



SAN FRANCISCO PLANNING DEPARTMENT

February 4, 2016

Ms. Angela Calvillo, Clerk
Honorable Supervisor Wiener
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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**Re: Transmittal of Planning Department Case Number 2015-014588PCA:
Code Enforcement Procedures
Board File No. 151085
Planning Commission Recommendation: Approval**

Dear Ms. Calvillo and Supervisor Wiener,

On January 28, 2016 the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Sections 176 and 176.1, introduced by Supervisor Wiener. At the hearing the Planning Commission recommended approval of the Ordinance.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr", with a long horizontal flourish extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Thomas J. Owen, Deputy City Attorney
Jeff Cretan, Aide to Supervisor Wiener
Andrea Ausberry, Office of the Clerk of the Board

Attachments:

Planning Commission Resolution

Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19554 HEARING DATE JANUARY 28, 2016

Project Name: Code Enforcement Procedures
Case Number: 2015-014588PCA [Board File No. 151085]
Initiated by: Supervisor Wiener / Introduced October 20, 2015
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND 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 REQUIRES DEPARTMENTS TO REPORT ON CODE ENFORCEMENT ACTIVITIES, AND TO DIRECT THE CITY ADMINISTRATOR TO CCORDINATE THE PREPARATION OF STANDARD CITYWIDE FORMS FOR CODE ENFORCEMENT PROCEEDINGS; AFFIRMING THE PLANNING DEAPRTMENT'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.

WHEREAS, on October 20, 2015 Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 151085, which would amend 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;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on January 28, 2016; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve** the proposed ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The efficient use of public resources for Planning Code enforcement activities requires coordination between all City departments and agencies tasked with that duty.
2. Periodic reporting on those enforcement efforts will help interested parties track trends in enforcement activities. It may also inform future decisions on resource allocation to particular enforcement activities.
3. Amendments to the Planning Code that facilitate coordinated Planning Code enforcement efforts and require periodic reporting on those efforts should be adopted as a measure of good governance.
4. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.2

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

The proposed Ordinance can assist coordinate the Planning Code enforcement activities of the Planning Department and the City Attorney's Office as they relate to commercial and industrial uses complying with required performance standards.

HOUSING ELEMENT

OBJECTIVE 2

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.6

Ensure housing supply is not converted to de facto commercial use through short-term rentals.

The proposed Ordinance can assist in the coordination of the City Attorney's Office Planning Code enforcement activities as they relate to compliance with regulations on the short-term rental of housing units.

5. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail because it concerns the code enforcement abilities of the City Attorney's office.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character because it concerns the code enforcement abilities of the City Attorney's office.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing because it concerns the code enforcement abilities of the City Attorney's office.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking because it concerns the code enforcement abilities of the City Attorney's office.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired because it concerns the code enforcement abilities of the City Attorney's office.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because it concerns the code enforcement abilities of the City Attorney's office.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings because it concerns the code enforcement abilities of the City Attorney's office.

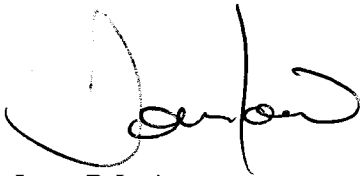
8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas because it concerns the code enforcement abilities of the City Attorney's office.

- 8. Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on January 28, 2016.



Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Fong, Hillis, Moore, Richards and Wu

NOES: None

ABSENT: Commissioner Johnson

ADOPTED: January 28, 2016



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JANUARY 28, 2016

Project Name: **Code Enforcement Procedures**
Case Number: **2015-014588PCA [Board File No. 151085]**
Initiated by: Supervisor Wiener / Introduced October 20, 2015
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend 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.

The Way It Is Now:

1. The Planning Code is silent on the City Attorney's ability to begin civil proceedings for injunctive and monetary relief against any person for violations of the Planning Code. This is irrespective of whether the Zoning Administrator or the Planning Director has begun the enforcement process or not.
2. The Planning Department is not required to submit periodic reports to the Mayor and Board of Supervisors regarding its code enforcement activities.

The Way It Would Be:

1. The Planning Code would be amended to state that the City Attorney may begin civil proceedings for injunctive and monetary relief against any person for violations of the Planning Code. This would be without regard to whether the Zoning Administrator or the Planning Director has begun the enforcement process. However, the City Attorney would be required to notify the Zoning Administrator or Planning Director of its enforcement actions and to collaborate, where mutually desired, on those actions.
2. The Planning Department would be required to submit quarterly reports to the Mayor and Board of Supervisors regarding its code enforcement activities.

ISSUES AND CONSIDERATIONS

Code Enforcement Practices

Planning Department

The Planning Department's Code Enforcement team seeks to maintain and improve the quality of life in San Francisco by ensuring compliance with the City's Planning Code. It does this through responding to complaints of potential Planning Code violations.

When a complaint is received it is assigned to an Enforcement Planner. If there is evidence that a Planning Code violation may have occurred, the Enforcement Planner will notify the responsible party. Should the Enforcement Planner confirm that a violation has occurred, subsequent notice will be sent to the responsible parties. If the notice of violation is not appealed or the violation continues, administrative penalties may be assessed and further action will be taken.

During each step of the enforcement process, the Enforcement Planner attempts to have the responsible party correct the violation and come into compliance with the Planning Code. The overriding motivation is not punitive but corrective. While this is a preferred outlook to enforcement activities, at times it results in a lengthy process. It is therefore important for the Planning Department to track and report on its code enforcement efforts, especially for protracted cases.

City Attorney's Office

The San Francisco City Attorney's Office may also assume enforcement duties as they relate to violations of the City's codes. In particular the City Attorney's Office employs staff that investigates and pursues violations of the City's building, fire, health, safety and planning codes. Typically the City Attorney's Office will await a referral from the Planning Department on an enforcement case before it begins its investigations. However, in certain cases the City Attorney's Office may begin investigations and actions without this referral.

Given this overlap in duties, it is important that the Planning Department and the City Attorney's office coordinate any enforcement efforts. This is especially true given that the Planning Code requires the Planning Department to reimburse City departments and agencies, including the City Attorney's Office, for costs incurred with enforcement of the Planning Code.¹ Careful coordination and open communication will avoid duplicative efforts and promote the efficient expenditure of public resources.

Planning Department Reporting

The Planning Department's Code Enforcement team currently provides the Office of the Controller with quarterly reports. These reports provide information on the number of code enforcement cases the Department is reviewing as well as the number of cases closed during the quarter. When an enforcement case is successfully abatement or resolved, the case is closed and recorded as such. In this way, the existing reporting tracks the caseload of the Department and how quickly cases are resolved. Information such as the number and frequency of a particular type of complaint or the date enforcement actions

¹ Planning Code Section 176(c)(4).

commenced is not currently reported. This type of information could be included in any new reporting requirements.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The Planning Department supports the proposed Ordinance because it is a minor amendment that clarifies and improves the enforcement activities of the Department and the City Attorney's Office. The proposed Ordinance will make explicit the City Attorney's existing ability to enforce on violations of the Planning Code. This provision further empowers the City, allowing immediate action against repeat offenders and accelerating the resolution of the most egregious cases. The proposed Ordinance also contains language that reinforces the need to coordinate enforcement efforts between the two city agencies. This can help the Planning Department manage its resources and expenditures on code enforcement activities. The quarterly reporting requirement will help track trends in enforcement activities. This will aid in the allocation of resources for those activities and inform future enforcement policy direction and code amendments. In all, the proposed Ordinance represents a move toward effective enforcement of the Planning Code.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

RECOMMENDATION:	Recommendation of Approval
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 151085