

BOARD of SUPERVISORS



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MEMORANDUM

TO: Naomi Kelly, City Administrator
Joanne Hayes-White, Chief, Fire Department
Carmen Chu, Assessor-Recorder
Barbara A. Garcia, Director, Department of Public Health

FROM:  Alisa Somera, Assistant Clerk
Land Use and Transportation Committee

DATE: February 1, 2016

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following **substitute** legislation, introduced by Supervisor Wiener on January 26, 2016:

File No. 151085-2

Ordinance amending the Building, Housing, Electrical, Plumbing, Fire, Health, Planning, and Administrative Codes to clarify and standardize enforcement procedures for violations of Municipal Codes relating to buildings and property, to require departments to report on code enforcement activities, and to direct the City Administrator to coordinate the preparation of standard Citywide forms for code enforcement proceedings; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Kelly Alves, Fire Department
Edward McCaffrey, Office of the Assesor-Recorder
Greg Wagner, CEO, Department of Public Health
Colleen Chawla, Department of Public Health

[Various Codes - Code Enforcement Procedures]

Ordinance amending the Building, Housing, Electrical, Plumbing, Fire, Health, Planning, and Administrative Codes to clarify and standardize enforcement procedures for violations of Municipal Codes relating to buildings and property, to require departments to report on code enforcement activities, and to direct the City Administrator to coordinate the preparation of standard Citywide forms for code enforcement proceedings; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

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

Section 1. (a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 151085 and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Department determined 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 adopts this determination

1 as its own. A copy of said determination is on file with the Clerk of the Board of Supervisors in
2 File No. 151085, and is incorporated herein by reference.

3
4 Section 2. Pursuant to Charter Section D3.750-5, the Building Inspection Commission
5 considered this ordinance on _____, 2015, at a duly-noticed public hearing.

6
7 Section 3. Findings under the California Health and Safety Code. The Board of
8 Supervisors hereby finds that this ordinance does not modify a State "building standard," as
9 that term is defined in Section 18909 of the California Health and Safety Code. Therefore, the
10 finding of local climatic, geological, or topographical conditions required by Sections 18941.5
11 and 17958.7 of the California Health and Safety Code is not required.

12
13 Section 4. The Building Code is hereby amended by revising Section 102A, to read as
14 follows:

15 **SECTION 102A – UNSAFE BUILDINGS, STRUCTURES OR PROPERTY**

16 All buildings, structures, property, or parts thereof, regulated by this code that are
17 structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or
18 are otherwise dangerous to human life, safety or health of the occupants or the occupants of
19 adjacent properties or the public by reason of inadequate maintenance, dilapidation,
20 obsolescence or abandonment, or by reason of occupancy or use in violation of law or
21 ordinance, or were erected, moved, altered, constructed or maintained in violation of law or
22 ordinance are, for the purpose of this chapter, unsafe.

23 Whenever the Building Official determines by inspection that property or properties
24 either improved or unimproved are unstable because of landslide, subsidence or inundation or
25 that such occurrences are deemed imminent as described above, the Building Official shall

1 give written notice to the owner or owners that said property or properties are unsafe. The
2 notice shall specify the conditions creating the unsafe classification.

3 All such unsafe buildings, structures, property, or portions thereof, are hereby declared
4 to be public nuisances and shall be vacated, repaired, altered or demolished as hereinafter
5 provided.

6 * * *

7 **102A.3 Inspections.**

8 The Building Official may inspect or cause the inspection of any building, structure or property
9 for the purpose of determining whether it is unsafe whenever:

10 (a) The Building Official, with reasonable discretion, determines that such inspection is
11 necessary or desirable; or,

12 (b) Any person or any agency or department of the City submits to the Building Official a
13 complaint which, in the Building Official's opinion, establishes reasonable cause to believe that the
14 building, structure or property or any portion thereof, is unsafe.

15 **102A.4 Notice of Municipal Code Violation.**

16 (a) When the Building Official observes or otherwise determines any condition which renders
17 the building, structure or property unsafe, the Building Official shall, within 15 days, serve a Notice of
18 Municipal Code Violation ("NOV") upon the building owner.

19 (b) The NOV shall identify each violation observed or otherwise established, including the
20 violations which render the building, structure or property unsafe, and shall state a deadline for the
21 building owner to abate the violations and a date for reinspection. The NOV shall also set forth the
22 penalties, fees and costs as prescribed in Sections 102A.7(d) and 103A of this code. The NOV shall be
23 a public record subject to disclosure pursuant to Administrative Code Chapter 67.

1 (c) The Building Official shall serve the NOV on the building owner by sending a copy by
2 certified mail to the building owner at the address listed with the Assessor-Recorder's Office and shall
3 post the NOV in a conspicuous place on the subject property.

4 **102A.5 Notice of Administrative Hearing**

5 (a) If the Building Official determines that the building owner has not corrected the code
6 violations by the deadline provided in the NOV, the Building Official shall schedule an administrative
7 hearing on the violations, to be heard within 30 days of the deadline.

8 (b) The Building Official shall issue a Notice of Administrative Hearing ("Hearing Notice") to
9 the building owner. The Hearing Notice shall state the date, hour and place of the hearing and contain
10 a conspicuous warning setting forth the penalties, fees and costs prescribed in Sections 102A.7(d) and
11 103A of this Code. The Hearing Notice shall include a copy of the NOV. The Hearing Notice shall
12 inform all interested parties who desire to be heard in the matter that they may appear to show cause
13 why the property, building or structure, or portion thereof, should not be ordered repaired, altered,
14 vacated and repaired or altered, or vacated and demolished.

15 (c) The Building Official shall serve the Hearing Notice on the building owner by certified mail
16 to the building owner at the address listed with the Assessor-Recorder's Office and shall post the NOV
17 in a conspicuous place on the subject property. The Building Official shall mail the Hearing Notice on
18 the building owner at least 10 days prior to the date set for the hearing.

19 (d) In addition to serving the NOV on the building owner, the Building Official shall send a
20 copy of the NOV by certified mail to:

- 21 (1) The person, if any, in real or apparent charge and control of the premises involved;
22 (2) The holder of any mortgage, deed of trust, lien or encumbrance of record;
23 (3) The owner or holder of any lease of record; and,
24 (4) The record holder of any other estate or interest in the building, structure or
25 property, or the land upon which it is located.

1 The failure of any owner or other person to receive such notice shall not affect in any manner
2 the validity of any proceedings taken hereunder.

3 (e) The person serving the Hearing Notice shall complete a declaration under penalty of
4 perjury, certifying the date and manner in which such Hearing Notice was given, and the Building
5 Official shall retain the certified mail receipt card for the Hearing Notice.

6 **102A.6 Conduct of Administrative Hearing.**

7 (a) The Building Official shall conduct the Administrative Hearing, or may designate a
8 Hearing Officer who shall have the same authority as the Building Official to hear and decide the case
9 and to make any orders consistent with this Code. For purposes of Sections 102A.6 through 102A.7,
10 “Hearing Officer” shall include the Building Official if the Building Official conducts the
11 Administrative Hearing.

12 (b) The Hearing Officer shall hold the Administrative Hearing at the time and place designated
13 in the Hearing Notice. The Hearing Officer may, in his or her discretion and for good cause shown,
14 continue the hearing one time, for a period not to exceed 30 days. All persons having an interest in the
15 building, structure or property or having knowledge of facts material to the allegations of the NOV,
16 including the list of code violations, may present evidence for consideration by the Hearing Officer,
17 subject to any rules adopted by the Hearing Officer for the orderly conduct of the hearing.

18 **102A.7 Administrative Order.**

19 (a) Within 30 days following the conclusion of the Administrative Hearing, the Hearing Officer
20 shall issue a written decision (“Administrative Order”).

21 (b) The Administrative Order shall state in reasonable detail which conditions render the
22 building, structure, or property, or portion thereof, unsafe, and shall state the work required to be done
23 to satisfy the Administrative Order. The Administrative Order may direct the building owner to repair,
24 alter, vacate, and/or demolish the subject property.
25

1 (c) The Administrative Order shall specify the time within which the building owner shall
2 repair, alter, vacate, and/or demolish the building, structure, or property, or portion thereof, or
3 otherwise comply with the Order. The time for compliance with the Administrative Order shall not to
4 exceed 180 days from permit issuance. The Hearing Officer may, in his or her discretion and for good
5 cause shown, extend the time for compliance with the Administrative Order once, for a period limited
6 to the minimum time necessary for completion and not to exceed 90 days, following a written request by
7 the building owner.

8 (d) In addition to any monetary penalties authorized in Section 103A, the Department shall be
9 entitled to its costs of preparation for and appearance at the Administrative Hearing, and all prior and
10 subsequent attendant and administrative costs, and the Department shall assess these costs upon the
11 building owner monthly until the costs are paid. The violations cited in the Administrative Order will
12 not be deemed legally abated until the building owner makes full payment of the penalties and costs,
13 and failure to pay the assessment of costs shall result in tax lien proceedings against the property.

14 (e) The Hearing Officer shall serve the Administrative Order on the building owner in the same
15 manner as the Hearing Notice. The Building Official shall record a copy of the Administrative Order
16 in the Assessor-Recorder's Office. When the Building Official determines that the work required under
17 the Administrative Order has been completed and the building, structure, or property, or portion
18 thereof, no longer is unsafe, the Building Official shall issue and record a rescission of the
19 Administrative Order with the Assessor-Recorder's Office.

20 (f) Any person may appeal an Administrative Order pursuant to Section 105A.2. The Hearing
21 Officer shall inform the building owner, at the Administrative Hearing and in the Administrative Order,
22 of the right of appeal to the Abatement Appeals Board, provided that the appeal is made in writing and
23 filed with the Secretary of the Abatement Appeals Board within 15 days after the Order is posted and
24 served. The 15-day limitation shall not apply when any type of a moratorium authorized in
25 Section 105A.2 is sought. Where construction materials, methods, types of construction, or compliance

1 with the time limits set forth in Table No. 16B-A are the bases, in whole or in part, of the Building
2 Official's finding that an unreinforced masonry building, or portion thereof, is unsafe, the Abatement
3 Appeals Board shall refer these matters to the Board of Examiners established in Section 105A.1 of this
4 Code. Where construction materials, methods, and types of construction are the bases, in whole or in
5 part, of the Building Official's finding that the building, or structure, or portion thereof, is unsafe, the
6 Abatement Appeals Board shall refer these matters to the Board of Examiners for its examination and
7 determination with respect to such materials, methods, and types of construction.

8 The Board of Examiners shall approve or disapprove such materials, methods, and types of
9 construction, and may attach conditions to its approval, and shall forward a copy of its report to the
10 Abatement Appeals Board. The Abatement Appeals Board shall include in its decision the findings of
11 the Board of Examiners.

12 **102A.8 Remedies are Non-Exclusive**

13 Notwithstanding the provisions of Sections 102A.4 through 102A.7, the City may institute civil
14 proceedings for injunctive and monetary relief, including civil penalties, against a building owner for
15 violations of the Municipal Code under any circumstances, without regard to whether a complaint has
16 been filed or the Building Official has issued a NOV or an Administrative Order.

17 ~~102A.3 Inspections and Complaints. The Building Official is hereby authorized to inspect or~~
18 ~~cause the inspection of any building, structure or property for the purpose of determining whether or~~
19 ~~not it is unsafe in any of the following circumstances:~~

20 ~~1. Whenever the Building Official, with reasonable discretion, determines that such inspection~~
21 ~~is necessary or desirable.~~

22 ~~2. Whenever any person files with the Building Official a complaint from which there is, in the~~
23 ~~Building Official's opinion, probable cause to believe that the building, structure or property or any~~
24 ~~portion thereof, is unsafe.~~

1 ~~3. Whenever an agency or department of the City and County of San Francisco transmits to the~~
2 ~~Building Official a written report from which there is, in the opinion of the Building Official, probable~~
3 ~~cause to believe that the building, structure or property, or any portion thereof, is unsafe.~~

4 ~~Upon the completion of any such inspection and the finding by the Building Official of any~~
5 ~~condition which renders the building, structure or property unsafe, the Building Official shall, within~~
6 ~~15 days thereafter, serve a written notice of violation upon the building owner which shall contain~~
7 ~~specific allegations, setting forth each condition the Building Official has found which renders the~~
8 ~~building, structure or property unsafe. The Building Official shall, within three days of mailing of such~~
9 ~~notice of violation, post a copy thereof in a conspicuous place in or upon such building, structure or~~
10 ~~property and make available a copy of the notice of violation to each tenant thereof. Such notice shall~~
11 ~~also set forth the penalties for violation prescribed in Section 103A of this code. In addition to the civil~~
12 ~~penalties prescribed in Section 103A, the Department's cost of preparation for and appearance at the~~
13 ~~hearing required by Section 102A.4, and all prior and subsequent attendant and administrative costs,~~
14 ~~shall be assessed upon the property owner monthly, after failure to comply with a written notice of~~
15 ~~violation that has been served upon the property owner. Said violations will not be deemed legally~~
16 ~~abated until the property owner makes full payment of the assessment of costs to the Department of~~
17 ~~Building Inspection. See Section 110A, Table 1A-D—Standard Hourly Rates and Table 1A-K—~~
18 ~~Penalties, Hearings, Code Enforcement Assessments— for the applicable rate. Failure to pay the~~
19 ~~assessment of costs shall result in tax lien proceedings against the property per Section 102A.18.~~

20 ~~If the unsafe conditions observed on the property have not been corrected within the time period~~
21 ~~provided, the matter shall be set for hearing within 60 days from the compliance date specified on the~~
22 ~~notice of violation, if not substantial progress in abating the Code violations has commenced.~~

23 ~~102A.4 Notice of Hearing.~~

24 ~~102A.4.1 General. Notice of hearing shall be given upon a form prescribed by the Building~~
25 ~~Official. It shall set forth the street address sufficient for identification of the property or premises upon~~

1 ~~which the building or structure is located. It shall contain or be attached to a copy of the notice of~~
2 ~~violation which includes a list of code violations. It shall state the date, hour and place of the hearing~~
3 ~~and shall order all interested parties who desire to be heard in the matter to appear before the Building~~
4 ~~Official to show cause why the property, building or structure, or portion thereof, should not be~~
5 ~~ordered repaired, altered, vacated and repaired or altered, or vacated and demolished.~~

6 ~~One copy of the notice of hearing and notice of violation, including the list of code violations,~~
7 ~~shall be posted in a conspicuous place upon the building or property. The notice shall also include a~~
8 ~~conspicuous warning which sets forth the penalties for violation prescribed in Section 103A of this~~
9 ~~code.~~

10 ~~One copy of the notice of hearing and notice of violation, including the list of code violations,~~
11 ~~shall be served upon each of the following:~~

- 12 ~~1. The person, if any, in real or apparent charge and control of the premises involved.~~
- 13 ~~2. The owner of record.~~
- 14 ~~3. The holder of any mortgage, deed of trust, lien or encumbrance of record.~~
- 15 ~~4. The owner or holder of any lease of record.~~
- 16 ~~5. The record holder of any other estate or interest in the building, structure or property, or~~
17 ~~the land upon which it is located.~~

18 ~~102A.4.2 Method of service. The notice of hearing shall be served upon all persons entitled~~
19 ~~thereto, either personally or by certified or registered mail. Service by certified or registered mail shall~~
20 ~~be effective on the date of mailing if the certified or registered letter is mailed, postage prepaid, return~~
21 ~~receipt requested, to each such person as their address appears on the last annual tax roll of the county~~
22 ~~or at the address to which the most recent real property tax bill for said building, structure or property~~
23 ~~was mailed by the Tax Collector. If no such address appears on the annual tax roll of the county or the~~
24 ~~records of the Tax Collector, then a copy of the notice shall be addressed to such person at the address~~
25 ~~of the building, structure or property involved in the proceedings. The failure of any owner or other~~

1 ~~person to receive such notice shall not affect in any manner the validity of any proceedings taken~~
2 ~~hereunder.~~

3 ~~102A.4.3 Proof of service. The person serving notice as provided herein shall file an affidavit~~
4 ~~or declaration thereof under penalty of perjury, certifying to the time and manner in which such notice~~
5 ~~was given. Such person shall also file therewith any receipt card of such notice by certified or~~
6 ~~registered mail. The notice shall be posted and served at least 10 days prior to the date set for the~~
7 ~~hearing.~~

8 ~~102A.5 Hearing. The public hearing shall be held at the time and place designated in the notice~~
9 ~~of hearing. For good cause shown, a hearing may be continued by the Building Official, except that any~~
10 ~~such continuance shall not exceed 30 days and there shall be only one such continuance allowed.~~
11 ~~Subject to procedures prescribed by the Building Official for the orderly conduct of the hearing, all~~
12 ~~persons having an interest in the building, structure or property or having knowledge of facts material~~
13 ~~to the allegations of the notice of violation including the list of code violations, may present evidence~~
14 ~~for consideration by the Building Official.~~

15 ~~The Building Official may designate a deputy who may act in place of the Building Official as~~
16 ~~the hearing officer. The deputy shall have the same authority as the Building Official to hear and~~
17 ~~decide the case and to make any order hereinafter provided for.~~

18 ~~102A.6 Decision. The Building Official, after a full and fair consideration of the evidence and~~
19 ~~testimony received at the hearing, shall render within 30 days following the conclusion of such hearing,~~
20 ~~a decision in writing either dismissing the proceedings, or, if finding that the building, structure or~~
21 ~~property, or portion thereof, is unsafe, ordering that it be repaired, altered, vacated and altered or~~
22 ~~repaired, or vacated and demolished.~~

23 ~~102A.7 Contents of Order. The order shall contain a statement of the particulars which render~~
24 ~~the building, structure, or property unsafe and shall contain a statement of work required to be done~~
25 ~~and the time requirements for the execution of the order.~~

1 ~~102A.7.1 Address. The order shall set forth the street address of the building or structure,~~
2 ~~sufficient for identification.~~

3 ~~102A.7.2 Time. The order shall specify the time within which the premises or portion thereof~~
4 ~~shall be vacated, if ordered. The order shall further specify a reasonable time, not to exceed 360 days~~
5 ~~from permit issuance, within which the work shall be completed.~~

6 ~~102A.7.3 Extension for completion. The time for completion may be extended by the Building~~
7 ~~Official for good cause shown, except that such extension shall not exceed 360 days. Such extension~~
8 ~~shall be in writing upon the request of the owner and shall be limited to the minimum time necessary~~
9 ~~for completion. Only one such extension may be allowed.~~

10 ~~102A.8 Posting and Service of Order. A copy of the order shall be posted in a conspicuous~~
11 ~~place upon the building, structure or property and shall be served in the manner above prescribed in~~
12 ~~the case of the notice of hearing, upon all persons to whom the notice of hearing is required to be~~
13 ~~served, and a copy shall be recorded in the Assessor-Recorder's Office.~~

14 ~~102A.9 Compliance, Rescinding Order. When the property, building or structure or portion~~
15 ~~thereof that was determined to be unsafe, has been found to comply with requirements of the Building~~
16 ~~Official as to rehabilitation, alteration, repair or demolition, the Building Official shall issue and~~
17 ~~record in the Assessor-Recorder's Office an order rescinding the original order.~~

18 ~~102A.10 Appeal of Order. Any person may appeal from an order of the Building Official made~~
19 ~~pursuant to the provisions of Section 102A.7 and shall, at the hearing provided for in Section 102A.5~~
20 ~~and in said order, be apprised of the right of appeal to the Abatement Appeals Board, provided that the~~
21 ~~appeal is made in writing and filed with the Secretary of the Abatement Appeals Board within 15 days~~
22 ~~after such order is posted and served. The 15-day limitation shall not apply when any type of a~~
23 ~~moratorium authorized in this section is sought. Where construction materials, methods, types of~~
24 ~~construction, or compliance with the time limits set forth in Table No. 16B-A are the bases, in whole or~~
25 ~~in part, of the Building Official's finding that an unreinforced masonry building, or portion thereof, is~~

1 ~~unsafe, the Abatement Appeals Board shall refer these matters to the Board of Examiners established in~~
2 ~~Section 105A.1 of this code. Where construction materials, methods, and types of construction are the~~
3 ~~bases, in whole or in part, of the Building Official's finding that the building, or structure, or portion~~
4 ~~thereof, is unsafe, the Abatement Appeals Board shall refer these matters to the Board of Examiners for~~
5 ~~its examination and determination with respect to such materials, methods, and types of construction.~~

6 ~~The Board of Examiners shall approve or disapprove such materials, methods, and types of~~
7 ~~construction, and may attach conditions to its approval, and shall forward a copy of its report to the~~
8 ~~Abatement Appeals Board. The Abatement Appeals Board shall include in its decision the findings of~~
9 ~~the Board of Examiners.~~

10 * * *

11
12 Section 5. The Housing Code is hereby amended by revising Section 201, to read as
13 follows:

14 **SEC. 201. GENERAL.**

15 (a) Authority. The Director of the Department of Building Inspection shall administer
16 and enforce all of the provisions of this Code. The Director is hereby designated as the
17 authorized representative of the Building Inspection Commission in such enforcement. The
18 Director is hereby authorized to call upon the Director of City Planning, the Director of Public
19 Health, the Chief of the Fire Department, the Chief of Police and all other City officers,
20 employees, departments and bureaus to aid and assist him in such enforcement, and it shall
21 then be their duty to enforce the provisions of this Code and to perform such duties as may
22 come within their respective jurisdictions.

23 Upon completion of an inspection of a structure or portion of a structure, the owner or
24 occupant thereof shall be furnished by the Department of Building Inspection with a standard
25 form which clearly and simply indicates the violations found and the sections of this Code

1 which are not complied with. Copies of all forms used to enforce this code shall be furnished
2 the Clerk of the Board of Supervisors, to be held on file with the Board of Supervisors.

3 (b) Right of Entry. Upon showing proper credentials, which shall include a statement
4 apprising an owner or occupant of his rights and obligations, authorized employees of City
5 departments, when necessary for the performance of their duties, shall have the right to enter
6 at reasonable times any new or unoccupied building and any building under construction,
7 repair, alteration or removal and any other building when there is reasonable ground for
8 believing said building or any part thereof to be illegal, unsafe or a menace to life or limb; or in
9 making their routine inspections as required under the License Code.

10 The procedures provided by the general laws of the State of California, presently
11 codified as Sections 1822.50 to 1822.57, inclusive, of the Code of Civil Procedure, shall
12 govern the issuance, execution and enforcement of an inspection warrant in the event the
13 owner or occupant of a building refuses to permit an inspection thereof by an authorized
14 employee of a City department.

15 (c) [Reserved.]

16 (d) Order of Vacation. The Director of the Department of Building Inspection shall give
17 written notification of any order to vacate to the Chief of Police who shall thereupon cause the
18 same to be executed and enforced.

19 (e) Abatement. For abatement procedures, see Chapter 1A of the Building Code,
20 including, but not limited to, Sections 102A.3 through 102A.8.

21 (f) Designation of Code Enforcement Areas. Whenever it is found to be in the interests
22 of the people of San Francisco to engage in concentrated code enforcement on an area-wide
23 basis, the following procedure shall be followed:
24
25

1 (1) The area to be designated for code enforcement activity shall be selected
2 by the Director of the Department of City Planning and recommended to the Chief
3 Administrative Officer.

4 (2) The Chief Administrative Officer, if that person approves said area as being
5 acceptable for concentrated code enforcement, shall submit same to the Board of Supervisors
6 requesting the Board to designate the area for concentrated code enforcement.

7 (3) Upon the Board of Supervisors designating the area and unless Federal or
8 State funds are to be utilized which would necessitate filing an application for same, the
9 Department of Building Inspection shall commence the inspection of every building and
10 structure in the designated area to determine the condition of the buildings and to bring about
11 compliance with the applicable codes.

12 (4) In the event the Federal government or the State government is involved in
13 the financial assistance or funding of the program the first action by the Board will be to
14 approve the filing of an application to the Federal or State agency for funding or assistance.
15 Upon approval of the application by the Federal or State agency, the final contractual
16 arrangements between that agency and the City shall require the approval by the Board of
17 Supervisors.

18
19 Section 6. The Electrical Code is hereby amended by revising Section 89.126, to read
20 as follows:

21 **89.126 Unsafe Buildings or Structures.**

22 Any buildings, structures, or parts thereof, shall be considered unsafe when any of the
23 following conditions are present:

24 (A) Electrical equipment, wiring and systems deemed hazardous to human life or
25 structure safety;

1 (B) Electrical equipment, wiring and systems that are in violation of the code that was
2 in effect at the time of construction or installation or such work was performed without permit
3 or approval;

4 (C) Change in occupancy without complying with the provision of Section 89.118 of
5 this code.

6 Such unsafe building, structure, property or portion shall be vacated, repaired, altered
7 or demolished, and violations of this Code abated, in accordance with Section 102A of the
8 Building Code, including, but not limited to, Sections 102A.3 through 102A.8.

9
10 Section 7. The Plumbing Code is hereby amended by revising Section 104.0, to read
11 as follows:

12 **SECTION 104.0 – ABATEMENT OF PUBLIC NUISANCE**

13 **104.0 Abatement of Public Nuisance.** In order to abate a nuisance as defined in
14 Section 216.0 of this code, the inspection and abatement procedures as set forth in Section
15 102A of the Building Code, including, but not limited to, Sections 102A.3 through 102A.8, shall
16 apply.

17
18 Section 8. The Fire Code is hereby amended by revising Section 109, to read as
19 follows:

20 **SECTION 109 – VIOLATIONS**

21 **109.1. [For SF] Unlawful Acts.**

22 (a) It shall be unlawful for a person to erect, construct, enlarge, alter, repair, move,
23 improve, remove, convert, demolish, equip, use, occupy, or maintain a building, occupancy,
24 premises, system, or vehicle, or any portion thereof: or cause the same to be done, in
25 violation of any of the provisions of this code.

(b) It shall be unlawful for a person to engage in any activity for which a permit is required under this code without the required permit, or to engage in any activity in violation of conditions set in a permit issued under this code.

* * *

109.4. [For SF] Notice of Violation.

(a) When the fire code official finds a building, occupancy, premises, system, or vehicle, or any portion thereof, that is in violation of this code, the fire code official shall, within 15 days, may prepare a written notice of violation, which shall identify the code sections violated, describe the violation, and, where applicable, require correction of the violation. The notice of violation shall also set forth the penalties, fees, and costs for the violation. When correction is not immediate, the notice of violation shall specify a time for compliance and re-inspection.

(b) When the fire code official finds a person performing any activity requiring a permit under this code without the required permit, or conducting an activity in violation of conditions set in a permit issued under this code, the fire code official may prepare a written notice of violation, which shall identify the code sections violated and describe the violation. The notice of violation shall also set forth the penalties, fees, and costs for the violation. In addition, the fire code official may issue a stop work order under Section 111, requiring the person to immediately cease performing the activity.

109.4.1. [For SF] Service of Notice of Violation.

(a) When a notice of violation pertains to a specific building, occupancy, premises, system, or vehicle, the fire code official shall serve the notice of violation upon the owner of the building, occupancy, premises, system, or vehicle as follows: by personal service, by regular U.S. mail and certified or registered mail, or by leaving it with a person of responsibility at the building or premises. The fire code official shall post the notice of violation in a conspicuous place on the subject property.

(b) When a notice of violation pertains to a person engaged in an activity for which a permit is required without the required permit, or in violation of a permit issued under this code is the person engaging in that activity, the fire code official shall serve the notice of violation upon the person responsible for the activity as follows: by personal service, by regular U.S. mail and certified mail, or by leaving it with a person of responsibility at site of the activity. The fire code official shall post the notice of violation in a conspicuous place on the subject property.

(c) Service by certified or registered mail is effective on the date of mailing if the certified or registered letter is mailed, postage prepaid, return receipt requested, to the person responsible at that person's current address as listed with the Assessor's Office. If the Assessor's Office records do not include an address for a person entitled to notice, then the fire code official shall serve that person by mailing the letter to the address of the building, occupancy, premises, or system involved in the proceedings.

109.4.2. [For SF] Re-Inspection Fee.

When the fire code official issues a notice of violation and sets a date for compliance and re-inspection to certify compliance with code requirements, the fire code official shall charge a fee for the re-inspection and the person responsible shall pay that fee.

109.4.3. [For SF] Hearing on Notice of Violation.

(a) If the person responsible to correct a violation fails to do so within the time period specified in the notice of violation, the fire code official ~~shall~~ *may* set the matter for hearing, to be heard within 30 days of the deadline.

(b) Notice of hearing. If the fire code official determines to set the matter for hearing, the fire code official shall serve a notice of hearing that provides at least 10 days ~~30 day~~ notice of the hearing. The notice shall include the following information: (1) the street address of the building, occupancy, premises, or system that is in violation of the code, or the date and location of any activity conducted without a required permit or in violation of permit conditions;

1 (2) the date, hour and place of the hearing; (3) a statement that the hearing is an opportunity
2 for all interested parties to appear before the fire code official to show cause why the fire code
3 official should not order the building, occupancy, premises, or system repaired or altered to be
4 brought into compliance with code, or vacated or demolished, or require a permit or
5 compliance with permit requirements; (4) a warning that describes the penalties for violation
6 as set forth in subsection (k) below and Section 109.4.4; and (5) a copy of the notice of
7 violation.

8 (c) Service of hearing notice. The fire code official shall serve the notice of hearing on
9 each of the following persons: (1) the person, if any, in real or apparent charge and control of
10 the building, occupancy, premises, or system, or responsible for any activity; (2) the owner of
11 record of any building, occupancy, premises, or system, or where an activity occurred; (3) the
12 holder of any mortgage, deed of trust, lien or encumbrance of record; (4) the owner or holder
13 of any recorded lease; and (5) the holder of any other recorded estate or interest in the
14 building, occupancy, premises, or system, or the land upon which it is located. The fire code
15 official shall include an affidavit or declaration under penalty of perjury, certifying to the time
16 and manner in which the notice was served. The fire code official shall serve the notice of
17 hearing as follows: by personal service; or by regular U.S. Mail and certified or registered
18 mail. Service by certified or registered mail is effective on the date of mailing if the certified or
19 registered letter is mailed, postage prepaid, return receipt requested, to each person entitled
20 to notice as that person's address appears on the last annual tax roll of the county or at the
21 address to which the Tax Collector mailed the most recent real property tax bill for the
22 building, occupancy, premises, or system. If the annual tax roll or the Tax Collector records do
23 not include an address for a particular person entitled to notice, then the fire code official shall
24 serve the notice to that person at the address of the building, occupancy, premises, or system
25 involved in the proceedings. The failure of any owner or other person to receive a notice of

1 hearing shall not affect in any manner the validity of any proceeding taken or order issued
2 under this section.

3 (d) Posting of notice. The fire code official shall ensure that a copy of the notice of
4 hearing and notice of violation is posted in a conspicuous place on the building or property,
5 and at the location of the hearing. The notice shall be posted at both locations at least 10 days
6 before the date set for the hearing.

7 (e) [Reserved]

8 (f) Hearing. The fire code official or designee shall conduct a public hearing on the
9 matter, at the date, time and location specified in the notice of hearing. The fire code official or
10 designee may continue the hearing for good cause, except that any continuance shall not
11 exceed 30 days, and only one continuance is allowed. Subject to any procedures prescribed
12 by the fire code official for the orderly conduct of the hearing, the fire code official may permit
13 persons with an interest in the building, occupancy, premises, or system, or with knowledge of
14 facts material to the allegations of the notice of violation, to present evidence for the fire code
15 official to consider. The fire code official shall promulgate procedures for implementation of
16 the hearing.

17 (g) Decision and order. The fire code official shall give full and fair consideration to the
18 evidence received at the hearing, and within 30 days of the conclusion of the hearing, shall
19 issue a written decision either: (1) finding no violation and issuing an Order of Rescission that
20 withdraws the notice of violation and dismisses the proceedings; or (2) finding that the
21 building, occupancy, premises, or system, or any portion thereof, is in violation of this code
22 and ordering that the person responsible take action as ordered by the fire code official to
23 bring the building, occupancy, premises, or system into compliance with this code. The order
24 may also direct that the building, occupancy, or premises be vacated pending compliance with
25 the requirements of this code. Any order to correct a violation of this code or to vacate a

1 building, occupancy or premises shall include the following: the street address of the building,
2 occupancy, premises, or system; findings and conclusions about the specifics of the violations
3 and the code section violated; a statement of work the person responsible must perform to
4 remedy the violation and, if applicable, an order to vacate; and time requirements for
5 compliance with the order. The fire code official shall require the person responsible to
6 commence work required under the order within not more than 30 days from the date of the
7 decision, and shall set a reasonable period of time, not to exceed six months from
8 commencement, for the person responsible to complete the required work.

9 (h) Service of, posting, and recording decision. The fire code official shall serve the
10 decision and order on the persons and in the manner specified in subsection (c) above. The
11 fire code official shall post the decision and order in the manner specified in subsection (d)
12 above. The fire code official shall record the decision and order in the Assessor-Recorder's
13 Office.

14 (i) The person responsible may submit a written application to extend the date to
15 commence work required under the decision and order or to extend the date to complete
16 required work. The fire code official may grant a request to extend the time to commence or to
17 complete work, for good cause shown, only where there is no imminent risk to life or property,
18 and for a time not to exceed 90 days.

19 (j) Compliance, Order of Compliance. When the fire code official determines that the
20 person responsible has completed all work required under the order, and that the building,
21 occupancy, premises, or system complies with the requirements of this code, the fire code
22 official shall issue an Order of Compliance, acknowledging that the person responsible has
23 complied with the original order. The fire code official shall serve and post the Order of
24 Compliance, and file it in the Assessor-Recorder's Office.
25

1 (k) Penalties for disregarding order. Any person responsible who fails to comply with
2 an order under this section shall be guilty of a misdemeanor as set forth in Section 109.6. Any
3 person in possession who fails to comply with an order to vacate shall be guilty of a
4 misdemeanor as provided in Section 109.6. Any person who removes any notice or order
5 posted as required in this section shall be guilty of a misdemeanor as provide in
6 Section 109.6.

7 * * *

8 **109.9. [For SF] Remedies are Non-Exclusive.**

9 Notwithstanding the provisions of Sections 109.1 through 109.8, the City may institute civil
10 proceedings for injunctive and monetary relief, including civil penalties, against any person for
11 violations of the Fire Code under any circumstances, without regard to whether a complaint has been
12 filed or the fire official has issued a notice of violation under Section 109.4 or an order to correct
13 under Section 109.4.3(g).

14
15 Section 9. The Health Code is hereby amended by revising Sections 596 and 600, to
16 read as follows:

17 **SEC. 596. ADMINISTRATIVE PROCEDURES INITIATED WITH NOTICE OF VIOLATION.**

18 (a) Complaints. Whenever a written or oral complaint is made to the Department that
19 a nuisance as defined by Section 581 exists in a building or structure or on a property, or the
20 Director otherwise has reasonable cause to believe that such a nuisance exists, the Director shall
21 inspect the building, structure or property to verify the existence of a nuisance thereon.

22 (b) Notice of Violation. Whenever the Director determines that a nuisance, as defined
23 by Section 581 of this Article, exists in a building or structure or on a property, the Director
24 shall within 15 days of that determination cause a Notice of Violation to be served either
25 personally or by first class mailing to the Responsible Parties. The Notice of Violation shall be

1 served on the Owner by mail to the address that appears on the last assessment rolls of the
2 City and County of San Francisco. If the Notice of Violation is served on the Manager by mail,
3 it shall be mailed to the Manager's principal place of business or to the address of the
4 building, structure or property. If the Notice of Violation is served on any other Person who
5 created a condition that constitutes a nuisance, it shall be mailed to the Person's last known
6 address at which such Person receives mail if ascertainable. Thereafter, the Director may
7 cause a copy thereof to be posted in a conspicuous place on the building, structure or
8 property. The failure of the Responsible Parties to receive such notice when sent in the
9 manner set forth in this Subsection shall not affect in any manner the validity of any
10 proceeding against that party under this Article. The Notice of Violation shall be a public record
11 subject to disclosure pursuant to Administrative Code Chapter 67.

12 (c) Order to Vacate. The Director may order a premises vacated if she or he
13 determines that relocation is warranted upon discovery of a nuisance, as defined by Section
14 581(b)(10) of the Health Code, or at the discretion of the Director, to protect the health of
15 occupants. A copy of the order shall be served upon the Owner and the affected tenant(s)
16 and posted in conspicuous places at the affected premises. The order shall specify the time
17 within which the premises is to be vacated and advise the tenants that they may be eligible for
18 assistance pursuant to Chapter 72 of the San Francisco Administrative Code. The order shall
19 further advise that the premise vacated hereunder shall not be reoccupied without written
20 permission of the Director. Such permission shall be granted when the nuisance is abated.

21 (d) Notice to Pay Relocation Benefits. Whenever the Director determines that a
22 nuisance, as defined by Section 581(b)(10) of this Article, exists in a building or structure or
23 on a property, and issues a Notice of Violation, pursuant to subsection (b) of this section, and
24 an Order to Vacate, pursuant to subsection (c) of this Section, the Director shall issue to the
25 Responsible Party a Notice to Pay Relocation Benefits to the affected tenant(s) pursuant to

1 Chapter 72 of the San Francisco Administrative Code. The Director shall cause a Notice to
2 Pay Relocation Benefits to be served either on the Responsible Party or sent by first class
3 mailing to the Responsible Parties. The Notice to Pay Relocation Benefits shall be served on
4 the Owner by mail at the address that appears on the last assessment rolls of the City and
5 County of San Francisco. If the Notice to Pay Relocation Benefits is served on the Manager
6 by mail, it shall be mailed to the Manager's principal place of business or to the address of the
7 building, structure or property. Thereafter, the Director may cause a copy thereof to be
8 posted in a conspicuous place on the building, structure or property. The failure of
9 Responsible Parties to receive such notice when sent in the manner set forth in this
10 Subsection shall not affect in any manner the validity of any proceeding against that party
11 under this Article.

12 (e) Contents of Notices.

13 (1) The Notice of Violation shall state with reasonable specificity a description of
14 the nuisance such that the Responsible Parties can reasonably understand the nature of the
15 nuisance to be abated. The Notice of Violation shall direct the Responsible Parties to abolish,
16 abate, and remove the nuisance within a reasonable period of time set by the Director given
17 the nature and severity of the nuisance and any other circumstances of which the Director is
18 aware. The Director shall specify in the Notice of Violation the time period within which the
19 Responsible Party must abate the nuisance. Such time period shall not exceed 30 days,
20 unless extended by the Director if reasonably necessary to abate the nuisance.

21 (2) The Notice to Pay Relocation Benefits shall state the Director has
22 determined that the affected tenant(s) are eligible for relocation benefits as described in San
23 Francisco Administrative Code Chapter 72 such that the Responsible Parties can reasonably
24 understand the nature of their obligations under Chapter 72. The Notice to Pay Relocation
25 Benefits shall direct the Responsible Parties to commence making the required relocation

1 payments to the affected tenant(s) at least 12 hours prior to the date that the affected
2 tenant(s) must vacate the unit.

3 (3) The notices shall further advise the Responsible Parties that if they fail to
4 comply with the notice, the Director may: (A) hold a Director's Hearing to be held to consider
5 whether it would be appropriate to issue a Director's Order to abate the nuisance and other
6 appropriate orders as provided for in this Article or (B) cause the abatement and removal of
7 the nuisance and the Owner shall be indebted to the City and County of San Francisco for the
8 costs, charges, and fees incurred by the City and County of San Francisco by reason of the
9 abatement and removal of such nuisance or (C) offer relocation services to the affected
10 tenant(s) and the Owner shall be indebted to the City and County of San Francisco for the
11 costs, charges, and fees incurred by the City and County of San Francisco by reason of the
12 provision of the relocation services.

13 (4) The notices shall inform the Responsible Party that they may be liable for
14 other charges, costs, including administrative costs, expenses incurred by the Department,
15 fines, attorneys' fees, and penalties as provided for in this Article.

16 (5) The notices shall state the name, business address and telephone number
17 of the Department staff who may be contacted regarding the building, structure or property in
18 question.

19 (6) At the discretion of the Director and to ensure lawful handling and disposal
20 of any items constituting a nuisance in whole or in part, the notice may contain a requirement
21 that the Responsible Party abating the nuisance or making the relocation payments submit
22 reports of testing and inspections by an appropriate licensed professional and provide to the
23 Director proof of lawful handling and disposal of such items or the payment of such
24 relocations benefits, and the form of such proof acceptable to the Director.
25

1 (f) Action by the Director. If the nuisance is not abated and removed within the time
2 period set forth in the notice, or the relocation benefits are not made within the time period set
3 forth in the notice, the Director shall either: (1) hold a Director's Hearing in accordance with
4 this Section or (2) abate and remove the nuisance as soon as practicable or (3) offer
5 relocation services to the affected tenant(s). The Owner shall be assessed reinspection fees
6 as provided in Section 609.1 of this Code to cover the Department's costs incurred to verify
7 the abatement of the nuisance. Said violations shall not be deemed legally abated until the
8 property owner makes full payment of the assessment of reinspection fees and late payment
9 penalties to the Director.

10 (g) Notice of Hearing.

11 (1) If the Responsible Parties failed to comply with the Notice of Violation or the
12 Notice to Pay Relocation Benefits, the Director may hold a hearing by serving a copy of the
13 Notice of Violation or the Notice to Pay Relocation Benefits, together with a notice of the time
14 and place set for the hearing thereof, by personal service or by certified mail upon the
15 Responsible Parties. The Director shall post a copy of the Notice of Violation or the Notice to
16 Pay Relocation Benefits, together with the Notice of Hearing in conspicuous places
17 throughout the building, structure or property. The time fixed for the hearing shall be no more
18 ~~not be less~~ than 30 days after the deadline for abatement of the nuisance set in the Notice of
19 Violation. ~~service and posting of the copy of the Notice of Hearing; except in~~ In those circumstances
20 where the Director has issued a written determination that the nuisance constitutes a severe
21 and immediate hazard to life, health or safety, ~~in which case~~ the time fixed for the hearing shall
22 not be less than 12 hours after personal service and posting the Notice of Hearing. The
23 Notice of Hearing shall inform all persons interested to appear at the hearing to show cause, if
24 any, why the building, structure, or property should not be declared a nuisance or in the case
25 where the Department has abated and removed the nuisance, why a lien should not be

1 placed against the property for the costs incurred by the Department. The Notice of Hearing
2 shall also state whether the Department will seek recovery of attorneys' fees for the hearing.
3 In the case of unsanitary buildings, said notice shall also state that the hearing may result in
4 the revocation of the certificate of sanitation, if any, and the mandatory vacation of occupants
5 from the building.

6 (2) The Notice of Hearing shall be served by certified mail on the Owner at the
7 address as it appears on the last assessment rolls of the City and County of San Francisco. If
8 the Notice is served by certified mail on the Manager, the Director shall mail the Notice of
9 Hearing to the Manager's principal place of business, if any, or to the address of the building,
10 structure or property in question. If the Notice of Hearing is served by certified mail on any
11 Person who created the condition that constitutes a nuisance, the Director shall mail the
12 Notice of Hearing to the last known address of such Person at which it receives mail, if
13 ascertainable. The person serving the Notice of Hearing shall complete a declaration under penalty
14 of perjury, certifying the date and manner in which such Notice of Hearing was given, and the Director
15 shall retain the certified mail receipt card for the Notice of Hearing. The failure of the Responsible
16 Parties or Owner to receive such notice when sent in the manner set forth in this Subsection
17 shall not affect in any manner the validity of any proceeding under this Article.

18 (h) Director's Hearing. A public hearing shall be held at the time and place designated
19 in the Notice of Hearing. Subject to the procedures prescribed by the Director for the orderly
20 conduct of the hearing, all persons having an interest in the building, structure or property in
21 question or having knowledge of facts material to the Notice of Violation or the Notice to Pay
22 Relocation Benefits may present evidence for consideration by the Director. Any hearing
23 conducted pursuant to this Section shall be electronically recorded. The Director may elect to
24 seek recovery of attorneys' fees by stating this intent in the Notice of Hearing. In a case
25

1 where the Director makes this election, the prevailing party shall be entitled to recover
2 reasonable attorneys' fees.

3 (i) Director's Order.

4 (1) Within 30 days after the conclusion of the hearing, the Director shall issue a
5 written order setting forth finding of facts and a determination based upon the facts found in
6 the record whether or not a nuisance, as defined by Section 581, exists or had existed in the
7 building or structure or on the property and if the Department abated and removed the
8 nuisance, the costs of abatement and removal of the nuisance by the Department, or a written
9 order setting forth finding of facts and determination based upon the facts found in the record
10 whether or not the relocation benefits have been paid and if the Department arranged for the
11 relocation of the affected tenant(s), the costs of that relocation to the Department. The order
12 shall be served on the Responsible Parties, including but not limited to the Owner, in the
13 same manner as set forth in Subsection (b) of this Section and shall be served on all other
14 parties who provided testimony at the hearing by first class mail if such parties request at or
15 before the hearing that the order be sent to them.

16 (2) Upon a finding that a nuisance exists in the building or structure or on the
17 property, or a finding that appropriate relocation benefits have not been paid, the Director
18 shall require in the order the abatement of the nuisance or the payment of the benefits within
19 a specified time period not to exceed 30 days, unless extended by the Director if reasonably
20 necessary to abate the nuisance. The time period shall be determined based on the nature
21 and severity of the nuisance and any other circumstances of which the Director is aware. The
22 order shall state either that, failure to abate and remove the nuisance will result in the
23 abatement of the nuisance by the Department and that the Owner shall become indebted to
24 the City and County of San Francisco for the costs, charges, and fees incurred by reason of
25 the abatement and removal of such nuisance upon demand, or that failure to make the

1 relocation benefit payments will result in the offering of relocation services to the affected
2 tenant(s) by the Department and that the Owner shall become indebted to the City and
3 County of San Francisco for the costs, charges, and fees incurred by reason of the making
4 such relocation services available upon demand. The order shall inform the Responsible
5 Parties that it shall be indebted to the City and County of San Francisco for all administrative
6 costs, including attorneys' fees if sought by the Director in the Notice of Hearing, incurred by
7 the Department in the prosecution of the abatement action or the prosecution of the relocation
8 benefit payment action and that such costs are due upon demand. The order shall further
9 state that failure to pay such costs, charges, and fees may result in a lien against the property.
10 The order shall require the Responsible Parties to abate and remove the nuisance in
11 compliance with all applicable laws and regulations or shall require the Responsible Parties to
12 make the relocation benefit payments in compliance with all applicable laws.

13 (3) In the case where Director determines that a nuisance had existed and that
14 the Department had abated and removed the nuisance, or where the Director determines that
15 the relocation benefits were owed to the affected tenant(s) and the Director provided
16 relocation services to the affected tenant(s), the order shall itemize the costs of abatement
17 and removal or provision of relocation services and all administrative costs incurred by the
18 Department. The order shall notify the Owner that a lien will be assessed against the property
19 for any outstanding costs if the Owner fails to reimburse the Department for the costs incurred
20 by the Department as a result of the abatement and removal of the nuisance or the provision
21 of relocation services within ten (10) days of the service of the order and that the lien shall
22 also include additional charges for administrative expenses of \$1,000 or 10 percent of the
23 costs of abatement and removal, whichever is higher, and interest at a rate of 1½ percent per
24 month, or fraction thereof, compounded monthly from the date of recordation of the lien on all
25 fees and charges due as aforesaid.

1 (4) The order shall advise the Responsible Parties that the order issued is final
2 and of their right to petition the Superior Court of San Francisco for appropriate relief pursuant
3 to Section 1094.6 of the California Code of Civil Procedures. The order shall notify the Owner
4 that the filing of a petition with the Superior Court shall not automatically stay the effectiveness
5 of the order or extend the time period in which the Responsible Parties have to abate the
6 nuisance.

7 (5) The order shall provide for the recovery of reasonable attorneys' fees for the
8 prevailing party for those proceedings in which the Director has sought to recover attorneys'
9 fees.

10 (6) In case of an unsanitary building, the Director shall revoke the certification of
11 sanitation if the building is a hotel and may order the vacation of any unsanitary building for all
12 purposes, and shall cause a copy of said order to be posted in conspicuous places throughout
13 the aforesaid structure, building or part thereof determined by the Director to be a nuisance,
14 and a copy thereof is to be personally served upon the Owner thereof or his agent, or the
15 lessee or the occupant thereof. The order shall specify the time within which said structure,
16 building or part thereof determined by the Director to be a nuisance shall be vacated. The
17 order shall further advise that structure, building or part thereof vacated hereunder shall not
18 be reoccupied without the written permission of the Director. Such permission shall be
19 granted when the nuisance cited is abated within the time set forth in the order.

20 (j) Regulations. The Director is hereby empowered to promulgate administrative
21 regulations, after a noticed public hearing, to implement the provisions of this Article and
22 applicable provisions of State law. Such rules and regulations shall take effect 30 days after
23 the public hearing. Violation of any such rule or regulation and any existing rules or
24 regulations promulgated pursuant to this Article constitute a nuisance and may be grounds for
25 administrative, civil, or criminal action against the Responsible Party. To the extent feasible, the

1 Director shall use the Citywide forms for Notice of Violation and Notice of Hearing developed by the
2 City Administrator.

3
4 **SEC. 600. PENALTIES.**

5 (a) Criminal Penalty. In addition to any other penalties provided in this Article, any
6 person, or their agents, violating any of the provisions of this Article, or failing to comply with
7 any direction or order of the Director given pursuant to the provisions of this Article, shall be
8 guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less
9 than \$100 and not more than \$1000, or by imprisonment in the County Jail for a period of not
10 less than 10 days nor more than three months, or by both such fine and imprisonment.

11 (b) Civil Penalty.

12 (1) City Attorney Referral. The Director may refer a case to the City Attorney's
13 Office for civil enforcement at any time. ~~only after a Responsible Party has failed to comply with (i)~~
14 ~~a Director's Order under Section 596, or (ii) an administrative citation that is final for failure to~~
15 ~~exhaust administrative remedies under Administrative Code Section 100.12 or following appeal to a~~
16 ~~Hearing Office or to Superior Court. This limitation shall not apply to conditions that, in the opinion~~
17 ~~of the Director, constitute an immediate threat to public health and safety.~~

18 (2) Presumption of Noncompliance with Order. In addition to any other
19 penalties provided in this Article, any person or entity served with a notice or order by the
20 Director setting forth the nature of the violation of this Article, demanding correction of such
21 violation, and specifying the time within which such violation must be corrected, shall be
22 presumed, in subsequent civil proceedings, to have failed to comply with that notice or order
23 at and after the time given in that notice or order for correction of such violation, after the time
24 period specified in the notice or order has expired without correction of that violation.

1 (3) Penalty Amounts. Any person or entity violating this Article shall be liable
2 for a civil penalty of up to \$1,000 per violation for each day such violation is committed or
3 permitted to continue, which penalty shall be assessed and recovered in a civil action brought
4 in the name of the people of the City and County of San Francisco by the City Attorney in any
5 court of competent jurisdiction. If a Responsible Party corrects a violation within the period
6 specified in the Notice of Violation under Section 596(e)(1), the Court shall not award civil
7 penalties for that violation under this Section provided that the Director has not cited the
8 Responsible Party for the same type of violation at the same property more than twice in a 12-
9 month period.

10 (4) Setting Civil Penalty. In assessing the amount of the civil penalty, the Court
11 shall consider any one or more of the relevant circumstances presented by any of the parties
12 to the case, including but not limited to the following: the nature and seriousness of the
13 misconduct, the number of violations, the persistence of the misconduct, the length of time
14 over which the misconduct occurred, the willfulness of the defendant's misconduct, and the
15 defendant's assets, liabilities, and net worth. Any penalty assessed and recovered in an
16 action brought pursuant to this paragraph shall be paid to the City and credited to the Public
17 Health Environmental Health Code Compliance Fund for use in enforcement and prevention
18 of violations of this Article. In addition, such violations will not be deemed legally abated until
19 the property owner makes full payment of the assessment of costs and fees awarded to the
20 City under this Article or any applicable State law.

21 (5) Cost Recovery. In any civil proceeding filed by the City Attorney to collect
22 civil penalties, the Court may award the Department the costs and fees, including but not
23 limited to attorneys' fees, authorized under this Article.

24 (c) Administrative Penalty.
25

1 (1) Penalty Amounts. As an alternative to any other fines and penalties
2 applicable to a violation of Section 581(b), any person who violates one or more of those
3 subparagraphs shall be subject to an administrative penalty not to exceed \$1,000 for each
4 violation, for each day such violation occurs. The administrative penalty shall be assessed,
5 enforced and collected under Section 596 of this Article. If a Responsible Party corrects a
6 violation within the period specified in the Notice of Violation under Section 596(e)(1), the
7 Hearing Officer shall not award administrative penalties for that violation under this Section
8 provided that the Director has not cited the Responsible Party for the same type of violation at
9 the same property more than twice in a 12-month period.

10 (2) Setting Administrative Penalty. In setting the amount of the administrative
11 penalty, the hearing officer shall consider any one or more of the relevant circumstances
12 presented by any of the parties to the case, including but not limited to the following: the
13 nature and seriousness of the misconduct, the number of violations, the persistence of the
14 misconduct, the length of time over which the misconduct occurred, the willfulness of the
15 defendant's misconduct, and the defendant's assets, liabilities, and net worth. Any penalty
16 assessed and recovered in an action brought pursuant to this paragraph shall be paid to the
17 City and credited to the Public Health Environmental Health Code Compliance Fund for use in
18 enforcement and prevention of violations of this Article. In addition, such violations will not be
19 deemed legally abated until the property owner makes full payment of the assessment of
20 costs and fees awarded to the City under this Article or any applicable State law.

21 (3) Cost Recovery. In any civil proceeding filed by the City Attorney to collect
22 administrative penalties, the Court may award the Department the costs and fees, including
23 but not limited to attorneys' fees, authorized under this Article. Any administrative penalty
24 assessed and recovered pursuant to this paragraph shall be paid to the City Treasurer and
25

1 credited to the Public Health Environmental Health Code Compliance Fund for use in
2 enforcement and prevention of violations of this Article.

3 (d) Remedies under this Article 11 are non-exclusive, and the City may institute civil
4 proceedings for injunctive and monetary relief, including civil penalties, against any person for
5 violations of the Health Code under any circumstances, without regard to whether a complaint has
6 been filed or the Director has issued a Notice of Violation or an order to abate a nuisance under
7 Section 596(i).

8
9 Section 10. The Planning Code is hereby amended by revising Sections 176 and
10 176.1, to read as follows:

11 **SEC. 176. ENFORCEMENT AGAINST VIOLATIONS.**

12 (a) Violations Unlawful. Any use, structure, lot, feature or condition in violation of this
13 Code is hereby found and declared to be unlawful and a public nuisance. Should any permit
14 or license have been issued that was not then in conformity with the provisions of this Code,
15 such permit or license shall be null and void.

16 (b) Methods of Enforcement. The Zoning Administrator shall have authority to enforce
17 this Code against violations thereof by any of the following actions:

18 (1) Serving notice requiring the cessation, removal or correction of any violation
19 of this Code upon the owner, agent or tenant of the property that is the subject of the violation,
20 or upon the architect, builder, contractor or other person who commits or assists in such
21 violation;

22 (2) Calling upon the City Attorney to maintain an action for injunction to restrain
23 or abatement to cause the correction or removal of any such violation, and for assessment
24 and recovery of a civil penalty for such violation as well as any attorneys' fees or costs,
25 including but not limited to expert witness fees, incurred in maintaining such an action;

1 (3) Calling upon the District Attorney to institute criminal proceedings in
2 enforcement of this Code against any such violation; and

3 (4) Calling upon the Chief of Police and authorized agents to assist in the
4 enforcement of this Code.

5 (c) Penalties.

6 (1) Administrative Penalties. In the notice requiring the cessation, removal or
7 correction of any violation of this Code, the Zoning Administrator may assess upon the
8 responsible party an administrative penalty for each violation in an amount up to \$250.00 for
9 each day the violation continues unabated. The "responsible party" is the owner(s) of the real
10 property on which the code violation is located, as listed in the records of the San Francisco
11 Assessor, and the current leaseholder if different from the current owner(s) of the real
12 property.

13 The responsible party may request a Zoning Administrator's hearing in order to
14 show cause why the notice requiring the cessation, removal or correction of the violation and
15 any assessment of administrative penalties is in error and should be rescinded. The Zoning
16 Administrator may designate a member of Department staff to act as the hearing officer in his
17 or her place. The Department shall send a notice of the date, hour, and place of the hearing
18 to the responsible party at the address specified in the request for hearing and to any member
19 of the public who has expressed an interest in the matter.

20 The responsible party may also request that the Zoning Administrator terminate
21 abatement proceedings under Section 176 and refer the matter to the Director for
22 enforcement action under the process set forth in Section 176.1 of this Code. If the Zoning
23 Administrator determines that the enforcement case will proceed under Section 176, that
24 determination shall be made as part of the final written decision and is not appealable
25 separately from the decision on the merits.

1 The responsible party may waive the right to a Zoning Administrator's hearing
2 and proceed directly to an appeal to the Board of Appeals under Section 308.2 of this Code.
3 Administrative penalties shall not accrue during the period of time that the matter is pending
4 before the Zoning Administrator on a request for hearing or before the Board of Appeals on
5 appeal. If the responsible party elects to request a Zoning Administrator's hearing, the
6 request for hearing must be in writing and submitted to the Zoning Administrator prior to the
7 expiration date of the Notice of Violation and Penalty. If a request for a Zoning Administrator's
8 hearing is timely filed, any appeal to the Board of Appeals shall be from the decision of the
9 Zoning Administrator rendered after the hearing.

10 The Zoning Administrator or the Zoning Administrator's designee, after a full and
11 fair consideration of the evidence and testimony received at the hearing, shall render within
12 thirty days following the conclusion of the hearing a written decision that either rescinds the
13 notice of violation and dismisses the proceedings, upholds the original decision, or modifies
14 the original decision. In rendering a decision, the Zoning Administrator or the Zoning
15 Administrator's designee shall consider:

- 16 (A) whether the responsible party was properly identified;
- 17 (B) whether the accrual dates for the administrative penalties are
18 accurate;
- 19 (C) the amount of documented staff time spent in order to secure
20 abatement of the violation;
- 21 (D) the nature of the violation;
- 22 (E) the duration of the violation;
- 23 (F) efforts made by the responsible party to correct the violation;
- 24 (G) the impact of the violation upon the community;
- 25

1 (H) any instance in which the responsible party has been in violation of
2 the same or similar laws at the same or other locations in the City and County of San
3 Francisco;

4 (I) the responsible party's good faith efforts to comply;

5 (J) whether the violation is easy to correct; and

6 (K) such other factors as the Zoning Administrator or his or her designee
7 may consider relevant.

8 In hearing any appeal of the Zoning Administrator's determination, the Board of
9 Appeals shall consider the above factors. If the Board upholds the Zoning Administrator's
10 decision in whole or in part but reduces the amount of the penalty, it may not reduce the
11 amount of the penalty below \$100.00 for each day that the violation exists, excluding the
12 period of time that the matter has been pending either before the Zoning Administrator on a
13 request for hearing or before the Board of Appeals on appeal.

14 In addition to any administrative penalties imposed under this subsection (c)(1), the
15 Zoning Administrator may recover any attorneys fees and costs, including but not limited to expert
16 witness fees, incurred by the City in pursuing administrative remedies. The provision of
17 administrative penalties is not intended to be punitive in nature but is intended to secure
18 compliance with the Planning Code and to compensate the City for its costs of enforcement.

19 (2) Civil Penalties. Any individual, firm, partnership, corporation, company,
20 association, society, group or other person or legal entity that violates any provision of this
21 Code shall be liable for the City's costs of enforcement and a civil penalty, of not less than
22 \$200.00 for each day such violation is committed or permitted to continue, which penalty shall
23 be assessed and recovered in a civil action brought in the name of the people of the City and
24 County of San Francisco by the City Attorney in any court of competent jurisdiction. The City
25 Attorney may seek recovery of any attorneys' fees and costs, including but not limited to

1 expert witness fees, incurred by the City in bringing such civil action. For civil actions to
2 enforce Municipal Code provisions related to general advertising signs, the penalties,
3 attorneys' fees and costs set forth in this Section 176 shall be in addition to those authorized
4 by Section 610 of this Code.

5 (3) Criminal Penalties. Any individual, firm, partnership, corporation, company,
6 association, society, group or other person or legal entity that violates any provision of this
7 Code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in
8 an amount not less than \$200.00 or be imprisoned for a period not exceeding six months or
9 be both so fined and imprisoned. Each day such violation is committed or permitted to
10 continue shall constitute a separate offense and shall be punishable as such hereunder.

11 (4) Planning Code Enforcement Fund. Any fees and penalties collected
12 pursuant to this Section 176 shall be deposited in the Planning Code Enforcement Fund
13 established by Administrative Code Section 10.100-166. The Planning Department, through
14 the Planning Code Enforcement Fund, shall reimburse City departments and agencies,
15 including the City Attorney's Office, for all costs and fees incurred in the enforcement of this
16 Section 176.

17 (d) Additional Methods of Enforcement and Penalties for Violation of Sign Regulations.
18 Violation of the general advertising sign regulations set forth in Article 6 are subject to the
19 administrative penalties and enforcement procedures set forth in Section 610 of this Code, in
20 addition to those set forth in this Section 176.

21 (e) Use of Penalties Collected. All penalties collected under this Section 176 shall be
22 deposited in the Planning Code Enforcement Fund established in Administrative Code Section
23 10.100.166 and shall be used for the purposes specified in that section.

24 (f) Remedies under this Section 176 are non-exclusive, and, notwithstanding subsection (b)(2),
25 the City Attorney may at any time institute civil proceedings for injunctive and monetary relief.

1 including civil penalties, against any person for violations of the Planning Code, without regard to
2 whether the Zoning Administrator has issued a notice of violation, instituted abatement proceedings,
3 scheduled or held a hearing on a notice of violation, or issued a final decision. For proceedings
4 instituted under this subsection (f), the City Attorney shall notify the Zoning Administrator or the
5 Planning Director, as appropriate, and collaborate, where mutually desired, on the prosecution of the
6 action. The City Attorney may seek recovery of any attorneys fees and costs, including but not limited
7 to expert witness fees, incurred by the City in bringing a proceedings under this subsection (f).
8

9 **SEC. 176.1. ADMINISTRATIVE ENFORCEMENT PROCEDURES.**

10 (a) Purpose and Intent.

11 (1) The Board of Supervisors finds that enforcement of the Planning Code is
12 vital to ensuring the quality of life in San Francisco's neighborhoods and in the City as a
13 whole. A comprehensive code enforcement program using a combination of judicial and
14 administrative remedies is likely to be the most successful approach to secure compliance
15 with Planning Code requirements. Therefore, it is in the best interests of the City and its
16 citizens to provide an alternative method of administrative enforcement that is designed to
17 induce compliance with the Planning Code through action by the Director to issue and record
18 orders of abatement and assess administrative penalties.

19 (2) The alternative methods of administrative enforcement established by this
20 Section do not replace but rather are intended to supplement the enforcement remedies
21 established in Section 176 and other penalties or methods of enforcement, both civil and
22 criminal, that are authorized by law. The provision for administrative penalties is not intended
23 to be punitive in nature but is intended to secure compliance with the Planning Code and to
24 compensate the City for its costs of enforcement.
25

1 (3) By establishing multiple enforcement mechanisms, it is intended that the
2 Department will elect to use the mechanism most likely to achieve an expeditious and
3 effective resolution of the violation in a particular case with the best use of the City's
4 resources. In exercising this discretion, the Department should usually elect to use the
5 Director's authority under this Section 176.1 in those cases where the legal or factual issues
6 are not complex and where an interpretation of the Planning Code is not at issue, and reserve
7 the enforcement mechanisms in Section 176 for those cases that are more complex or where
8 interpretations of the Planning Code are at issue.

9 (b) Authority of the Director. The Director may enforce against violations of the
10 Planning Code through the alternative administrative remedies of this Section 176.1. The
11 Director may designate a member of Department staff to act under his or her authority with
12 respect to any action the Director is authorized to take in this Section 176.1.

13 If the Department elects to use the administrative remedies of this Section, the
14 Department must use the abatement process set forth in this Section. However, as provided
15 in Section (d)(3) below, the Department is not precluded from pursuing the alternative remedies
16 of Section 176 if abatement of the violation has not been achieved under this Section 176.1.
17 In addition, the Department's election of this process shall not affect the City Attorney's
18 Charter authority to pursue a civil action. If the City Attorney filed a civil action against the
19 property prior to the Director's issuance of the notice of violation under this Section 176.1, at
20 the City Attorney's election the process under this Section 176.1 shall be terminated and
21 abatement of the alleged violations shall be pursued by the City Attorney in the ongoing civil
22 action.

23 * * *

24 (j) Remedies under this Section 176.1 are non-exclusive, and the City Attorney may at any time
25 institute civil proceedings for injunctive and monetary relief, including civil penalties, against any

1 person for violations of the Planning Code, without regard to whether the Planning Director has issued
2 a notice of violation, scheduled or held a hearing on a notice of violation, issued an order of abatement
3 and/or an assessment of administrative penalties, or whether an appeal has been filed or decided.

4
5 Section 11. The Administrative Code is hereby amended by adding Chapter 2A,
6 Article XXIV, Sections 2A.400 and 2A.401, to read as follows:

7 **ARTICLE XXIV: CODE ENFORCEMENT ACTIVITIES**

8 **SEC. 2A.400. REPORTING OF CODE ENFORCEMENT ACTIVITIES.**

9 (a) This Section 2A.400 shall apply to the Department of Building Inspection, the Health
10 Department, the Fire Department, and the Planning Department.

11 (b) All departments made subject to this Section by subsection (a) shall submit a quarterly
12 report to the Mayor and the Board of Supervisors regarding the department's code enforcement
13 activities, in a format to be developed by City Administrator.

14 (c) For every Notice of Violation ("NOV") issued by the department pursuant to the
15 procedures set forth in Building Code Section 102A, or similar notice, the report shall disclose:

16 (1) Whether the matter has been resolved, the violations abated, and the penalties.
17 along with any fees and costs, paid;

18 (2) Whether the matter has been or will be referred to the City Attorney for review and
19 possible litigation; and, if appropriate,

20 (3) Other detailed explanation of how the matter is being handled.

21
22 **SEC. 2A.401. STANDARD CODE ENFORCEMENT FORMS.**

23 No later than July 1, 2016, the City Administrator, in consultation with the Director of the
24 Department of Building Inspection, the Health Director, and the Fire Chief, and the heads of other
25 interested City departments and agencies, shall prepare standard forms for the Notice of Violation.

1 Hearing Notice, and Administrative Order referenced in Building Code Section 102A. All City
2 departments and agencies following the procedures of Building Code Section 102A, and the Fire
3 Department and the Health Department, thereafter shall base their Notice of Violation, Hearing
4 Notice, and Administrative Order on the standard forms prepared by the City Administrator.

5
6 Section 12. Effective and Operative Dates. This ordinance shall become effective 30
7 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor
8 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,
9 or the Board of Supervisors overrides the Mayor's veto of the ordinance.

10 This ordinance shall become operative on June 1, 2016.

11
12 Section 13. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
13 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
14 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
15 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
16 additions, and Board amendment deletions in accordance with the "Note" that appears under
17 the official title of the ordinance.

18
19 Section 14. Undertaking for the General Welfare. In enacting and implementing this
20 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
21 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
22 is liable in money damages to any person who claims that such breach proximately caused
23 injury.

24
25 / / /

1 Section 15. Severability. If any section, subsection, sentence, clause, phrase, or word
2 of this ordinance, or any application thereof to any person or circumstance, is held to be
3 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
4 shall not affect the validity of the remaining portions or applications of the ordinance. The
5 Board of Supervisors hereby declares that it would have passed this ordinance and each and
6 every section, subsection, sentence, clause, phrase, and word not declared invalid or
7 unconstitutional without regard to whether any other portion of this ordinance or application
8 thereof would be subsequently declared invalid or unconstitutional.

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12
13 By: 
14 THOMAS J. OWEN
15 Deputy City Attorney

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