

FILE NO. 090026

ORDINANCE NO.

103-09

1 [Requiring Amended Certificates of Final Completion and Occupancy for Changes of
2 Occupancy of Existing Buildings.]

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4 **Ordinance amending the San Francisco Building Code by amending Section 109A to**
5 **provide that an Amended Certificate of Final Completion and Occupancy shall be**
6 **issued for an existing building where there is an increase in the number of legal**
7 **dwelling units resulting in a change of occupancy, and to require the Amended**
8 **Certificate of Final Completion and Occupancy to include a reference to the date of the**
9 **first certificate of occupancy and any subsequent certificates of occupancy that have**
10 **been issued for the building, excluding the use of an Amended Certificate in RH-1 and**
11 **RH-1(D) zoning districts; amending the Planning Code by adding Section 359 to**
12 **provide that a requirement to pay a development impact fee prior to issuance of a**
13 **certificate of occupancy shall include payment of the fee prior to issuance of an**
14 **amended certificate of occupancy.**

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~~.

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

19 Section 1. The Planning Department has determined that the actions contemplated in
20 this Ordinance are in compliance with the California Environmental Quality Act (California
21 Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of
22 the Board of Supervisors in File No. 090026 and is incorporated herein by
23 reference.

24 Section 2. The San Francisco Building Code is hereby amended by amending Section
25 109A.1, to read as follows:

Supervisor Mirkarimi, Chiu, Mar
BOARD OF SUPERVISORS

1 SECTION 109A – CERTIFICATE OF OCCUPANCY; AMENDED CERTIFICATE OF
2 OCCUPANCY FOR EXISTING BUILDING.

3 109A.1 Use and Occupancy. No building or structure shall be used or occupied, and
4 no change in the existing occupancy classification of a building or structure or portion thereof
5 shall be made, until the building official has issued a certificate of final completion and
6 occupancy or an amended certificate of final completion and occupancy therefor as provided
7 herein, or otherwise has been approved for use by the Department of Building Inspection.

8 Issuance of a certificate of final completion and occupancy or an amended certificate of
9 final completion and occupancy shall not be construed as an approval of a violation of the
10 provisions of this code or of other ordinances of the jurisdiction. Certificates presuming to give
11 authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction
12 shall not be valid. It shall be the duty of the Police Department, when called upon by the
13 Building Official, to enforce this provision.

14 109A.2 Change in Occupancy or Use. Changes in the character or use of a building
15 shall not be made except as specified in Section 3406 of this code.

16 A Certificate of Final Completion and Occupancy shall be required for changes in use
17 or occupancy as set forth in Section 3406, except for Group R-1 and R-2 Occupancies; Group
18 R-1 and R-2 Occupancies shall be subject to the requirements of Sections 109A.7 and
19 109A.8.

20 109A.3 Certificate Issued. The Building Official shall issue Certificates of Final
21 Completion and Occupancy for buildings or structures erected or enlarged; for each change in
22 occupancy classification in any building, structure or portion thereof; and for buildings or
23 structures seismically upgraded in accordance with the provisions of this code. An Amended
24 Certificate of Final Completion and Occupancy shall be issued for an existing building where there is
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1 an increase in the number of legal dwelling units resulting in a change of occupancy. The Amended
2 Certificate of Occupancy shall indicate the date the first certificate of occupancy and any subsequent
3 certificates of occupancy for the building or structure were issued. If there is no original certificate of
4 occupancy, the Amended Certificate of Occupancy shall refer to the date of initial construction on file
5 in the records of the Department. The provisions of this section shall not be available for use in
6 RH-1 or RH-1(D) zoning districts, nor shall it apply to any residential dwelling that is
7 inconsistent with existing law.

8 EXCEPTION: For Group R-1 and R-2 Occupancies, see Sections 109A.7 and 109A.8.

9 109A.4 Temporary Certificate. Temporary Certificates of Occupancy may be issued if
10 the Building Official finds that no substantial hazard will result from occupancy of any building,
11 or portion thereof, before the same is completed and satisfactory evidence is submitted that
12 the work could not have been completed prior to occupancy. The request for such temporary
13 certificate shall be in writing, and no occupancy of the building shall be made until such
14 certificate is issued. Such temporary certificate shall be valid for a period not to exceed 12
15 months, unless an extension of time is approved by the Building Official. See Section 110A,
16 Table 1A-G – Inspections, Surveys and Reports – for applicable fee.

17 109A.5 Posting. No requirements.

18 109A.6 Revocation. The building official may, in writing, suspend or revoke a
19 certificate of occupancy or an amended certificate of occupancy issued under the provisions of
20 this code whenever the certificate is issued in error, or on the basis of incorrect information
21 supplied, or when it is determined that the building or structure or portion thereof is in violation
22 of any ordinance or regulation or any of the provisions of this code.

23 109A.7 Certificate or Amended Certificate of Final Completion and Occupancy, Group
24 R-1 and R-2 Occupancy. Before the Department may issue a Certificate of Final Completion
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1 and Occupancy for a newly-erected building or structure, an Amended Certificate of Final
2 Completion and Occupancy for an existing building pursuant to Section 109A.3, or Apartment
3 House/Hotel License ~~may be issued~~, a written report of compliance with applicable codes,
4 standards and regulations and any conditions of approval to the building, structure or property
5 shall be obtained from those agencies having jurisdiction. An Amended Certificate of Final
6 Completion and Occupancy issued for changes to an existing building shall indicate the date the first
7 certificate of occupancy and any subsequent certificates of occupancy for the building or structure
8 were issued. If there is no original certificate of occupancy, the Amended Certificate of Occupancy
9 shall refer to the date of initial construction on file in the records of the Department.

10 Where any permit for the building, structure or property was appealed to the Board of
11 Appeals and the Board imposed conditions on appeal, the Department may not issue a
12 Certificate of Final Completion and Occupancy, an Amended Certificate of Final Completion and
13 Occupancy, or Apartment House/Hotel License until it determines that the conditions have
14 been met. A copy of the Certificate of Final Completion and Occupancy or Amended Certificate
15 of Final Completion and Occupancy shall be forwarded to the Board of Appeals.

16 109A.8 Group R-1 and R-2 Occupancy, Apartment House/Hotel License. A license shall be
17 required for every Group R-1 and R-2 Occupancy structure. The license shall be obtained by
18 paying the necessary fees as set forth in Section 110A, Table 1A-P – Apartment House and
19 Hotel License Fees.

20 The Apartment House/Hotel License is not transferable, and a new license must be
21 applied for by the new owner within 30 days of change of ownership.

22 The Apartment House/Hotel License shall not be construed as authority to violate,
23 cancel, alter or set aside any of the provisions or requirements of any laws or ordinances of
24 the City and County of San Francisco, nor shall such issuance thereafter prevent requiring
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1 corrections of errors or of violations of any applicable law or ordinance of the City and County
2 of San Francisco.

3 Section 3. The San Francisco Building Planning Code is hereby amended by adding
4 Section 359, to read as follows:

5 SEC. 359. PAYMENT OF FEES PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY.

6 Whenever this Code requires a fee to be paid prior to the issuance of a certificate of occupancy, it shall
7 also include issuance of an amended certificate of occupancy.

8
9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By:


12 JUDITH A. BOYAJIAN
13 Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Ordinance

File Number: 090026

Date Passed:

Ordinance amending the San Francisco Building Code by amending Section 109A to provide that an Amended Certificate of Final Completion and Occupancy shall be issued for an existing building where there is an increase in the number of legal dwelling units resulting in a change of occupancy, and to require the Amended Certificate of Final Completion and Occupancy to include a reference to the date of the first certificate of occupancy and any subsequent certificates of occupancy that have been issued for the building, excluding the use of an Amended Certificate in RH-1 and RH-1(D) zoning districts; amending the Planning Code by adding Section 359 to provide that a requirement to pay a development impact fee prior to issuance of a certificate of occupancy shall include payment of the fee prior to issuance of an amended certificate of occupancy.

May 5, 2009 Board of Supervisors — SUBSTITUTED

June 9, 2009 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

June 16, 2009 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Mar, Maxwell, Mirkarimi

Excused: 1 - Elsbernd

File No. 090026

I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on June 16, 2009 by
the Board of Supervisors of the City and
County of San Francisco.



Angela Calvillo
Clerk of the Board

6/26/2009

Date Approved



Mayor Gavin Newsom