

1 [Various Codes - Code Enforcement Procedures]

2
3 **Ordinance amending the Building, Housing, Electrical, Plumbing, Fire, Health,**
4 **Planning, and Administrative Codes to clarify and standardize enforcement procedures**
5 **for violations of Municipal Codes relating to buildings and property, to require**
6 **departments to report on code enforcement activities, and to direct the City**
7 **Administrator to coordinate the preparation of standard Citywide model forms for code**
8 **enforcement proceedings; setting an operative date of June 1, 2016; and affirming the**
9 **Planning Department's determination under the California Environmental Quality Act;**
10 **and making findings of consistency with the General Plan, and the eight priority**
11 **policies of Planning Code, Section 101.1.**

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

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

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

25 (b) On January 28, 2016, the Planning Department determined that the actions
contemplated in this ordinance are consistent, on balance, with the City's General Plan and

1 eight priority policies of Planning Code Section 101.1. The Board adopts this determination
2 as its own. A copy of said determination is on file with the Clerk of the Board of Supervisors in
3 File No. 151085, and is incorporated herein by reference.

4
5 Section 2. Pursuant to Charter Section D3.750-5, the Building Inspection Commission
6 considered this ordinance on March 16, 2016, at a duly-noticed public hearing.

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

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

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

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

24 Whenever the Building Official determines by inspection that property or properties
25 either improved or unimproved are unstable because of landslide, subsidence or inundation or

1 that such occurrences are deemed imminent as described above, the Building Official shall
2 give written notice to the owner or owners that said property or properties are unsafe. The
3 notice shall specify the conditions creating the unsafe classification.

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

7 * * *

8 **102A.3 Inspections.**

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

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

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

16 **102A.4 Notice of Municipal Code Violation.**

17 (a) When the Building Official observes or otherwise determines any condition which renders
18 the building, structure or property unsafe, the Building Official shall, within 15 days, serve a Notice of
19 Municipal Code Violation (“NOV”) upon the building owner. The Building Official shall not issue
20 successive NOVs for the same violation or violations as a means of extending the filing time or the
21 enforcement process or as a means of following up with the building owner.

22 (b) The NOV shall identify each violation observed or otherwise established, including the
23 violations which render the building, structure or property unsafe, and shall state a deadline for the
24 building owner to abate the violations and a date for reinspection. The NOV shall also set forth the
25

1 penalties, fees and costs as prescribed in Sections 102A.7(d) and 103A of this code. The NOV shall be
2 a public record subject to disclosure pursuant to Administrative Code Chapter 67.

3 (c) The Building Official shall mail a copy of the NOV to the building owner by first class mail
4 at the address listed with the Assessor-Recorder's Office. The Building Official shall post the NOV in a
5 conspicuous place on the subject property and make a copy of the NOV available to each tenant of the
6 subject property.

7 **102A.5 Notice of Administrative Hearing**

8 (a) If the Building Official determines that the building owner has not corrected the code
9 violations by the deadline provided in the NOV, the Building Official shall schedule an administrative
10 hearing on the violations, to be heard within 60 days of the deadline, unless the building owner
11 demonstrates to the Building Official's satisfaction that the building owner has made substantial
12 progress in abating the violations.

13 (b) The Building Official shall issue a Notice of Administrative Hearing ("Hearing Notice") to
14 the building owner. The Hearing Notice shall state the date, hour and place of the hearing and contain
15 a conspicuous warning setting forth the penalties, fees and costs prescribed in Sections 102A.7(d) and
16 103A of this Code. The Hearing Notice shall include a copy of the NOV. The Hearing Notice shall
17 inform all interested parties who desire to be heard in the matter that they may appear to show cause
18 why the property, building or structure, or portion thereof, should not be ordered repaired, altered,
19 vacated and repaired or altered, or vacated and demolished.

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

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

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

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

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

11 (f) In addition to the Hearing Notice, the Building Official shall provide the building owner
12 with an information sheet regarding the enforcement process, the building owner's rights and duties
13 prior to the hearing, and the information the building owner must bring to the hearing.

14 **102A.6 Conduct of Administrative Hearing.**

15 (a) The Building Official shall conduct the Administrative Hearing, or may designate a
16 Hearing Officer who shall have the same authority as the Building Official to hear and decide the case
17 and to make any orders consistent with this Code. For purposes of Sections 102A.6 through 102A.7,
18 "Hearing Officer" shall include the Building Official if the Building Official conducts the
19 Administrative Hearing.

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

1 **102A.7 Administrative Order.**

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

4 (b) The Administrative Order shall state in reasonable detail which conditions render the
5 building, structure, or property, or portion thereof, unsafe, and shall state the work required to be done
6 to satisfy the Administrative Order. The Administrative Order shall include a copy of the NOV. The
7 Administrative Order may direct the building owner to repair, alter, vacate, and/or demolish the
8 subject property.

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

16 (d) In addition to any monetary penalties authorized in Section 103A, the Department shall be
17 entitled to its costs of preparation for and appearance at the Administrative Hearing, and all prior and
18 subsequent attendant and administrative costs, and the Department shall assess these costs upon the
19 building owner monthly, at the rates set under Section 110A, Tables 1A-D (Standard Hourly Rates) and
20 1A-K (Penalties, Hearings, Code Enforcement Assessments), until the costs are paid in full. In
21 addition, the Department shall be entitled to its attorneys fees and costs, including but not limited to
22 expert witness fees, incurred in bring the administrative enforcement action. The violations cited in the
23 Administrative Order will not be deemed legally abated until the building owner makes full payment of
24 the penalties and costs, and failure to pay the assessment of costs shall result in tax lien proceedings
25 against the property.

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

7 (f) Any person may appeal an Administrative Order pursuant to Section 105A.2. The Hearing
8 Officer shall inform the building owner, at the Administrative Hearing and in the Administrative Order,
9 of the right of appeal to the Abatement Appeals Board, provided that the appeal is made in writing and
10 filed with the Secretary of the Abatement Appeals Board within 15 days after the Order is posted and
11 served. The 15-day limitation shall not apply when any type of a moratorium authorized in
12 Section 105A.2 is sought. Where construction materials, methods, types of construction, or compliance
13 with the time limits set forth in Table No. 16B-A are the bases, in whole or in part, of the Building
14 Official's finding that an unreinforced masonry building, or portion thereof, is unsafe, the Abatement
15 Appeals Board shall refer these matters to the Board of Examiners established in Section 105A.1 of this
16 Code. Where construction materials, methods, and types of construction are the bases, in whole or in
17 part, of the Building Official's finding that the building, or structure, or portion thereof, is unsafe, the
18 Abatement Appeals Board shall refer these matters to the Board of Examiners for its examination and
19 determination with respect to such materials, methods, and types of construction.

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

24 **102A.8 Remedies are Non-Exclusive**

1 Notwithstanding the provisions of Sections 102A.4 through 102A.7, the City Attorney may
2 institute civil proceedings for injunctive and monetary relief, including civil penalties, against a
3 building owner for violations of the Municipal Code under any circumstances, without regard to
4 whether a complaint has been filed or the Building Official has issued a NOV or an Administrative
5 Order. In any civil action filed by the City Attorney under this Section 102.A.8, the City Attorney may
6 seek recovery of and the court may award the City its attorneys fees and costs, including but not limited
7 to expert witness fees, incurred in bringing the proceedings.

8 ~~102A.3 Inspections and Complaints. The Building Official is hereby authorized to inspect or~~
9 ~~cause the inspection of any building, structure or property for the purpose of determining whether or~~
10 ~~not it is unsafe in any of the following circumstances:~~

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

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

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

19 ~~Upon the completion of any such inspection and the finding by the Building Official of any~~
20 ~~condition which renders the building, structure or property unsafe, the Building Official shall, within~~
21 ~~15 days thereafter, serve a written notice of violation upon the building owner which shall contain~~
22 ~~specific allegations, setting forth each condition the Building Official has found which renders the~~
23 ~~building, structure or property unsafe. The Building Official shall, within three days of mailing of such~~
24 ~~notice of violation, post a copy thereof in a conspicuous place in or upon such building, structure or~~
25 ~~property and make available a copy of the notice of violation to each tenant thereof. Such notice shall~~

1 also set forth the penalties for violation prescribed in Section 103A of this code. In addition to the civil
2 penalties prescribed in Section 103A, the Department's cost of preparation for and appearance at the
3 hearing required by Section 102A.4, and all prior and subsequent attendant and administrative costs,
4 shall be assessed upon the property owner monthly, after failure to comply with a written notice of
5 violation that has been served upon the property owner. Said violations will not be deemed legally
6 abated until the property owner makes full payment of the assessment of costs to the Department of
7 Building Inspection. See Section 110A, Table 1A-D—Standard Hourly Rates and Table 1A-K—
8 Penalties, Hearings, Code Enforcement Assessments—for the applicable rate. Failure to pay the
9 assessment of costs shall result in tax lien proceedings against the property per Section 102A.18.

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

13 *102A.4 Notice of Hearing.*

14 *102A.4.1 General.* Notice of hearing shall be given upon a form prescribed by the Building
15 Official. It shall set forth the street address sufficient for identification of the property or premises upon
16 which the building or structure is located. It shall contain or be attached to a copy of the notice of
17 violation which includes a list of code violations. It shall state the date, hour and place of the hearing
18 and shall order all interested parties who desire to be heard in the matter to appear before the Building
19 Official to show cause why the property, building or structure, or portion thereof, should not be
20 ordered repaired, altered, vacated and repaired or altered, or vacated and demolished.

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

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

3 ~~1.—The person, if any, in real or apparent charge and control of the premises involved.~~

4 ~~2.—The owner of record.~~

5 ~~3.—The holder of any mortgage, deed of trust, lien or encumbrance of record.~~

6 ~~4.—The owner or holder of any lease of record.~~

7 ~~5.—The record holder of any other estate or interest in the building, structure or property, or~~
8 ~~the land upon which it is located.~~

9 ~~102A.4.2 Method of service. The notice of hearing shall be served upon all persons entitled~~
10 ~~thereto, either personally or by certified or registered mail. Service by certified or registered mail shall~~
11 ~~be effective on the date of mailing if the certified or registered letter is mailed, postage prepaid, return~~
12 ~~receipt requested, to each such person as their address appears on the last annual tax roll of the county~~
13 ~~or at the address to which the most recent real property tax bill for said building, structure or property~~
14 ~~was mailed by the Tax Collector. If no such address appears on the annual tax roll of the county or the~~
15 ~~records of the Tax Collector, then a copy of the notice shall be addressed to such person at the address~~
16 ~~of the building, structure or property involved in the proceedings. The failure of any owner or other~~
17 ~~person to receive such notice shall not affect in any manner the validity of any proceedings taken~~
18 ~~hereunder.~~

19 ~~102A.4.3 Proof of service. The person serving notice as provided herein shall file an affidavit~~
20 ~~or declaration thereof under penalty of perjury, certifying to the time and manner in which such notice~~
21 ~~was given. Such person shall also file therewith any receipt card of such notice by certified or~~
22 ~~registered mail. The notice shall be posted and served at least 10 days prior to the date set for the~~
23 ~~hearing.~~

24 ~~102A.5 Hearing. The public hearing shall be held at the time and place designated in the notice~~
25 ~~of hearing. For good cause shown, a hearing may be continued by the Building Official, except that any~~

1 ~~such continuance shall not exceed 30 days and there shall be only one such continuance allowed.~~
2 ~~Subject to procedures prescribed by the Building Official for the orderly conduct of the hearing, all~~
3 ~~persons having an interest in the building, structure or property or having knowledge of facts material~~
4 ~~to the allegations of the notice of violation including the list of code violations, may present evidence~~
5 ~~for consideration by the Building Official.~~

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

9 ~~102A.6 Decision. The Building Official, after a full and fair consideration of the evidence and~~
10 ~~testimony received at the hearing, shall render within 30 days following the conclusion of such hearing,~~
11 ~~a decision in writing either dismissing the proceedings, or, if finding that the building, structure or~~
12 ~~property, or portion thereof, is unsafe, ordering that it be repaired, altered, vacated and altered or~~
13 ~~repaired, or vacated and demolished.~~

14 ~~102A.7 Contents of Order. The order shall contain a statement of the particulars which render~~
15 ~~the building, structure, or property unsafe and shall contain a statement of work required to be done~~
16 ~~and the time requirements for the execution of the order.~~

17 ~~102A.7.1 Address. The order shall set forth the street address of the building or structure,~~
18 ~~sufficient for identification.~~

19 ~~102A.7.2 Time. The order shall specify the time within which the premises or portion thereof~~
20 ~~shall be vacated, if ordered. The order shall further specify a reasonable time, not to exceed 360 days~~
21 ~~from permit issuance, within which the work shall be completed.~~

22 ~~102A.7.3 Extension for completion. The time for completion may be extended by the Building~~
23 ~~Official for good cause shown, except that such extension shall not exceed 360 days. Such extension~~
24 ~~shall be in writing upon the request of the owner and shall be limited to the minimum time necessary~~
25 ~~for completion. Only one such extension may be allowed.~~

1 ~~102A.8 Posting and Service of Order. A copy of the order shall be posted in a conspicuous~~
2 ~~place upon the building, structure or property and shall be served in the manner above prescribed in~~
3 ~~the case of the notice of hearing, upon all persons to whom the notice of hearing is required to be~~
4 ~~served, and a copy shall be recorded in the Assessor-Recorder's Office.~~

5 ~~102A.9 Compliance, Rescinding Order. When the property, building or structure or portion~~
6 ~~thereof that was determined to be unsafe, has been found to comply with requirements of the Building~~
7 ~~Official as to rehabilitation, alteration, repair or demolition, the Building Official shall issue and~~
8 ~~record in the Assessor-Recorder's Office an order rescinding the original order.~~

9 ~~102A.10 Appeal of Order. Any person may appeal from an order of the Building Official made~~
10 ~~pursuant to the provisions of Section 102A.7 and shall, at the hearing provided for in Section 102A.5~~
11 ~~and in said order, be apprised of the right of appeal to the Abatement Appeals Board, provided that the~~
12 ~~appeal is made in writing and filed with the Secretary of the Abatement Appeals Board within 15 days~~
13 ~~after such order is posted and served. The 15-day limitation shall not apply when any type of a~~
14 ~~moratorium authorized in this section is sought. Where construction materials, methods, types of~~
15 ~~construction, or compliance with the time limits set forth in Table No. 16B-A are the bases, in whole or~~
16 ~~in part, of the Building Official's finding that an unreinforced masonry building, or portion thereof, is~~
17 ~~unsafe, the Abatement Appeals Board shall refer these matters to the Board of Examiners established in~~
18 ~~Section 105A.1 of this code. Where construction materials, methods, and types of construction are the~~
19 ~~bases, in whole or in part, of the Building Official's finding that the building, or structure, or portion~~
20 ~~thereof, is unsafe, the Abatement Appeals Board shall refer these matters to the Board of Examiners for~~
21 ~~its examination and determination with respect to such materials, methods, and types of construction.~~

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

1 * * *

2
3 Section 5. The Housing Code is hereby amended by revising Sections 201 and 1001,
4 to read as follows:

5 **SEC. 201. GENERAL.**

6 (a) Authority. The Director of the Department of Building Inspection shall administer
7 and enforce all of the provisions of this Code. The Director is hereby designated as the
8 authorized representative of the Building Inspection Commission in such enforcement. The
9 Director is hereby authorized to call upon the Director of City Planning, the Director of Public
10 Health, the Chief of the Fire Department, the Chief of Police and all other City officers,
11 employees, departments and bureaus to aid and assist him in such enforcement, and it shall
12 then be their duty to enforce the provisions of this Code and to perform such duties as may
13 come within their respective jurisdictions.

14 Upon completion of an inspection of a structure or portion of a structure, the owner or
15 occupant thereof shall be furnished by the Department of Building Inspection with a standard
16 form which clearly and simply indicates the violations found and the sections of this Code
17 which are not complied with. Copies of all forms used to enforce this code shall be furnished
18 the Clerk of the Board of Supervisors, to be held on file with the Board of Supervisors.

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

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

6 (c) [Reserved.]

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

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

12 * * *

13
14 **SEC. 1001. GENERAL.**

15 (a) Any residential building or portion thereof, as defined by California Health and
16 Safety Code, Division 13, Part 1.5, State Housing Law, Sections 17920.3 et seq., including
17 any dwelling units, guest room or suite of rooms, or the premises on which the same is
18 located, in which there exists any of the conditions enumerated in this chapter to an extent
19 that endangers the life, limb, health, property, safety or welfare of the public or the occupants
20 thereof shall be deemed and hereby is declared to be a substandard building. Any building or
21 portion thereof, determined to be a substandard building under this Section 1001 is also declared to be
22 a nuisance as provided in Section 401.

23 * * *

1 Section 6. The Electrical Code is hereby amended by revising Section 89.126, to read
2 as follows:

3 **89.126 Unsafe Buildings or Structures.**

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

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

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

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

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

16
17 Section 7. The Plumbing Code is hereby amended by revising Section 104.0, to read
18 as follows:

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

20 **104.0 Abatement of Public Nuisance.** In order to abate a nuisance as defined in
21 Section 216.0 of this code, the inspection and abatement procedures as set forth in Section
22 102A of the Building Code, including, but not limited to, Sections 102A.3 through 102A.8, shall
23 apply.

1 Section 8. The Fire Code is hereby amended by revising Section 109, to read as
2 follows:

3 **SECTION 109 – VIOLATIONS**

4 **109.1. [For SF] Unlawful Acts.**

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

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

12 * * *

13 **109.4. [For SF] Notice of Violation.**

14 (a) When the fire code official finds a building, occupancy, premises, system, or
15 vehicle, or any portion thereof, that is in violation of this code, the fire code official shall, within
16 15 days, may prepare a written notice of violation, which shall identify the code sections
17 violated, describe the violation, and, where applicable, require correction of the violation. The
18 notice of violation shall also set forth the penalties, fees, and costs for the violation. The notice of
19 violation shall also identify the violation as a priority complaint, for violations presenting immediate
20 life safety issues, or a standard complaint, for all other violations. When correction is not
21 immediate, the notice of violation shall specify a time for compliance and re-inspection.

22 (b) When the fire code official finds a person performing any activity requiring a permit
23 under this code without the required permit, or conducting an activity in violation of conditions
24 set in a permit issued under this code, the fire code official may prepare a written notice of
25 violation, which shall identify the code sections violated and describe the violation. The notice

1 of violation shall also set forth the penalties, fees, and costs for the violation. The notice of violation
2 shall also identify the violation as a priority complaint, for violations presenting immediate life safety
3 issues, or a standard complaint, for all other violations. In addition, the fire code official may issue
4 a stop work order under Section 111, requiring the person to immediately cease performing
5 the activity.

6 **109.4.1. [For SF] Service of Notice of Violation.**

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

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

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

25 **109.4.2. [For SF] Re-Inspection Fee.**

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

4 **109.4.3. [For SF] Hearing on Notice of Violation.**

5 (a) If the person responsible to correct a violation *identified as a priority complaint* fails to
6 do so within the time period specified in the notice of violation, the fire code official ~~shall~~ *may*
7 set the matter for hearing, *to be heard within 60 days of the deadline.* *If the person responsible to*
8 *correct any other violation fails to do so within the time period specified in the notice of violation, the*
9 *fire code official shall set the matter for hearing, to be heard within 180 days of the deadline.*

10 (b) Notice of hearing. If the fire code official determines to set the matter for hearing,
11 the fire code official shall serve a notice of hearing that provides at least ~~10 days~~ *30-day* notice
12 of the hearing. The notice shall include the following information: (1) the street address of the
13 building, occupancy, premises, or system that is in violation of the code, or the date and
14 location of any activity conducted without a required permit or in violation of permit conditions;
15 (2) the date, hour and place of the hearing; (3) a statement that the hearing is an opportunity
16 *for all interested parties* to appear before the fire code official to show cause why the fire code
17 official should not order the building, occupancy, premises, or system repaired or altered to be
18 brought into compliance with code, or vacated or demolished, or require a permit or
19 compliance with permit requirements; (4) a warning that describes the penalties for violation
20 as set forth in subsection (k) below and Section 109.4.4; and (5) a copy of the notice of
21 violation.

22 (c) Service of hearing notice. The fire code official shall serve the notice of hearing on
23 each of the following persons: (1) the person, if any, in real or apparent charge and control of
24 the building, occupancy, premises, or system, or responsible for any activity; (2) the owner of
25 record of any building, occupancy, premises, or system, or where an activity occurred; (3) the

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

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

21 (e) [Reserved]

22 (f) Hearing. The fire code official or designee shall conduct a public hearing on the
23 matter, at the date, time and location specified in the notice of hearing. The fire code official or
24 designee may continue the hearing for good cause, except that any continuance shall not
25 exceed 30 days, and only one continuance is allowed. Subject to any procedures prescribed

1 by the fire code official for the orderly conduct of the hearing, the fire code official may permit
2 persons with an interest in the building, occupancy, premises, or system, or with knowledge of
3 facts material to the allegations of the notice of violation, to present evidence for the fire code
4 official to consider. The fire code official shall promulgate procedures for implementation of
5 the hearing.

6 (g) Decision and order. The fire code official shall give full and fair consideration to the
7 evidence received at the hearing, and within 30 days of the conclusion of the hearing, shall
8 issue a written decision either: (1) finding no violation and issuing an Order of Rescission that
9 withdraws the notice of violation and dismisses the proceedings; or (2) finding that the
10 building, occupancy, premises, or system, or any portion thereof, is in violation of this code
11 and ordering that the person responsible take action as ordered by the fire code official to
12 bring the building, occupancy, premises, or system into compliance with this code. The order
13 may also direct that the building, occupancy, or premises be vacated pending compliance with
14 the requirements of this code. Any order to correct a violation of this code or to vacate a
15 building, occupancy or premises shall include the following: the street address of the building,
16 occupancy, premises, or system; findings and conclusions about the specifics of the violations
17 and the code section violated; a statement of work the person responsible must perform to
18 remedy the violation and, if applicable, an order to vacate; and time requirements for
19 compliance with the order. The fire code official shall require the person responsible to
20 commence work required under the order within not more than 30 days from the date of the
21 decision, and shall set a reasonable period of time, not to exceed six months from
22 commencement, for the person responsible to complete the required work.

23 (h) Service of, posting, and recording decision. The fire code official shall serve the
24 decision and order on the persons and in the manner specified in subsection (c) above. The
25 fire code official shall post the decision and order in the manner specified in subsection (d)

1 above. The fire code official shall record the decision and order in the Assessor-Recorder's
2 Office.

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

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

14 (k) Penalties for disregarding order. Any person responsible who fails to comply with
15 an order under this section shall be guilty of a misdemeanor as set forth in Section 109.6. Any
16 person in possession who fails to comply with an order to vacate shall be guilty of a
17 misdemeanor as provided in Section 109.6. Any person who removes any notice or order
18 posted as required in this section shall be guilty of a misdemeanor as provide in
19 Section 109.6.

20 * * *

21 **109.9. [For SF] Remedies are Non-Exclusive.**

22 Notwithstanding the provisions of Sections 109.1 through 109.8, the City Attorney may institute
23 civil proceedings for injunctive and monetary relief, including civil penalties, against any person for
24 violations of the Fire Code under any circumstances, without regard to whether a complaint has been
25

1 filed or the fire official has issued a notice of violation under Section 109.4 or an order to correct
2 under Section 109.4.3(g).

3
4 Section 9. The Health Code is hereby amended by revising Sections 596 and 600, to
5 read as follows:

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

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

11 (b) Notice of Violation. Whenever the Director determines that a nuisance, as defined
12 by Section 581 of this Article, exists in a building or structure or on a property, the Director
13 shall within 15 days of that determination cause a Notice of Violation to be served either
14 personally or by first class mailing to the Responsible Parties. The Notice of Violation shall be
15 served on the Owner by mail to the address that appears on the last assessment rolls of the
16 City and County of San Francisco. If the Notice of Violation is served on the Manager by mail,
17 it shall be mailed to the Manager's principal place of business or to the address of the
18 building, structure or property. If the Notice of Violation is served on any other Person who
19 created a condition that constitutes a nuisance, it shall be mailed to the Person's last known
20 address at which such Person receives mail if ascertainable. Thereafter, the Director may
21 cause a copy thereof to be posted in a conspicuous place on the building, structure or
22 property. The failure of the Responsible Parties to receive such notice when sent in the
23 manner set forth in this Subsection shall not affect in any manner the validity of any
24 proceeding against that party under this Article. The Notice of Violation shall be a public record
25 subject to disclosure pursuant to Administrative Code Chapter 67.

1 (c) Order to Vacate. The Director may order a premises vacated if she or he
2 determines that relocation is warranted upon discovery of a nuisance, as defined by Section
3 581(b)(10) of the Health Code, or at the discretion of the Director, to protect the health of
4 occupants. A copy of the order shall be served upon the Owner and the affected tenant(s)
5 and posted in conspicuous places at the affected premises. The order shall specify the time
6 within which the premises is to be vacated and advise the tenants that they may be eligible for
7 assistance pursuant to Chapter 72 of the San Francisco Administrative Code. The order shall
8 further advise that the premise vacated hereunder shall not be reoccupied without written
9 permission of the Director. Such permission shall be granted when the nuisance is abated.

10 (d) Notice to Pay Relocation Benefits. Whenever the Director determines that a
11 nuisance, as defined by Section 581(b)(10) of this Article, exists in a building or structure or
12 on a property, and issues a Notice of Violation, pursuant to subsection (b) of this section, and
13 an Order to Vacate, pursuant to subsection (c) of this Section, the Director shall issue to the
14 Responsible Party a Notice to Pay Relocation Benefits to the affected tenant(s) pursuant to
15 Chapter 72 of the San Francisco Administrative Code. The Director shall cause a Notice to
16 Pay Relocation Benefits to be served either on the Responsible Party or sent by first class
17 mailing to the Responsible Parties. The Notice to Pay Relocation Benefits shall be served on
18 the Owner by mail at the address that appears on the last assessment rolls of the City and
19 County of San Francisco. If the Notice to Pay Relocation Benefits is served on the Manager
20 by mail, it shall be mailed to the Manager's principal place of business or to the address of the
21 building, structure or property. Thereafter, the Director may cause a copy thereof to be
22 posted in a conspicuous place on the building, structure or property. The failure of
23 Responsible Parties to receive such notice when sent in the manner set forth in this
24 Subsection shall not affect in any manner the validity of any proceeding against that party
25 under this Article.

1 (e) Contents of Notices.

2 (1) The Notice of Violation shall state with reasonable specificity a description of
3 the nuisance such that the Responsible Parties can reasonably understand the nature of the
4 nuisance to be abated. The Notice of Violation shall direct the Responsible Parties to abolish,
5 abate, and remove the nuisance within a reasonable period of time set by the Director given
6 the nature and severity of the nuisance and any other circumstances of which the Director is
7 aware. The Director shall specify in the Notice of Violation the time period within which the
8 Responsible Party must abate the nuisance. Such time period shall not exceed 30 days,
9 unless extended by the Director if reasonably necessary to abate the nuisance.

10 (2) The Notice to Pay Relocation Benefits shall state the Director has
11 determined that the affected tenant(s) are eligible for relocation benefits as described in San
12 Francisco Administrative Code Chapter 72 such that the Responsible Parties can reasonably
13 understand the nature of their obligations under Chapter 72. The Notice to Pay Relocation
14 Benefits shall direct the Responsible Parties to commence making the required relocation
15 payments to the affected tenant(s) at least 12 hours prior to the date that the affected
16 tenant(s) must vacate the unit.

17 (3) The notices shall further advise the Responsible Parties that if they fail to
18 comply with the notice, the Director may: (A) hold a Director's Hearing to be held to consider
19 whether it would be appropriate to issue a Director's Order to abate the nuisance and other
20 appropriate orders as provided for in this Article or (B) cause the abatement and removal of
21 the nuisance and the Owner shall be indebted to the City and County of San Francisco for the
22 costs, charges, and fees incurred by the City and County of San Francisco by reason of the
23 abatement and removal of such nuisance or (C) offer relocation services to the affected
24 tenant(s) and the Owner shall be indebted to the City and County of San Francisco for the
25

1 costs, charges, and fees incurred by the City and County of San Francisco by reason of the
2 provision of the relocation services.

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

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

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

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

24 (g) Notice of Hearing.
25

1 (1) If the Responsible Parties failed to comply with the Notice of Violation or the
2 Notice to Pay Relocation Benefits, the Director may hold a hearing by serving a copy of the
3 Notice of Violation or the Notice to Pay Relocation Benefits, together with a notice of the time
4 and place set for the hearing thereof, by personal service or by certified mail upon the
5 Responsible Parties. The Director shall post a copy of the Notice of Violation or the Notice to
6 Pay Relocation Benefits, together with the Notice of Hearing in conspicuous places
7 throughout the building, structure or property. The time fixed for the hearing shall be no more
8 ~~not be less~~ than 60 30 days after the deadline for abatement of the nuisance set in the Notice of
9 Violation. service and posting of the copy of the Notice of Hearing; except in In those circumstances
10 where the Director has issued a written determination that the nuisance constitutes a severe
11 and immediate hazard to life, health or safety, ~~in which case~~ the time fixed for the hearing shall
12 not be less than 12 hours after personal service and posting the Notice of Hearing. The
13 Notice of Hearing shall inform all persons interested to appear at the hearing to show cause, if
14 any, why the building, structure, or property should not be declared a nuisance or in the case
15 where the Department has abated and removed the nuisance, why a lien should not be
16 placed against the property for the costs incurred by the Department. The Notice of Hearing
17 shall also state whether the Department will seek recovery of attorneys' fees for the hearing.
18 In the case of unsanitary buildings, said notice shall also state that the hearing may result in
19 the revocation of the certificate of sanitation, if any, and the mandatory vacation of occupants
20 from the building.

21 (2) The Notice of Hearing shall be served by personal service or by certified mail
22 on the Owner at the address as it appears on the last assessment rolls of the City and County
23 of San Francisco. If the Notice is served by certified mail on the Manager, the Director shall
24 mail the Notice of Hearing to the Manager's principal place of business, if any, or to the
25 address of the building, structure or property in question. If the Notice of Hearing is served by

1 certified mail on any Person who created the condition that constitutes a nuisance, the
2 Director shall mail the Notice of Hearing to the last known address of such Person at which it
3 receives mail, if ascertainable. The person serving the Notice of Hearing shall complete a
4 declaration under penalty of perjury, certifying the date and manner in which such Notice of Hearing
5 was given, and the Director shall retain the certified mail receipt card, if any, for the Notice of
6 Hearing. The failure of the Responsible Parties or Owner to receive such notice when sent in
7 the manner set forth in this Subsection shall not affect in any manner the validity of any
8 proceeding under this Article.

9 (h) Director's Hearing. A public hearing shall be held at the time and place designated
10 in the Notice of Hearing. Subject to the procedures prescribed by the Director for the orderly
11 conduct of the hearing, all persons having an interest in the building, structure or property in
12 question or having knowledge of facts material to the Notice of Violation or the Notice to Pay
13 Relocation Benefits may present evidence for consideration by the Director. Any hearing
14 conducted pursuant to this Section shall be electronically recorded. The Director may elect to
15 seek recovery of attorneys' fees by stating this intent in the Notice of Hearing. In a case
16 where the Director makes this election, the prevailing party shall be entitled to recover
17 reasonable attorneys' fees.

18 (i) Director's Order.

19 (1) Within 30 days after the conclusion of the hearing, the Director shall issue a
20 written order setting forth finding of facts and a determination based upon the facts found in
21 the record whether or not a nuisance, as defined by Section 581, exists or had existed in the
22 building or structure or on the property and if the Department abated and removed the
23 nuisance, the costs of abatement and removal of the nuisance by the Department, or a written
24 order setting forth finding of facts and determination based upon the facts found in the record
25 whether or not the relocation benefits have been paid and if the Department arranged for the

1 relocation of the affected tenant(s), the costs of that relocation to the Department. The order
2 shall be served on the Responsible Parties, including but not limited to the Owner, in the
3 same manner as set forth in Subsection (b) of this Section and shall be served on all other
4 parties who provided testimony at the hearing by first class mail if such parties request at or
5 before the hearing that the order be sent to them.

6 (2) Upon a finding that a nuisance exists in the building or structure or on the
7 property, or a finding that appropriate relocation benefits have not been paid, the Director
8 shall require in the order the abatement of the nuisance or the payment of the benefits within
9 a specified time period not to exceed 30 days, unless extended by the Director if reasonably
10 necessary to abate the nuisance. The time period shall be determined based on the nature
11 and severity of the nuisance and any other circumstances of which the Director is aware. The
12 order shall state either that, failure to abate and remove the nuisance will result in the
13 abatement of the nuisance by the Department and that the Owner shall become indebted to
14 the City and County of San Francisco for the costs, charges, and fees incurred by reason of
15 the abatement and removal of such nuisance upon demand, or that failure to make the
16 relocation benefit payments will result in the offering of relocation services to the affected
17 tenant(s) by the Department and that the Owner shall become indebted to the City and
18 County of San Francisco for the costs, charges, and fees incurred by reason of the making
19 such relocation services available upon demand. The order shall inform the Responsible
20 Parties that it shall be indebted to the City and County of San Francisco for all administrative
21 costs, including attorneys' fees if sought by the Director in the Notice of Hearing, incurred by
22 the Department in the prosecution of the abatement action or the prosecution of the relocation
23 benefit payment action and that such costs are due upon demand. The order shall further
24 state that failure to pay such costs, charges, and fees may result in a lien against the property.
25 The order shall require the Responsible Parties to abate and remove the nuisance in

1 compliance with all applicable laws and regulations or shall require the Responsible Parties to
2 make the relocation benefit payments in compliance with all applicable laws.

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

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

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

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

11 (j) Regulations. The Director is hereby empowered to promulgate administrative
12 regulations, after a noticed public hearing, to implement the provisions of this Article and
13 applicable provisions of State law. Such rules and regulations shall take effect 30 days after
14 the public hearing. Violation of any such rule or regulation and any existing rules or
15 regulations promulgated pursuant to this Article constitute a nuisance and may be grounds for
16 administrative, civil, or criminal action against the Responsible Party. The Department shall
17 base its forms for a Notice of Violation and a Notice of Hearing on the model forms developed by the
18 City Administrator, although the Department may modify the model forms to meet its own operational
19 needs.

20
21 **SEC. 600. PENALTIES.**

22 (a) Criminal Penalty. In addition to any other penalties provided in this Article, any
23 person, or their agents, violating any of the provisions of this Article, or failing to comply with
24 any direction or order of the Director given pursuant to the provisions of this Article, shall be
25 guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less

1 than \$100 and not more than \$1000, or by imprisonment if the County Jail for a period of not
2 less than 10 days nor more than three months, or by both such fine and imprisonment.

3 (b) Civil Penalty.

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

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

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

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

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

15 (c) Administrative Penalty.

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

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

12 (3) Cost Recovery. In any civil proceeding filed by the City Attorney to collect
13 administrative penalties, the Court may award the Department the costs and fees, including
14 but not limited to attorneys' fees, authorized under this Article. Any administrative penalty
15 assessed and recovered pursuant to this paragraph shall be paid to the City Treasurer and
16 credited to the Public Health Environmental Health Code Compliance Fund for use in
17 enforcement and prevention of violations of this Article.

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

23
24 Section 10. The Planning Code is hereby amended by revising Sections 176 and
25 176.1, to read as follows:

1 **SEC. 176. ENFORCEMENT AGAINST VIOLATIONS.**

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

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

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

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

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

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

20 (c) Penalties.

21 (1) Administrative Penalties. In the notice requiring the cessation, removal or
22 correction of any violation of this Code, the Zoning Administrator may assess upon the
23 responsible party an administrative penalty for each violation in an amount up to \$250.00 for
24 each day the violation continues unabated. The "responsible party" is the owner(s) of the real
25 property on which the code violation is located, as listed in the records of the San Francisco

1 Assessor, and the current leaseholder if different from the current owner(s) of the real
2 property.

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

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

16 The responsible party may waive the right to a Zoning Administrator's hearing
17 and proceed directly to an appeal to the Board of Appeals under Section 308.2 of this Code.
18 Administrative penalties shall not accrue during the period of time that the matter is pending
19 before the Zoning Administrator on a request for hearing or before the Board of Appeals on
20 appeal. If the responsible party elects to request a Zoning Administrator's hearing, the
21 request for hearing must be in writing and submitted to the Zoning Administrator prior to the
22 expiration date of the Notice of Violation and Penalty. If a request for a Zoning Administrator's
23 hearing is timely filed, any appeal to the Board of Appeals shall be from the decision of the
24 Zoning Administrator rendered after the hearing.

25

1 The Zoning Administrator or the Zoning Administrator's designee, after a full and
2 fair consideration of the evidence and testimony received at the hearing, shall render within
3 thirty days following the conclusion of the hearing a written decision that either rescinds the
4 notice of violation and dismisses the proceedings, upholds the original decision, or modifies
5 the original decision. In rendering a decision, the Zoning Administrator or the Zoning
6 Administrator's designee shall consider:

7 (A) whether the responsible party was properly identified;

8 (B) whether the accrual dates for the administrative penalties are
9 accurate;

10 (C) the amount of documented staff time spent in order to secure
11 abatement of the violation;

12 (D) the nature of the violation;

13 (E) the duration of the violation;

14 (F) efforts made by the responsible party to correct the violation;

15 (G) the impact of the violation upon the community;

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

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

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

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

23 In hearing any appeal of the Zoning Administrator's determination, the Board of
24 Appeals shall consider the above factors. If the Board upholds the Zoning Administrator's
25 decision in whole or in part but reduces the amount of the penalty, it may not reduce the

1 amount of the penalty below \$100.00 for each day that the violation exists, excluding the
2 period of time that the matter has been pending either before the Zoning Administrator on a
3 request for hearing or before the Board of Appeals on appeal.

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

9 (2) Civil Penalties. Any individual, firm, partnership, corporation, company,
10 association, society, group or other person or legal entity that violates any provision of this
11 Code shall be liable for the City's costs of enforcement and a civil penalty, of not less than
12 \$200.00 for each day such violation is committed or permitted to continue, which penalty shall
13 be assessed and recovered in a civil action brought in the name of the people of the City and
14 County of San Francisco by the City Attorney in any court of competent jurisdiction. The City
15 Attorney may seek recovery of any attorneys' fees and costs, including but not limited to
16 expert witness fees, incurred by the City in bringing such civil action. For civil actions to
17 enforce Municipal Code provisions related to general advertising signs, the penalties,
18 attorneys' fees and costs set forth in this Section 176 shall be in addition to those authorized
19 by Section 610 of this Code.

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

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

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

11 (e) Use of Penalties Collected. All penalties collected under this Section 176 shall be
12 deposited in the Planning Code Enforcement Fund established in Administrative Code Section
13 10.100.166 and shall be used for the purposes specified in that section.

14 (f) Remedies under this Section 176 are non-exclusive, and, notwithstanding subsection (b)(2),
15 the City Attorney may at any time institute civil proceedings for injunctive and monetary relief,
16 including civil penalties, against any person for violations of the Planning Code, without regard to
17 whether the Zoning Administrator has issued a notice of violation, instituted abatement proceedings,
18 scheduled or held a hearing on a notice of violation, or issued a final decision. For proceedings
19 instituted under this subsection (f), the City Attorney shall notify the Zoning Administrator or the
20 Planning Director, as appropriate, and collaborate, where mutually desired, on the prosecution of the
21 action. The City Attorney may seek recovery of any attorneys fees and costs, including but not limited
22 to expert witness fees, incurred by the City in bringing a proceedings under this subsection (f).

23
24 **SEC. 176.1. ADMINISTRATIVE ENFORCEMENT PROCEDURES.**

25 (a) Purpose and Intent.

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

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

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

23 (b) Authority of the Director. The Director may enforce against violations of the
24 Planning Code through the alternative administrative remedies of this Section 176.1. The
25

1 Director may designate a member of Department staff to act under his or her authority with
2 respect to any action the Director is authorized to take in this Section 176.1.

3 If the Department elects to use the administrative remedies of this Section, the
4 Department must use the abatement process set forth in this Section. However, as provided
5 in Section (d)(3) below, the Department is not precluded from pursuing the alternative remedies
6 of Section 176 if abatement of the violation has not been achieved under this Section 176.1.
7 In addition, the Department's election of this process shall not affect the City Attorney's
8 Charter authority to pursue a civil action. If the City Attorney filed a civil action against the
9 property prior to the Director's issuance of the notice of violation under this Section 176.1, at
10 the City Attorney's election the process under this Section 176.1 shall be terminated and
11 abatement of the alleged violations shall be pursued by the City Attorney in the ongoing civil
12 action.

13 * * *

14 (j) Remedies under this Section 176.1 are non-exclusive, and the City Attorney may at any time
15 institute civil proceedings for injunctive and monetary relief, including civil penalties, against any
16 person for violations of the Planning Code, without regard to whether the Planning Director has issued
17 a notice of violation, scheduled or held a hearing on a notice of violation, issued an order of abatement
18 and/or an assessment of administrative penalties, or whether an appeal has been filed or decided.

19
20 Section 11. The Administrative Code is hereby amended by adding Chapter 2A,
21 Article XXIV, Sections 2A.320 and 2A.321, to read as follows:

22 **ARTICLE XXIV: CODE ENFORCEMENT ACTIVITIES**

23 **SEC. 2A.320. REPORTING OF CODE ENFORCEMENT ACTIVITIES.**

24 (a) This Section 2A.320 shall apply to the Department of Building Inspection, the Health
25 Department, the Fire Department, and the Planning Department.

1 (b) All departments made subject to this Section by subsection (a) shall submit a quarterly
2 report to the Mayor and the Board of Supervisors regarding the department's code enforcement
3 activities, in a format to be developed by City Administrator, in consultation with the Director of the
4 Department of Building Inspection, the Health Director, and the Fire Chief. Nothing in this
5 Section 2A.320 shall be construed to require the City or any department to waive any applicable
6 attorney-client communication or attorney work product privilege.

7 (c) For every case referred to a hearing by the department pursuant to the procedures set forth
8 in Building Code Section 102A, or similar hearing under the Health, Fire, or Planning Codes, the
9 report shall disclose:

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

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

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

15
16 **SEC. 2A.321. MODEL CODE ENFORCEMENT FORMS.**

17 No later than July 1, 2016, the City Administrator, in consultation with the Director of the
18 Department of Building Inspection, the Health Director, and the Fire Chief, and the heads of other
19 interested City departments and agencies, shall prepare model forms for the Notice of Violation,
20 Hearing Notice, and Administrative Order referenced in Building Code Section 102A. All City
21 departments and agencies following the procedures of Building Code Section 102A, and the Fire
22 Department and the Health Department, thereafter shall base their Notice of Violation, Hearing
23 Notice, and Administrative Order on the model forms prepared by the City Administrator, although the
24 departments may modify the model forms to meet their own operational needs.

1 Section 12. Effective and Operative Dates. This ordinance shall become effective
2 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor
3 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,
4 or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

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

6
7 Section 13. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
8 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
9 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
10 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
11 additions, and Board amendment deletions in accordance with the “Note” that appears under
12 the official title of the ordinance.

13
14 Section 14. Undertaking for the General Welfare. In enacting and implementing this
15 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
16 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
17 is liable in money damages to any person who claims that such breach proximately caused
18 injury.

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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
Deputy City Attorney

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