

**REVISED LEGISLATIVE DIGEST**  
(Amended in Committee, 3/1/2021)

[Building Code - Expanded Compliance Control and Consumer Protections Where History of Significant Violations]

**Ordinance amending the Building Code to implement expanded compliance control and consumer protection provisions for projects, individuals, agents, and entities with a history of significant violations; and affirming the Planning Department’s determination under the California Environmental Quality Act.**

Existing Law

The Building Code does not contain mandatory provisions for tracking a project, individual, agent, or entity’s history of involvement in permits with significant violations, nor any expanded compliance control provisions for projects, individuals, agents, or entities found to have a history of significant violations.

Amendments to Current Law

The Proposed Legislation would require that Department of Building Inspection (“DBI”) inspectors log each incidence where DBI issues a Notice of Violation involving a significant violation of the Building Code. The significant violations that trigger a report include misrepresentation of conditions or project scope at the project site that circumvents notification or review requirements; structural work or demolition of structural features without or beyond the scope of a permit; work performed under a permit without the required licensure; and other substantial non-compliance. The log entry shall contain a description of the violation and identify all individuals, agents, or other entities associated with the permit or project in DBI’s permit tracking system and those known to be associated with the permit or project at the time the violation is issued.

The Proposed Legislation mandates the collection of these entries in a Compliance Control Tracking File. DBI shall maintain the Compliance Control Tracking File for internal tracking purposes only and shall review the file on a monthly basis to determine if any project, individual, agent, or entity has been identified on three or more log entries in the last 18 months. Any such projects, individuals, agents, or entities shall be candidates for placement on the Expanded Compliance Control List (“List”). Additionally, DBI may determine a project, individual, agent, or entity warrants being a candidate for the List for an egregious violation that poses significant risk to health, safety, or property—even if the project, individual, agent, or entity does not have three separate violations within an 18-month period.

To ensure fair and efficient use of Expanded Compliance Control resources, the Proposed Legislation proscribes a detailed administrative process before placing a candidate on the List. The Proposed Legislation includes factors DBI must consider in making a listing determination, including the candidate's role and conduct that contributed to the violations, whether misrepresentations of conditions or scope were reckless or intentional to circumvent City review and notification requirements, the extent of work or demolition beyond or without the scope of a permit, any health and safety impacts, and the frequency and severity of the violations.

For each candidate, the Inspection Services Division shall notify the candidate and request any exculpatory information, draft a summary report describing the violation(s) and any exculpatory evidence relevant to whether the candidate should be placed on the List and make a recommendation, with written findings applying the factors for listing, as to whether the candidate should or should not be placed on the List.

The summary report would then be evaluated by the Director of DBI. The Director shall make a final determination whether to place the candidate on the List and provide written findings supporting that determination. The Director's determination and findings shall be sent to the candidate and placed on DBI's website. Any person may appeal the Director's determination to place or not place a candidate on the List by filing an appeal to the Building Inspection Commission within 15 days of the posting of the determination on DBI's website. The List will be available on DBI's website and provided to the Building Inspection Commission on a quarterly basis.

Projects, individuals, agents, or entities placed on the List ("listees") shall remain on the List for five years. Any subsequent significant violation(s)—those that would trigger a log entry in the Compliance Control Tracking File—by a listee restarts the five-year period.

The Proposed Legislation mandates DBI perform the following Expanded Compliance Control measures for each listee: provide the Director's final determination and findings to any applicable licensing board or regulatory agency (if any); require all new or existing permits or addenda submitted by or containing reference to a listee undergo Expanded Compliance Control by senior Plan Review Services staff and review at intake by applicable departments; notify the listee and all other parties associated with the listee on a permit application or addenda of the Expanded Compliance Control requirements; require a licensed contractor be named on a permit; require site inspection by DBI and the Planning Department prior to permit issuance for projects associated with the listee; dedicate a Senior Inspector to respond to complaints and conduct all inspections regarding the listee; and, if warranted, consult with City Attorney about any other enforcement options.

The Proposed Legislation would also require training for all DBI permit review staff on how to identify signs of potential abuse of the permit process. All training materials shall be prepared in a manner that is sensitive to cultural differences of applicants, agents, and current and

future occupants and neighbors. The training shall also detail procedures for escalating permits that indicate significant issues to senior DBI staff and the Planning Department.

### Background Information

This Legislative Digest reflects amendments made in the Land Use committee on February 22, 2021, including providing more specific criteria to the significant violations list, revising the administrative review process for placement on the List, and correcting an error in the ordinance as introduced by correcting the fonts to accurately reflect the language that currently exists in the municipal code, and the amendments that are proposed by this legislation.

Significant violations of the Building Code threaten public health and safety; require DBI time and resources to identify, enforce, and abate; and often result in costly litigation and delay in repairing or constructing much needed housing throughout the City. For all parties—property owners/consumers, residents, DBI, and the public at large—it is safer, more cost-effective and efficient to adopt expanded compliance control provisions that ensure compliance throughout the permit review process, rather than address violations after the fact through enforcement proceedings.

A substantial portion of the most significant Building Code violations involve repeat actors—a small handful of projects, individuals, agents, and other entities. DBI may apply informal compliance control and permit review for such repeat actors that warrant additional scrutiny due to known abuses of the permit process, but there is no codified process that identifies criteria, tracks significant violations, or details mandatory compliance control measures for such entities.

The Proposed Legislation addresses this need by: codifying a reporting process to track significant violations and all parties associated with such violations; mandating monthly review of tracking reports to identify candidates for expanded compliance control measures; creating criteria and an administrative process to review and appeal determinations regarding placement of candidates on the List; detailing what expanded compliance control measures are required; and mandating training and issue escalation for permit review staff.

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