

[Building Code - Removal of Unauthorized Residential Unit]

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Ordinance amending the Building Code to require that notices of violation mandate order the filing of an application to legalize legalization of an unauthorized illegal-unit unless infeasible under the Building Code, ~~or the Planning Commission approves its removal, or a serious and imminent hazard exists on the property and requiring re-issuance of unabated notices of violation to include the new requirement;~~ and affirming the Planning Department's determination under the California Environmental Quality Act; ~~and making findings of consistency with the General Plan, Planning Code Section 302, and the eight priority policies of Planning Code Section 101.1.~~

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

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

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 160185 and is incorporated herein by reference. The Board affirms this determination.

(b) The Building Inspection Commission considered this ordinance on _____, 2016, at a duly noticed public hearing, pursuant to Charter Section D3.750-5.

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Section 2. The Building Code is hereby amended by revising Section 102A, to read as follows:

SECTION 102A – UNSAFE BUILDINGS, STRUCTURES OR PROPERTY

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

* * * *

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

- 1. Whenever the Building Official, with reasonable discretion, determines that such inspection is necessary or desirable.
- 2. Whenever any person files with the Building Official a complaint from which there is, in the Building Official's opinion, probable cause to believe that the building, structure or property or any portion thereof, is unsafe.
- 3. Whenever an agency or department of the City and County of San Francisco transmits to the Building Official a written report from which there is, in the opinion of the Building Official, probable cause to believe that the building, structure or property, or any portion thereof, is unsafe.

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

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

23 **102A.3.1. Dwelling Units constructed or installed without required permit(s).** In
24 the case of an unauthorized Dwelling Unit constructed or installed in an existing building
25 without the required permit or permits, in addition to the above requirements the written notice

1 of violation shall order the property owner to file an application for a building and other permits
2 required to legalize the unit pursuant to Building Code Section 106A.3.1.3 and Planning Code
3 Section 207.3.

4 **EXCEPTIONS:**

5 1. Removal of the unit has been approved by the Planning Commission pursuant to
6 Planning Code Section 317; or

7 2. After performing a screening under Section 106A.3.1.3(a) of this Code, the
8 Department has determined that the unauthorized Dwelling Unit is not able to be legalized
9 under Section 106A.3.1.3 of this Code; or

10 3. The Building Official has determined that a serious and imminent hazard under
11 Section 102A.16 of this Code exists on the subject property.

12 Upon submission of an application for legalization or removal of an unauthorized
13 Dwelling Unit by the owner or the owner’s authorized agent, the Department will suspend a
14 notice of violation issued pursuant to this Section 102A.3.1 pending a decision on the
15 application unless the Building Official has determined that a serious and imminent hazard
16 exists on the property. If approval of either legalization or removal of the unauthorized
17 Dwelling Unit occurs within ~~one~~ three years of issuance of the notice of violation, the notice of
18 violation and any liens recorded against the property with respect to the violation will be
19 rescinded. The Building Official may extend this time if a delay in obtaining approval is not the
20 fault of the property owner.

21
22 Section 3. Effective Date. This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
25 of Supervisors overrides the Mayor’s veto of the ordinance.

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Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

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

By: _____
JUDITH A. BOYAJIAN
Deputy City Attorney

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