

File No. 110777

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Rules

Date 7/14/11

Board of Supervisors Meeting

Date _____

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Completed by: Linda Wong

Date 7/8/11

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An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

Ordinance amending the San Francisco Planning Code by adding Section 317 to prohibit the demolition of residential buildings containing 50 or more housing units.

Note: All language is new.

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

Sec. 317 Demolition of Residential Buildings Containing 50 or More Housing Units

A. Findings.

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

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

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

(c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.

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

(2) The Legislature further stated in Government Code Section 65581 that:
It is the intent of the Legislature in enacting this article:

(a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.

(b) To assure that counties and cities will prepare and implement housing elements which will move toward attainment of the state housing goal.

(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal.

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

(4) The 2011 Housing Element in San Francisco's General Plan, has "Retain Existing Housing" as its Objective 2, noting: "Priority should be given to the retention of existing units as a primary means to provide affordable housing."

(5) Policy 2.1 of the 2011 Housing Element in San Francisco's Master Plan is "Discourage the demolition of sound existing housing." And the Plan notes: "Demolition of existing housing often results in the loss of lower-cost rental housing units. Even if the existing housing is replaced, the new units are generally more costly. Demolition often results in displacement of residents, causing personal hardship and relocation problems."

(6) San Francisco faces a continuing shortage of affordable housing for very low and low-income residents. The San Francisco Planning Department reported that for the past ten years, since 2006, 2,139 units of low and very low-income housing were built in San Francisco. The Association of Bay Area Governments (ABAG) is responsible for dividing the total regional need numbers among its member governments which includes both counties and cities. ABAG estimates that San Francisco's low and very low-income housing production need from 2007 through 2014 is 12,124 units out of a total new housing need of 31,193 units. Since 2006, less than 25 18% of the previously projected housing need was produced in San Francisco

(7) There is a great need for affordable rental and owner-occupied housing in the City. The vacancy rate for residential rental property has dropped significantly since 1990 when the U.S. Census showed a 6.9 percent vacancy rate . Data from the 2010 US Census showed a residential rental vacancy rate of 3.4 percent. Data from the San Francisco rental market from RealFacts for 2000 indicates a vacancy rate of 1.9 percent. Rents on newly occupied residential units have risen dramatically. Housing cost burden is one of the major standards for determining whether a locality is experiencing inadequate housing conditions. The Consolidated Plan defines a household expending 30 percent or more of its gross income for housing costs as experiencing a cost burden. According to the 2000 Census, 35 percent of San Franciscans experienced a cost burden in 2000.

(8) The San Francisco residential real estate market is one of the most expensive in the United States. A September 2009 Coldwell Banker Annual Home Price Comparison Index for the United States reported that San Francisco was the sixth most expensive housing market in the country with the average single family home selling for \$1,363,250.

(9) The findings of Planning Code Section 313.2 for the Jobs-Housing Linkage Program, Planning Code Sections 313 et seq., relating to the shortage of affordable housing, the low vacancy rate of housing affordable to persons of lower and moderate income, and the decrease in construction of affordable housing in the City are hereby readopted.

(10) A substantial portion of residential buildings of 50 housing units or larger contain affordable housing that is subject to the City's Residential Rent Stabilization and Arbitration Ordinance (Administrative Code Chapter 37). New housing, however, is not subject to the Residential Rent Stabilization and Arbitration Ordinance. Accordingly, the demolition of residential buildings of 50 housing units or more will eliminate affordable housing.

For the reasons stated above, the People of the City and County of San Francisco intend to prohibit the demolition of residential buildings with 20 or more housing units unless it is demonstrated by the applicant for the demolition permit that the building proposed for demolition requires substantial rehabilitation.

B. Demolition of Residential Buildings Containing 50 or More Housing Units.

Notwithstanding any other provision of the Planning Code, the demolition of residential building(s) containing 50 or more housing units located on the same lot, which shall include dwelling units and guest rooms as defined in the City's Codes, is hereby prohibited unless, at the time of application for the demolition permit, the applicant provides documentation, as defined in this Section, that the building proposed for demolition currently requires substantial rehabilitation before it could be certified for occupancy. This documentation must be provided to the Building Inspection Department or to the Planning Department before either department may determine that a demolition permit application is complete.

Nothing in this Section is intended to provide for the demolition of residential buildings in those areas of the City where such demolition is already prohibited.

C. Substantial Rehabilitation.

Substantial rehabilitation shall mean the renovation, alteration, or remodeling of a building containing uninhabitable housing units which require substantial renovation in order to conform to contemporary standards for decent, safe, and sanitary housing in place of uninhabitable buildings. Substantial rehabilitation may vary in degree from gutting and extensive reconstruction to extensive improvements that cure substantial deferred maintenance. Cosmetic improvements alone such as painting, decorating, and minor repairs, or other work which can be performed safely without having the units vacated, do not qualify as substantial rehabilitation.

Improvements will not be deemed substantial unless the cost of the work equals or exceeds seventy-five percent (75%) of the cost of newly constructed residential buildings of the same number of units and type of construction, excluding land costs and architectural/engineering fees. The determination of the cost of newly constructed residential buildings shall be based upon construction cost data reported by Marshall and Swift, Valuation Engineers, as adapted for San Francisco and posted in January and June of each year in the Department of Building Inspection for purposes of determining permit fees. The schedule in effect on the date the application for a demolition permit is submitted shall apply.

D. Documentation of Substantial Rehabilitation.

Documentation that a residential building requires substantial rehabilitation before it could be certified for occupancy shall consist of:

- (1) A current abstract of title;
- (2) A determination of condemnation by the Department of Building Inspection, and/or a determination by the Department of Building Inspection that the premises were ineligible for a permit of occupancy;
- (3) A detailed description of the substantial rehabilitation work that would be required to remove the condemnation order or to obtain a certificate of occupancy itemizing all costs, including but not limited to site improvements, paving and surfacing, concrete, masonry, metals, wood and plastic, thermal and moisture protection, doors and windows, finishes, specialties, equipment, furnishings, conveying systems, mechanical and electrical work;
- (4) A complete inspection report issued by the Department of Building Inspection made prior to the application for the demolition permit;
- (5) Copy of the current assessment and;

(6) An affidavit executed by the applicant for the demolition permit under penalty of perjury attesting to the accuracy of all documentation provided regarding the need for substantial rehabilitation before the building could be certified for occupancy.

E. Appeals to the Building Inspection Commission.

In the event that an applicant is denied the issuance of documentation he or she requests from the Department of Building Inspection which is necessary to document that the residential building proposed for demolition requires substantial rehabilitation, such denial shall be appealable to the Building Inspection Commission pursuant to the provisions of Chapter 77 of the Administrative Code regarding Building Inspection Commission appeals. At any such appeal, the Building Inspection Commission shall only consider whether the residential building in question is or is not eligible for issuance of the requested documentation, such as a determination of condemnation, from the Department of Building Inspection.

F. Application.

This ordinance shall apply to all applications for demolition permits for residential buildings which contain 50 or more housing units that are filed with the Department of Building Inspection or the Planning Department on or after June 21, 2011. This ordinance shall not apply to property owned by a non-profit housing developer when replacement housing constructed following demolition will have 100% of the units affordable to renters whose income is 60% or below the Average Median Income for the City and County of San Francisco or property owned by the United States or any of its agencies; property owned by the State of California or any of its agencies, with the exception of such property not used exclusively for a governmental purpose; or property under the jurisdiction of the Port of San Francisco or the San Francisco Redevelopment Agency where the application of this ordinance is prohibited by State or local law.

G. Amendments.

This ordinance may be amended by a two-thirds vote of the Board of Supervisors.

H. Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application. To this end, the provisions of this ordinance shall be deemed severable.

I. Conformance.

The voters request that the Board of Supervisors, immediately following the adoption of this ordinance, enact amendments to the Planning Code to bring the Planning Code into conformance with the terms of this ordinance.



Member, City and County of San Francisco Board of Supervisors

ERIC MAR



Member, City and County of San Francisco Board of Supervisors

JOHN AVALOS



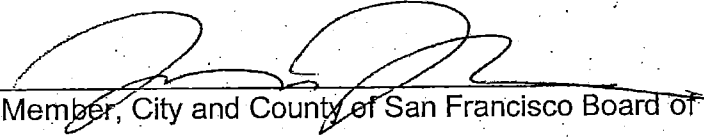
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