



# PROPOSED CONTROLS ON RESIDENTIAL DEMOLITIONS & ALTERATIONS



The proposed Ordinance would expand neighborhood notification requirements, increase penalties for violations, limit residential additions, and further restrict residential demolitions throughout the City. It was introduced in December 2018 by Supervisor Aaron Peskin and is co-sponsored by President Yee and Supervisors Mandelman, Ronen and Fewer. The proposed Ordinance was subsequently revised and reintroduced in May 2019.

## Notification Requirements

**Current Controls:** Neighborhood notification is required for most building expansions and for specific land uses in many Zoning Districts. As part of the application process, plans must be submitted to verify compliance with the Residential Design Guidelines, as amended by the Planning Commission. Additionally, certain building features – typically those that are small or less prominent – are exempt from notification requirements.

### Proposed Controls:

- Changes to the Residential Design Guidelines would require action by the Board of Supervisors; and
- The contents of notices would be expanded to include renderings, engineering calculations, construction drawings, rental compliance documentation, and a listing of all permits within the last 5 years; and
- A licensed architect would be required to prepare and submit plans for all projects which are subject to neighborhood notification; and
- In Zoning Districts subject to notification requirements, over-the-counter review would be prohibited and notification would be required for garages, roof decks, certain lightwell in-fills, Health Service uses, and additional dwellings within 2-unit buildings.

## Dwelling Unit Mergers

**Current controls:** Combining two or more units into a single unit or reducing the size of one unit by at least 25% to make another unit larger (a "partial" merger) requires Conditional Use Authorization.

**Proposed controls:** Mergers would also include reducing the size of one unit by at least 10% to make another unit larger. Mergers would continue to require Conditional Use Authorization <sup>1</sup>, unless any of the following conditions are met, in which case a merger would be prohibited:

- any involved unit would exceed the lesser of 1,200 sq. ft. or the average size of existing units within 300'; or
- any unit would have less exposure to open areas; or
- a unit that is (1) Below Market Rate, (2) subject to rent-control, or (3) has been tenant-occupied within the last 7 years would be eliminated.

### NOTES:

- <sup>1</sup> Additional applicability of Residential Demolition criteria is unclear.
- <sup>2</sup> Term is undefined within the proposed Ordinance.
- <sup>3</sup> Applicable control(s) are internally contradictory within the proposed Ordinance.

This document has been drafted by Planning Department staff to provide an objective summary of the prominent features of the proposed **Ordinance** contained in **Board File Number 181216**. It is not a comprehensive guide, nor does it provide any analysis or policy recommendation. For the full text of the proposed legislation, please visit [sfgov.legistar.com/legislation](http://sfgov.legistar.com/legislation) and search for Board File Number 181216.

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## Dwelling Unit Conversion

**Current controls:** Changing a residential use to a non-residential use requires Conditional Use Authorization. When considering the removal of an illegal dwelling unit, the Planning Commission can consider the owner's personal financial hardship among other factors.

**Proposed controls:** Conditional Use Authorization would continue to be required <sup>1</sup>. In addition:

- the replacement use must be Principally Permitted; and
- financial hardship could not be considered when reviewing the removal of existing illegal dwelling units.

## Residential Demolition

**Current Controls:** Residential Demolition is generally defined as the removal of either (a) two-thirds of a building's foundation or (b) the majority of a building's walls and floors. Excepting unsound or unaffordable single-family homes, Demolition requires Conditional Use authorization. Below Market Rate or rent-controlled units that are demolished as part of a new project with 10 or more units must be replaced.

**Proposed Controls:** Demolition would be defined as the permanent or temporary removal of any of the following (whether associated with an expansion or with ordinary maintenance) within five years of filing an application:

- More than  $\frac{1}{2}$  of a building's exterior walls; or
- more than  $\frac{3}{4}$  of a building's interior structural walls or floors; or
- more than  $\frac{1}{4}$  of a building's front façade; or
- the removal of any dry rot.

Demolition would be prohibited unless **all** of the following conditions were present, in which case Conditional Use Authorization would be required:

- the **new building** would (1) be at least as affordable <sup>2</sup> as the existing building, (2) add at least one dwelling, (3) not contain a garage, (4) resemble the height, scale and architecture of surrounding buildings; and (5) would not require a Variance from the Planning Code; and
- the **new units** (1) do not exceed the lesser of 1,200 sq. ft. or the average size of existing units within 300', (2) are of comparable size to one another, and (3) have substantially the same front and rear exposure to one another; and
- the **existing building** (1) does not have any outstanding Code violations, (2) is not a historic resource <sup>2</sup>, (3) is not within a historic district or potential historic district <sup>3</sup>, (4) does not resemble the height, scale and architecture of surrounding buildings, or (5) does not contain a Below Market Rate unit, a rent-controlled unit, or a unit that was occupied by a tenant within the last 7 years.

## Residential Additions & New Buildings

**Current Controls:** New buildings, along with additions to residential buildings, are generally limited by the Residential Design Guidelines and by the specific depths, widths, and heights set forth in the Planning Code.

**Proposed Controls:** Along with current controls, within Residential House (RH) Districts additions of 10% or more that would result in a total floor area in excess of the following Floor Area Ratio ("FAR") thresholds would be deemed "Major Expansions".

Zoning	FAR Thresholds		
	1 unit	2 units	3 units
RH-1(D)	0.5	-	-
RH-1	0.6	-	-
RH-2	0.6	1.2	-
RH-3	0.6	1.2	1.8

Both (1) Major Expansions and (2) all new construction projects would require Conditional Use Authorization and could be approved only when the project would:

- be at least as affordable <sup>2</sup> as the existing structure; and
- add at least one dwelling unit; and
- result in the smallest unit being at least 75% the size of the largest unit; and
- not create a garage or add parking; and
- not remove character defining architectural features; and
- not be located on a property with a no-fault eviction in the last 7 years.

## Penalties & Abatement

**Current provisions:** Work performed without a permit, or work performed beyond the authorized scope of a permit can be legalized so long as it complies with applicable Code provisions. Fines of up to \$250 per day apply to most violations.

**Proposed provisions:** All unauthorized work must be removed before permits can be sought. Fines of at least \$1,000 per day would apply to all violations. Each separate violation of the Planning Code would be a distinct violation for purposes of penalties. Additionally:

- Unlawful Merger or Conversion:** Fines up to \$50,000. Removed units must be restored prior to further work.
- Unlawful Work on Important Buildings:** Buildings that are historic <sup>2</sup>, architecturally significant <sup>2</sup>, within a historic district or within a potential historic district <sup>2</sup> can be fined up to \$500,000 fine or be restored to their original condition.
- Unlawful Demolition or Unlawful Major Expansion:** Fines equal to any increase in the value of the property. 5-year moratorium on any construction excepting a complete restoration of the demolished building.