

File No. 081252

Committee Item No. 5

Board Item No. \_\_\_\_\_

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Rules

Date 4/7/11

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form (for hearings)             |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
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#### OTHER

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Completed by: Linda Wong

Date 4/4/11

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

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

1 [Coordinated Code Enforcement Process.]  
2

3 **Ordinance amending the San Francisco Administrative Code by adding Chapter 102 to**  
4 **require coordination in the code enforcement efforts of City departments and to**  
5 **establish a fund to support the City's code enforcement activities; adding Section**  
6 **10.100-167 to create a Category 4 fund to receive and expend funds related to the City's**  
7 **code enforcement activities; and amending Section 1.56 to require annual reports to**  
8 **contain details on the department's code enforcement activities; amending the San**  
9 **Francisco Business and Tax Regulations Code by adding Section 16(a) to provide a**  
10 **mechanism for enforcement of decisions of the Board of Appeals; amending Section**  
11 **102A of the San Francisco Building Code and adding Section 176.2 to the San**  
12 **Francisco Planning Code to provide for enforcement of decisions of the Board of**  
13 **Appeals without additional abatement proceedings by the department; adopting**  
14 **environmental and other findings.**

15 Note: Additions are *single-underline italics Times New Roman*;  
16 deletions are *strikethrough italics Times New Roman*.  
17 Board amendment additions are double underlined.  
18 Board amendment deletions are ~~strikethrough normal~~.

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

20 Section 1. CEQA. The Planning Department has determined that the actions  
21 contemplated in this Ordinance are in compliance with the California Environmental Quality  
22 Act (California Public Relations Code sections 21000 et seq.). Said determination is on file  
23 with the Clerk of the Board of Supervisors in File No. 081252, and is  
24 incorporated herein.  
25

1 Section 2. Findings. (a) Unlike some jurisdictions, enforcement of the San Francisco  
2 Municipal Code is not centralized but rather is divided among the multiple City departments  
3 with jurisdiction over a particular code and subject matter. Sometimes these departments  
4 have overlapping jurisdiction.

5 (b) San Francisco also lacks a centralized case intake and tracking system and a  
6 uniform procedure for abatement of code violations.

7 (c) San Francisco's current system of code enforcement makes it difficult to track  
8 and sometimes hampers the effectiveness of the City's code enforcement activities. It also  
9 makes it difficult for City residents to report and correct code violations in their community.

10 (d) Final decisions by the Board of Appeals are binding upon the parties before the  
11 Board on the issues decided by the Board. The City needs a mechanism for enforcing the  
12 Board's decisions on those issues without initiating or re-initiating abatement actions at the  
13 department.

14 Section 3. The San Francisco Administrative Code is hereby amended by adding  
15 Chapter 102, to read as follows:

16 SEC. 102.1. TITLE. This Chapter shall be known as the San Francisco Coordinated Code  
17 Enforcement Program (CCEP).

18 SEC. 102.2. INTERDEPARTMENTAL STAFF COMMITTEE ON CODE ENFORCEMENT.

19 (a) Establishment of Committee. There is hereby established a committee to be known as the  
20 Interdepartmental Staff Committee on Code Enforcement (ISCODE) consisting of the department heads  
21 or their designated representatives from the following departments and agencies: Building Inspection,  
22 Planning, Police, Fire, Public Health and Public Works. The City Attorney or his or her designee shall  
23 serve as Chair of ISCODE. Other departments and agencies may join ISCODE or may participate in its  
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1 deliberations on a particular matter, either upon the request of the department or agency, at the  
2 request of ISCODE, or at the request of the City Attorney.

3 (b) Purpose and Authority of the Committee. The purpose of ISCODE is to coordinate the  
4 enforcement activities of the participating departments and agencies with the goals of streamlining the  
5 process and making the City's enforcement efforts more effective. ISCODE shall have the authority to  
6 take all acts reasonably necessary for it to carry out any duties imposed by ordinance upon it or upon  
7 its participating departments and agencies. In particular, ISCODE may conduct inspections of  
8 properties, initiate abatement actions, initiate civil complaints for nuisance abatement, and seek other  
9 remedies authorized to be taken by its participating departments under City ordinance or State laws. As  
10 Chair, the City Attorney shall preside over meetings of ISCODE, including but not limited to setting its  
11 meeting agenda, provide legal counsel and advice regarding matters pending before ISCODE, and  
12 determine whether to initiate abatement lawsuits.

13 (c) Memorandum of Understanding. With the input of the departments and agencies  
14 participating in ISCODE, the City Attorney shall develop a Memorandum of Understanding that the  
15 head of each participating department and agency shall execute. This Memorandum of Understanding  
16 shall describe how the participating departments and agencies will coordinate their enforcement  
17 activities and share relevant data.

18 SEC. 102.3. ABATEMENT PROCEDURE. In abating a specific violation or violations of the  
19 San Francisco Municipal Code, the department with jurisdiction may use either its standard abatement  
20 process or the process set forth in Chapter 100 of this Code, at the discretion of the director or the  
21 head of said department. If there is more than one department with jurisdiction over the violation or  
22 violations, all abatement actions shall be coordinated through ISCODE.

23 SEC. 102.4 ISCODE ACTIONS AT DISCRETION OF THE CITY. In enacting this Chapter, the  
24 City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it  
25

1 imposing on its officers and employees, an obligation for breach of which it is liable in money damages  
2 to any person who claims that such breach proximately caused injury. All inspections or other actions  
3 authorized by ISCODE pursuant to this Chapter shall be at the discretion of the City, and nothing in  
4 this Chapter shall be construed as requiring the City to conduct any such inspection nor shall any  
5 actual inspection made imply a duty to conduct any other inspection. Furthermore, nothing in this  
6 Chapter shall be construed to hold the City responsible for any damage to persons or property by  
7 reason of making an inadequate or negligent inspection or by reason of any failure to make an  
8 inspection or reinspection.

9 SEC. 102.5. REPORT TO THE BOARD AND RECOMMENDATIONS FOR FUTURE  
10 LEGISLATION. Within one year from the effective date of this Chapter and from time to time  
11 thereafter, ISCODE shall submit a written report to the Board of Supervisors that provides the  
12 following information on the activities of ISCODE and such other information as ISCODE determines  
13 to be relevant: (1) number and type of code enforcement actions undertaken, (2) number of violation  
14 cases abated, (3) costs of the enforcement activities, and (4) amount of any administrative or civil  
15 penalties collected by the participating departments. ISCODE shall also recommend to the Board  
16 amendments to the Municipal Code that ISCODE believes will streamline the City's code enforcement  
17 process and make it more effective.

18 Section 4. The San Francisco Administrative Code is hereby amended by adding  
19 Section 10.100-167, to read as follows:

20 SEC. 10.100-167. CITY DEPARTMENT CODE ENFORCEMENT FUND.

21 (a) Establishment of Fund. The City Department Code Enforcement Fund is established as  
22 a Category 4 fund to receive monies from the City's General Fund, administrative penalties collected  
23 pursuant to Chapter 100 of the San Francisco Administrative Code, and administrative and civil  
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1 penalties collected for violations of provisions of the Municipal Code where those funds are not  
2 directed by ordinance to be deposited into other accounts.

3 (b) Use of Fund. Proceeds in the fund are to be expended for the code enforcement  
4 activities of City departments, including the services of the City Attorney.

5 Section 5. The San Francisco Administrative Code is hereby amended by amending  
6 Section 1.56, to read as follows:

7 SEC. 1.56. ANNUAL REPORTS.

8 (a) Every board or commission of the City and County shall prepare an annual  
9 report describing its activities as part of the Annual Statement of Purpose required under  
10 Charter Section 4.102(2). The report shall contain a general summary of the department's  
11 services and programs presented in terms and format accessible to the average citizen, and  
12 any highlights and achievements of the prior year that the department wishes to include. The  
13 report shall also include a detailed report of the department's code enforcement activities, including  
14 but not limited to number of violation notices issued by type of violation, number of violation cases  
15 abated by type of violation, number and type of cases referred to the City Attorney, and amount of  
16 administrative and civil penalties assessed and collected

17 (b) Boards, commissions and department heads required to prepare annual reports  
18 pursuant to this Section or Section 2A.30 shall post the reports on the City's official website,  
19 and transmit the Uniform Resource Locator (URL) for each report to the Documents  
20 Department of the San Francisco Public Library within 10 days of final approval of the report.  
21 The Documents Department shall maintain a directory of the URLs for posted reports.

22 (c) Where no date is otherwise specified by law, each board, commission or  
23 department head required to prepare an annual report pursuant to this Section or Section  
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1 2A.30 shall inform the Clerk of the Board of Supervisors in writing of the date by which the  
2 board, commission or department head shall annually post the report.

3 (d) No board, commission or department head may authorize the expenditure of  
4 City funds for the purpose of procuring the printing of an annual report without prior approval  
5 of the Board of Supervisors. Where a board, commission or department head proposes to  
6 cause an annual report to be printed, the board, commission or department head shall submit  
7 a written request to the Board of Supervisors explaining the need for a printed report and the  
8 projected cost of printing. The Board of Supervisors may approve or deny the request by  
9 resolution. Nothing in this paragraph is intended to prohibit any City official or employee from  
10 printing a copy of an annual report from the City website, or to prohibit a board, commission or  
11 department head from retaining hard copies of an annual report pursuant to a record retention  
12 policy. City Department officials or employees, including City Library employees shall print or  
13 assist in arranging for the prompt printing of a copy of an annual report from the City website  
14 when requested to do so by a member of the public.

15 Section 6. The San Francisco Business and Tax Regulations Code is hereby amended  
16 by adding Section 16(a), to read as follows:

17 SEC. 16(a). ENFORCEMENT OF BOARD ORDERS AND DECISIONS. A final order and  
18 decision of the Board is binding upon all parties to the matter before the Board as to the issues  
19 decided. The City department with jurisdiction over the matter may enforce the Board's order and  
20 decision. In taking any such enforcement action, the department may issue and record an order of  
21 abatement with respect to the issue or issues decided by the Board and/or refer the matter directly to  
22 the City Attorney for prosecution without further process by the department required. Failure of the  
23 department to refer the matter to the City Attorney shall not affect the City Attorney's independent  
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1 authority under the San Francisco Charter to pursue a civil action to enforce the Board's decision and  
2 order, or any law.

3 Section 7. The San Francisco Building Code is hereby amended by amending Section  
4 102A, to read as follows:

5 SECTION 102A – UNSAFE BUILDINGS, STRUCTURES OR PROPERTY

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

13 Whenever the Building Official determines by inspection that property or properties  
14 either improved or unimproved are unstable because of landslide, subsidence or inundation or  
15 that such occurrences are deemed imminent, the Building Official shall give written notice to  
16 the owner or owners that said property or properties are unsafe. The notice shall specify the  
17 conditions creating the unsafe classification.

18 All such unsafe buildings, structures, property, or portions thereof, are hereby declared  
19 to be public nuisances and shall be vacated, repaired, altered or demolished as hereinafter  
20 provided, except that a final order and decision of the Board is binding upon all parties to the matter  
21 before the Board. The Department may enforce the Board's order and decision on the issue or issues  
22 decided by the Board, and may issue and record an order of abatement and/or refer the matter directly  
23 to the City Attorney for prosecution, without further process by the Department required. Failure of the  
24 Department to refer the matter to the City Attorney shall not affect the City Attorney's independent  
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1 authority under the San Francisco Charter to pursue a civil action to enforce the Board's decision and  
2 order, or any law.

3 Section 8. The San Francisco Planning Code is hereby amended by adding Section  
4 176.2, to read as follows:

5 SEC. 176.2. ENFORCEMENT OF DECISIONS OF THE BOARD OF APPEALS. A final order  
6 and decision of the Board of Appeals is binding upon all parties to the matter before the Board. The  
7 Department may enforce the Board's order and decision on the issue or issues decided by the Board,  
8 and may issue and record an order of abatement and/or refer the matter directly to the City Attorney  
9 for prosecution, without being required to comply with the abatement process set forth in Section 176  
10 or 176.1 of this Code. Failure of the Department to refer the matter to the City Attorney shall not affect  
11 the City Attorney's independent authority under the San Francisco Charter to pursue a civil action to  
12 enforce the Board's decision and order, or any law.

13 Section 7. Severability. In the event that a court or agency of competent jurisdiction  
14 holds that federal or state law, rule or regulation invalidates any clause, sentence, paragraph  
15 or section of this ordinance or the application thereof to any person or circumstances, it is the  
16 intent of the Board of Supervisors that the court or agency sever such clause, sentence,  
17 paragraph or section so that the remainder of this ordinance shall remain in effect.

18  
19 APPROVED AS TO FORM:  
20 DENNIS J. HERRERA, City Attorney

21  
22 By: 

23 JUDITH A. BOYAJIAN  
24 Deputy City Attorney  
25

## LEGISLATIVE DIGEST

[Coordinated Code Enforcement Process.]

**Ordinance amending the San Francisco Administrative Code by adding Chapter 102 to require coordination in the code enforcement efforts of City departments and to establish a fund to support the City's code enforcement activities; adding Section 10.100-167 to create a Category 4 fund to receive and expend funds related to the City's code enforcement activities; and amending Section 1.56 to require annual reports to contain details on the department's code enforcement activities; amending the San Francisco Business and Tax Regulations Code by adding Section 16(a) to provide a mechanism for enforcement of decisions of the Board of Appeals; amending Section 102A of the San Francisco Building Code and adding Section 176.2 to the San Francisco Planning Code to provide for enforcement of decisions of the Board of Appeals without additional abatement proceedings by the department; adopting environmental and other findings.**

### Existing Law.

The Board of Supervisors has adopted Chapter 100 of the San Francisco Administrative Code 100, which establishes a uniform procedure for the imposition, enforcement, collection and administrative review of administrative citations and fines. In addition, the Board has adopted department-specific abatement procedures in various other parts of the Municipal Code. Each department enforces the laws within its jurisdiction and there is no codified coordinated approach. There is no separate procedure for enforcement of final orders and decisions of the Board of Appeals.

### Amendments to Current Law

The proposed legislation establishes an Interdepartmental Staff Committee on Code Enforcement (ISCODE), which is composed of the department heads or designated representatives of the following departments: Building Inspection, Planning, Police, Fire, Public Health, and Public Works. Other departments and agencies may join ISCODE or may participate in its deliberations on a particular matter, either upon the request of the department or agency, at the request of ISCODE, or at the request of the City Attorney. The City Attorney presides over meetings of ISCODE, provides legal counsel and advice regarding matters pending before it, and determines whether to initiate abatement lawsuits. ISCODE must submit a written report on its activities to the Board of Supervisors within one year from the effective date of the legislation and from time to time thereafter. ISCODE is also charged with recommending to the Board amendments to the Municipal Code that it believes will streamline the City's code enforcement process and make it more effective. In addition to the reports from ISCODE, all City boards and commissions that are required to submit annual reports must provide details of their code enforcement efforts in those annual reports.

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

September 26, 2008

Planning Commission  
1660 Mission Street, 5<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Commissioners:

On **September 23, 2008**, Supervisor Mirkarimi introduced the following proposed legislation:

**File 081252. Ordinance amending the San Francisco Administrative Code by adding Chapter 102 to require coordination in the code enforcement efforts of City departments and to establish a fund to support the City's code enforcement activities; adding Section 10.100-167 to create a Category 4 fund to receive and expend funds related to the City's code enforcement activities; and amending Section 1.56 to require annual reports to contain details on the department's code enforcement activities; amending the San Francisco Business and Tax Regulations Code by adding Section 16(a) to provide a mechanism for enforcement of decisions of the Board of Appeals; amending Section 102A of the San Francisco Building Code and adding Section 176.2 to the San Francisco Planning Code to provide for enforcement of decisions of the Board of Appeals without additional abatement proceedings by the department; adopting environmental and other findings.**

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation of approval or disapproval. The ordinance is pending before the Rules Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive that reads "Mary L. Red".

By: Mary L. Red, Clerk  
Rule Committee

Attachment

cc: John Rahaim, Director of Planning  
Larry Badiner, Zoning Administrator  
Bill Wycko, Environmental Review Officer  
AnMarie Rodgers, Legislative Affairs  
Tara Sullivan-Lenane, Legislative Affairs  
Leigh Klenker, Major Environmental Analysis  
Viktoriya Wise, Major Environmental Analysis  
Kate Stacy, Deputy City Attorney

*Not a project per  
Section 15378 (b) of the  
CEQA Guidelines.*

*V. Wise 9/30/08*

Viktoriya Wise

**FILE NO.**

The purpose of ISCODE is to coordinate the enforcement activities of the participating departments and agencies with the goals of streamlining the process and making the City's enforcement efforts more effective. A Memorandum of Understanding prepared by the City Attorney will describe how the departments will coordinate their enforcement activities and share relevant data. The legislation provides that in abating a specific violation or violations of the San Francisco Municipal Code, the department with jurisdiction may use either its standard abatement process or the uniform abatement process set forth in Chapter 100 of the San Francisco Administrative Code at the discretion of head of the department. If there is more than one department with jurisdiction, all abatement actions must be coordinated through ISCODE.

The proposed legislation also establishes a City Department Code Enforcement Fund to receive monies from the City's General Fund, administrative penalties collected under Chapter 100 of the Administrative Code, and administrative and civil penalties collected for violations of the Municipal Code where those funds are not otherwise directed by ordinance to be deposited into other accounts. Proceeds in the fund can be used for the code enforcement activities of City departments, including the services of the City Attorney.

Finally, the proposed legislation creates a mechanism for enforcement of final decision of the Board of Appeals by the department with jurisdiction over the matter without requiring the department to initiate or re-initiate its standard abatement procedure.

Background Information

Unlike some jurisdictions, enforcement of the San Francisco Municipal Code is not centralized but rather is divided among the multiple City departments with jurisdiction over a particular code and subject matter. Sometimes these departments have overlapping jurisdiction. San Francisco also lacks a centralized case intake and tracking system and a uniform procedure for abatement of code violations.

San Francisco's current system of code enforcement makes it difficult to track and sometimes hampers the effectiveness of the City's code enforcement activities. It also makes it difficult for City residents to report and correct code violations in their community.

Final decisions by the Board of Appeals are binding upon the parties before the Board on the issues decided by the Board. Currently, in order for a department to enforce the Board's decisions the department must commence or re-commence its standard abatement process. The City needs a more expeditious mechanism for enforcing the Board's decisions without triggering abatement actions at the department level on the same issues that were decided by the Board.