) The Applicant shall post a notice of the application at least 15 inches by 15 inches  
21 in a conspicuous common area of the subject property, with the following information: permit number;  
22 filing date; address and phone number of the agency to contact for information regarding permit  
23 issuance; the date of permit issuance; address and phone number of agency to contact to appeal  
24 issuance of permit; name, address and phone number of permittee. The sign shall also contain a list of  
25 tenant counseling or legal services that can provide assistance to tenants with understanding and

1 participating in the City's processes. The sign shall be posted upon application and shall remain  
2 posted until the conclusion of any hearings on the permit before the Planning Commission, the Zoning  
3 Administrator, the Board of Supervisors or the Board of Appeals. Such notice shall also include  
4 contact information for translation services into Spanish, Chinese, and Russian.

5 (3) The Zoning Administrator shall deliver notice of such application via hand delivery  
6 or U.S. mail to all residential units in the building, irrespective of whether the unit is a legal or illegal  
7 residential unit.

8 (4) If an application proposes the kind of work set forth in Section 312(b) above, the  
9 Applicant shall comply with the notification requirements set forth in Section 312(d) above, in addition  
10 to the on-site notification requirements set forth in this Section 312(h), but this Section 312(h) shall not  
11 require compliance with such notification requirements if they are otherwise not required.

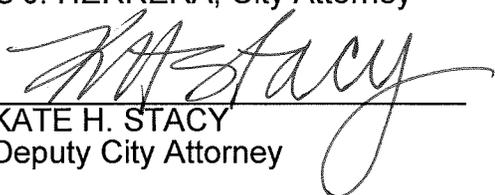
12  
13 Section 4. Effective Date. This ordinance shall become effective 30 days after  
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
16 of Supervisors overrides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

17  
18 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
22 additions, and Board amendment deletions in accordance with the "Note" that appears under  
23  
24  
25

1 the official title of the ordinance.

2

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

5 By:   
6 KATE H. STACY  
7 Deputy City Attorney

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