



What You Should Know About

The Department of Building Inspection Code Enforcement Process



Department of Building Inspection
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May 2008



WHAT IS CODE ENFORCEMENT?

Code Enforcement is the administrative process utilized by the Department of Building Inspection to get property owners of buildings with substandard conditions to comply with the San Francisco Administrative, Building, Electrical, Housing, Mechanical, and Plumbing Codes.

The primary authority for Code Enforcement is Chapter 1, Sections 102A, 103A, and 104A of the San Francisco Building Code.

Code Enforcement begins when the Department issues, mails to the owner, and posts on the subject building, a Notice of Violation detailing code violations found, and when all corrective work is to be completed.

The issuance of a Notice, or Citation, or referral to an administrative hearing, is not the end of this process.

Code Enforcement is finished when:

- All required corrective work is completed as verified through a final inspection by the pertinent division inspectors.
- Required permits are issued and completed, as verified by a final inspection by the appropriate division inspector in which the permit job card is signed-off indicating all work is completed.
- All assessment of costs, reinspection fees, penalties or any other applicable code enforcement fees are paid,
- All documents necessary to revoke any pertinent Orders of Abatement are recorded.
- All related complaints on file in the Department's Complaint Tracking System are "abated".

WHAT DIVISIONS ARE PRIMARILY INVOLVED WITH THE CODE ENFORCEMENT PROCESS?

In the Department of Building Inspection code enforcement is primarily implemented by the:

Building Inspection Division (BID) and Code Enforcement Section (CES) - Building and Mechanical Code violations.

Building Inspection : (415) 558-6570

Code Enforcement: (415) 558-6454

Disability Access Section, DAS, (Disability access violations).

(415) 558-6014

Electrical Inspection Division (EID) - Electrical Code violations.
(415) 558-6570

Housing Inspection Services (HIS) - Housing Code and related Building Code provisions violations.
(415) 558-6220

Plumbing Inspection Division (PID), Plumbing and Mechanical Code violations.
(415) 558-6570

Other city departments that are also involved in the Code Enforcement process include the Planning Department, the San Francisco Fire Department, the Departments of Public Health, and Department of Public Works.

WHAT IS A NOTICE OF VIOLATION?

A Notice of Violation can be issued as a result of a filed complaint, on the basis of a periodic inspection, or from permit review. If violations are found during an inspection to verify a complaint, during a periodic inspection, or after review of permit applications and histories, a written Notice of Violation is prepared by an Inspector and sent to the property owner or agent which identifies:

- The description of the violations, citing the applicable code sections.
- Required repairs and modifications, such as legalization, or removal of unauthorized changes of use.
- When all corrective work must be completed.
- Whether permits will be required to complete the work, and:
- What type of permit is needed; Building, Plumbing, Electrical, etc., and;
- The time frame for filing the permit(s), and completing all permitted work.
- Whether investigative fees will be applied for work done without the requisite permit.
- Which Inspector must be contacted by the property owner/ agent to schedule inspections as the corrective work progresses and is completed.

The Notice of Violation is mailed to the property owner and posted on the building in violation.

WHAT DO THE TERMS ABATEMENT, AND CONDEMNATION MEAN?

Abatement and Condemnation are terms that appear on some Notices of Violation and are used to describe the following:

- The Abatement process refers to the code enforcement tools used to compel a property owner to correct all cited code violations. (Notices, Citations, Hearings, etc.)
- Abatement of the case refers to the desired outcome of having all code violations corrected as confirmed by a final inspection, and having all accrued Assessment of Costs paid.
- Condemnation is a term which indicates that buildings with code violations must be repaired, altered, vacated or demolished in order for outstanding code violations to be corrected or abated.

Note that use of the term condemnation does not necessarily require that a building be demolished.

WHAT IS A CITATION?

A Housing Inspector may issue a Citation to a property owner, agent or operator of an apartment house or hotel for failure to provide heat to habitable rooms, or for other San Francisco Housing Code violations.

Once issued, a Citation will require the payment of a bail fee, and or appearance at a hearing before the Municipal Court of the City and County of San Francisco.

This enforcement tool is usually issued when a property owner has not corrected serious, or chronic code violations as indicated on a Notice of Violation.

There are two types of Citations which may be issued pursuant to Section 204(a) of the Housing Code.

A misdemeanor citation may be issued for failure to provide the requisite heat to residential buildings pursuant to Sections 701 (a), (b), & (c) of the Housing Code.

The penalty upon conviction of a misdemeanor citation is a fine from not less than \$500.00 to \$1000.00.

An Infraction Citation may be issued for all remaining violations of the Housing Code.

The bail fee for each violation is payable to the Municipal Court. The bail fee for each violation is \$360.90 payable to the Municipal Court.

The maximum fine per building for infraction or misdemeanor citations is \$7,500.00.

Please contact the Municipal Court for more information.

The face of the citation form indicates the location, date, and time for court appearance at the San Francisco Hall of Justice.

WHAT IS AN EMERGENCY ORDER?

In serious and imminent hazard situations, the Director of the Department of Building Inspection can issue an Emergency Order pursuant to Section 102A.16 of the San Francisco Building Code.

A copy of the Order is posted on the subject premises and sent to the owner of record.

This Order requires the property owner to take immediate action to correct serious and imminent hazardous conditions.

If not completed within the specified time period, the owner forfeits his right to do the work. The Department of Building Inspection may contract to have the work done.

The property owner is billed for work performed to abate the code violations and any administrative costs incurred by the Department. Failure to pay these costs will result in the imposition of a Special Assessment Lien on the property.

WHAT IS A NOTICE OF SPECIAL RESTRICTIONS?

This document is sometimes required by the Planning Department when approving a building permit associated with code enforcement action.

This Notice is prepared by the Planning Department and requires the property owner's notarized signature. The document is recorded on the property land records.

Compliance conditions specified in this Notice must be implemented as a requirement for final inspection approval of the related permit.

Contact the Planning Department at 558-6377 for further information regarding any Notices of Special Restriction issued by that Department.

WHAT IS AN ILLEGAL CONVERSION OR CHANGE IN OCCUPANCY OR USE?

Sections 106A.1.12, 109.A.2, and 3406 of the San Francisco Building Code requires a building permit whenever a change in use or occupancy is made. Some common examples of conversions that require permits include:

- Converting a attic, or basement storage area to a dwelling unit or rooms used for living, sleeping, eating, or cooking, (habitable space/rooms).
- Changing attic, or basement family, and sleeping rooms into a second dwelling unit with independent cooking and sanitary facilities.
- Converting legal residential units to commercial use, or vice versa.
- Conversion of an apartment house garage/storage area to commercial storage .

Note that residential, commercial, educational, manufacturing uses, etc., all have separate occupancy classifications as categorized in the Building Code which are not the same as zoning districts.

WHAT IS A DIRECTOR'S HEARING?

The Director's representative presides over an administrative hearing used to compel property owners to comply with code violations. These code violations have not been corrected within the time frame specified on a Notice of Violation.

The property owner and building occupants are notified of the hearing through the posting of a hearing notice and the Notice of Violation at the building 10 days or more prior to the hearing date.

The property owner is also sent the hearing notification by certified mail within the same time frame.

After full and fair consideration of the evidence related to the Notice of Violation is presented at the hearing, the Director's representative may find that outstanding code violations remain.

If this finding occurs, the Hearing Officer issues a written order called a Director's Order of Abatement.

An issued Director's Order of Abatement contains the following information:

- The Order Number which is used to query and track the case.
- The name of the property owner, the address, and the Assessor's block/lot of the real property in violation.
- The field inspector, and division which initiated the pertinent Notice(s) of Violation.
- The amount of time the property owner or representative has to apply for permits, call for inspection, and complete all corrective work.
- Notification that the property owner is now responsible for reimbursement to the Department for code abatement costs.
- Information regarding the property owner's appeal rights to the Abatement Appeals Board.

The Hearing Officer may issue an Order of Abatement at the hearing, or take the matter under advisement, and issue the Order subsequent to the hearing.

An enforcement case may be "taken under advisement" to allow the Director's Representative additional time to review all pertinent evidence.

A Director's Order issued at the hearing is sent to the property owner by certified mail within 30 days of that hearing.

An issued Director's Order of Abatement is recorded at the San Francisco Recorder's Office and placed on the land records of the property in violation.

WHAT ARE THE CODE ENFORCEMENT COSTS TO THE PROPERTY OWNER ASSOCIATED WITH CLEARING A NOTICE OF VIOLATION?

An additional inspection fee pursuant to Sections 108A.8 and 110A, Table 1A-G of the San Francisco Building Code will be charged to the property owner on every reinspection after the initial reinspection in which all work is not completed, prior to a Director's Hearing.

After a Director's Order has been issued and recorded, the cost of preparation for and appearance at the hearing and all prior and subsequent attendant costs, including reinspection time, related to the code enforcement action shall be assessed upon the property owner.

This process is called “Assessment of Costs” pursuant to Sections 102A.3.(3) and 102A.17 of the San Francisco Building Code.

The Department of Building Inspection sends the property owner an initial “Assessment of Costs” bill indicating the dollar amount due and payable subsequent to the issuance of the Director’s Order of Abatement when corrective work is outstanding.

A final “Assessment of Costs” bill will be sent when all work is completed. These bills must be paid before the Order of Abatement is revoked and recorded.

The property owner is charged a hourly rate, as prescribed by the San Francisco Building Code, for inspector and clerical time used to clear all violations.

CAN A LIEN BE PUT ON THE OWNER’S PROPERTY TAX BILL IF ASSESSMENT OF COSTS ARE NOT PAID?

A Special Assessment Lien can be placed on the property tax bill and legal penalties can be levied against the property owner, if the Assessment of Costs are not paid within the required time frame pursuant to Sections 102A.3.(3), 102A.17, & 102A.18 of the San Francisco Building Code.

Penalties at the legal rate of interest are levied for late payments.

WHAT IS A STATE FRANCHISE TAX BOARD REFERRAL?

The State Revenue and Taxation Code requires local regulatory agencies to notify the State Franchise Tax Board when rental- housing has substandard conditions.

A referral is made to the State Franchise Tax Board when code violations have not achieved compliance after six (6) months from the Notice of Violation completion date.

The State Revenue and Taxation Code asserts that no deduction shall be allowed from substandard rental housing for interest, taxes, depreciation, or amortization paid or incurred in that taxable year.

Referral to the State Franchise Tax Board includes a Notice of Noncompliance which is sent to the property owner by certified mail.

A Notice of Noncompliance informs the property owner of the referral, where an appeal can be made and which substandard property is effected.

Appeal of a State Franchise Tax Board referral can be made to the San Francisco Abatement Appeals Board.

When all corrective work is completed, the Department sends a Notice of Compliance to the State Franchise Tax Board and the property owner.

WHAT IS THE ROLE OF THE ABATEMENT APPEALS BOARD?

This Board has the power to hear and decide appeals from Orders of Abatement, and referrals to the State Franchise Tax Board, subsequent to the Director's Hearing,

This Board may uphold, modify, or reverse these determinations upon appropriate findings, pursuant to Section 105A.2.3 of the San Francisco Building Code.

An appeal must be received within 10 days from the posting or mailing of the Director's Order Of Abatement or the Referral to the State Franchise Tax Board, and be accompanied by the requisite filing fee, and application forms.

WHAT IS THE BOARD OF APPEALS?

The functions, powers, and duties of the Board of Appeals are delineated in Section 4.106 of the San Francisco City Charter.

This hearing body reviews applications for appeal of administrative decisions, or authorization of permits made by the Department of Building Inspection which include the following:

Appeal of the nine times (9X) permit fee as an investigative fee for work without required permits pursuant to Sections 107A.5, 110A, and Table 1A-K of the San Francisco Building Code.

This Board only has the authority to reduce the investigative fee to two times (2X) the permit application fee. For further information regarding filing fees, hearing dates and application forms please see the informational brochure provided by the Board of Appeals entitled "Your Guide to the Permit Appeals Process".

WHAT IS THE JURISDICTION OF THE BOARD OF EXAMINERS?

The Board of Examiners is the hearing body with jurisdiction limited to the review of “Requests For Variance or Interpretation” of construction methods, assemblies or materials involving safety pursuant to Section 105A.1 of the San Francisco Building Code.

Requests for determination by the Board of Examiners result from:

- Code requirements pertaining to building design, construction methods, assemblies or materials which are different than that proposed by a construction alteration or demolition project.
- Appeals from a Director’s Order of Abatement involving construction methods, assemblies or materials pursuant to Section 105A.1.1.1 of the San Francisco Building Code.

The following items should be submitted to the Board’s Secretary when applying for review to the Board of Examiners:

- Ten (10) sets of the completed “Request For Variance or Interpretation” Form with all pertinent information to be considered for decision.
- The requisite filing fee.

Further questions regarding the Board of Examiners should be directed to the Board’s Secretary.

WHAT IS SUBORDINATION?

Lending agencies will not typically give loans on real property involved in code enforcement proceedings in which a Director’s Order of Abatement is recorded.

The Department has a subordination process to allow a property owner or new buyer of real property to acquire loans in this situation.

With the appropriate documentation and written assurances, the Department of Building Inspection will permit subordination by allowing the property loan to take precedence over the recorded Director’s Order of Abatement.

To apply for this program, the following must be provided:

- The property owner must submit a “Letter of Intent” to the appropriate division, with an accurate estimate of the cost to correct all outstanding code violations.

- An escrow account must be established by the lending institution, containing the dollar amount withheld to perform all necessary corrective work.
- The Lending Institution or Title Company must submit a Letter of Intent to enter into a loan agreement indicating the related escrow and loan numbers.
- Upon receipt of the appropriate documentation Housing Inspection Services, or the Code Enforcement Section will prepare a Subordination Agreement for recordation.

Note: All fees and code sections cited in this brochure are subject to change through the code amendment process.

FOR MORE INFORMATION OBTAIN THESE DEPARTMENT BROCHURES:

“What You Should Know About The Housing Inspection Services”

“What You Should Know About The Building Inspection Division”

“What You Should Know About Construction Permits”

“What You Should Know About Electrical Permits”

“What You Should Know About Plumbing Permits”

“What You Should Know About Disabled Access Requirements”

“What You Should Know About the Code Enforcement Outreach Program”



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Want a DBI Pro to brief your community / organization on permits and inspection issues? Please contact us at 415-558-6089 or DBICommunityOutreach@sfgov.org and we will make it happen.