**INFORMATION SHEET**

**NO. G-09**

**DATE :** June 14, 2016

**CATEGORY :** General

**SUBJECT** **:** Unsafe Buildings, Structure or Property or Public Nuisance Abatement Procedure

**PURPOSE :** The purpose of this Information Sheet is to revise the abatement procedure for notice of violations of unsafe buildings, structures**,** property**,** or public nuisance per Ordinance No. 60-16 enacted May 27, 2016.

**REFERENCE :** San Francisco Building Code

San Francisco Housing Code

 San Francisco Electrical Code

 San Francisco Plumbing Code

Ordinance No. 60-16

**CODE SECTIONS :**

**(A). San Francisco Building Code**

**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. Whenever the Building Official determines by inspection that property or properties either improved or unimproved are unstable because of landslide, subsidence or inundation orthat such occurrences are deemed imminent as described above, the Building Official shall give written notice to the owner or owners that said property or properties are unsafe. The notice shall specify the conditions creating the unsafe classification. All such unsafe buildings, structures, property, or portions thereof, are hereby declared to be public nuisances and shall be vacated, repaired, altered or demolished as hereinafter provided.

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***102A.3 Inspections.***

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

1. *The Building Official with reasonable discretion, determines that such inspection is necessary or desirable, or,*
2. *Any person or any agency or department of the City submits to the Building Official a**complaint which, in the Building Official's opinion, establishes reasonable cause to believe that the**building, structure or property or any portion thereof is unsafe.*

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

1. *When the Building Official observes or otherwise determines any condition which renders**the building, structure or property unsafe, the Building Official shall, within 15 days, serve a Notice of**Municipal Code Violation ("NOV") upon the building owner. The Building Official shall not issue successive NO Vs for the same violation or violations as a means of extending the filing time or the enforcement process or as a means of following up with the building owner.*
2. *The NOV shall identify; each violation observed or otherwise established, including the violations which render the building, structure or property unsafe, and shall state a deadline for the building owner to abate the violations and a date of reinspection. The NOV shall also set forth the**penalties, fees and costs as prescribed in Sections 102A. 7(d) and 103A of this code. The NOV shall be a public record subject to disclosure pursuant to Administrative Code Chapter 67.*
3. *The Building Official shall mail a copy of the NOV to the building owner by first class mail at the address listed with the Assessor-Recorder's Office. The Building Official shall post the NOV in a conspicuous place on the subject property and make a copy of the NOV available to each tenant of the subject property.*

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

1. *If the Building Official determines that the building owner has not corrected the code violations by the deadline provided in the NOV, the Building Official shall schedule an administrative hearing on the violations, to be heard within 60 days of the deadline, unless the building owner demonstrates to the Building Official's satisfaction that the building owner has made substantial progress in abating the violations.*
2. *The Building Official shall issue a Notice of Administrative Hearing ("Hearing Notice") to**the building owner. The Hearing Notice shall state the date, hour and place of the hearing and contain**a conspicuous warning setting forth the penalties, fees and costs prescribed in Sections 102A.* 7*(d) and* *103A of this Code. The Hearing Notice shall include a copy of the NOV. The Hearing Notice shall inform all interested parties who desire to be heard in the matter that they may appear to show cause why the property, building or structure, or portion thereof: should not be ordered repaired, altered, vacated and repaired or altered, or vacated and demolished.*
3. *The Building Official shall serve the Hearing Notice on the building owner by certified mail to the building owner at the address listed with the Assessor-Recorder's Office and shall post the NOV in a conspicuous place on the subject property. The Building Official shall mail the Hearing Notice on the building owner at least 10 days prior to the date set for the hearing.*
4. *In addition to serving the NOV on the building owner, the Building Official shall send a copy of the NOV by certified mail to:*
	1. *The person, if any, in real or apparent charge and control of the premises involved;*
	2. *The holder of any mortgage, deed of trust, lien or encumbrance of record;*
	3. *The owner or holder of any lease of record; and,*
	4. *The record holder of any other estate or interest in the building, structure or property, or the land upon which it is located.*

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

1. *The person serving the Hearing Notice shall complete a declaration under penalty of perjury, certifying the date and manner in which such Hearing Notice was given, and the Building Official shall retain the certified mail receipt card, if any, for the Hearing Notice.*
2. *In addition to the Hearing Notice, the Building Official shall provide the building owner with an information sheet regarding the enforcement process, the building owner's rights and duties prior to the hearing, and the information the building owner must bring to the hearing.*

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

1. *The Building Official shall conduct the Administrative Hearing, or may designate a Hearing Officer who shall have the same authority as the Building Official to hear and decide the case and to make any orders consistent with this Code. For purposes of Sections 102A. 6 through 102A.* 7. *"Hearing Officer" shall include the Building Official if the Building Official conducts the Administrative Hearing. The Hearing Officer shall not be the same individual who signed the NOV.*
2. *The Hearing Officer shall hold the Administrative Hearing at the time and place designated in the Hearing Notice. The Hearing Officer may, in his or her discretion and for good cause shown, continue the hearing one time, for a period not to exceed 30 days. All persons having an interest in the building, structure or property or having knowledge of facts material to the allegations of the NOV, including the list of code violations, may present evidence for consideration by the Hearing Officer, subject to any rules adopted by the Hearing Officer for the orderly conduct of the hearing.*

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

1. *Within 30 days following the conclusion of the Administrative Hearing, the Hearing Officer shall issue a written decision ("Administrative Order").*
2. *The Administrative Order shall state in reasonable detail which conditions render the building, structure, or property, or portion thereof: unsafe and shall state the work required to be done to satisfy the Administrative Order. The Administrative Order shall include a copy of the NOV. The Administrative Order may direct the building owner to repair, alter, vacate, and/or demolish the subject property.*
3. *The Administrative Order shall specify the time within which the building owner shall repair, alter, vacate, and/or demolish the building, structure, or property, or portion thereof: or otherwise comply with the Order. The time for compliance with the Administrative Order shall not to exceed 180 days from permit issuance. The Hearing Officer may, in his or her discretion and for good cause shown, extend the time for compliance with the Administrative Order once, for a period limited to the minimum time necessary for completion and not to exceed 90 days, following a written request by the building owner.*
4. *In addition to any monetary penalties authorized in Section 103A, the Department shall be entitled to its costs of preparation for and appearance at the Administrative Hearing, and all prior and subsequent attendant and administrative costs, and the Department shall assess these costs upon the building owner monthly, at the rates set under Section 110A, Tables 1A-D (Standard Hourly Rates) and**1A-K (Penalties, Hearings, Code Enforcement Assessments), until the costs are paid in full. In addition, the Department shall be entitled to its attorneys fees and costs, including but not limited to expert witness fees, incurred in bring the administrative enforcement action. The violations cited in the Administrative Order will not be deemed legally abated until the building owner makes full payment of the penalties and costs, and failure to pay the assessment of costs shall result in tax lien proceedings against the property.*
5. *The Hearing Officer shall serve the Administrative Order on the building owner in the same manner as the Hearing Notice. The Building Official shall record a copy of the Administrative Order in the Assessor-Recorder's Office. When the Building Official determines that the work required under the Administrative Order has been completed and the building, structure, or property, or portion thereof: no longer is unsafe, the Building Official shall issue and record a rescission of the Administrative Order with the Assessor-Recorder's Office.*
6. *Any person may appeal an Administrative Order pursuant to Section 105A.2. The Hearing Officer shall inform the building owner, at the Administrative Hearing and in the Administrative Order, of the right of appeal to the Abatement Appeals Board provided that the appeal is made in writing and filed with the Secretary of the Abatement Appeals Board within 15 days after the Order is posted and served. The 15-day limitation shall not apply when any type of a moratorium authorized in Section 105A.2 is sought. Where construction materials, methods, types of construction, or compliance with the time limits set forth in Table No. l 6B-A are the bases, in whole or in part, of the Building Official's finding that an unreinforced masonry building, or portion thereof: is unsafe, the Abatement Appeals Board shall refer these matters to the Board of Examiners established in Section 105A.1 of this Code. Where construction materials, methods, and types of construction are the bases, in whole or in part, of the Building Official's finding that the building. or structure, or portion thereof: is unsafe, the Abatement Appeals Board shall refer these matters to the Board of Examiners for its examination and determination with respect to such materials, methods, and types of construction. The Board of Examiners shall approve or disapprove such materials, methods, and types of construction, and may attach conditions to its approval, and shall forward a copy of its report to the Abatement Appeals Board. The Abatement Appeals Board shall include in its decision the findings of* *the Board of Examiners.*

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

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

**(B). San Francisco Housing Code**

**Section 201. GENERAL.**

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

**Section 1001. GENERAL.**

(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 any dwelling units, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions enumerated in this chapter to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building. *Any building or portion thereof: determined to be a substandard building under this Section 1001 is also declared to be* *a nuisance as provided in Section 401.*

**(C.) San Francisco Electrical Code**

**Section 89.126 Unsafe Buildings or Structures.**

(C) Change in occupancy without complying with the provision of Section 89.118 of

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

**(D). San Francisco Plumbing Code**

**Section 104.0 Abatement of Public Nuisance.** In order to abate a nuisance as defined in

Section 216.0 of this code, the inspection and abatement procedures as set forth in Section 1102A of the Building Code. *Including, but not limited to. Sections 102A. 3 through 102A. 8,* shall apply.

**DISCUSSION:** [View RSS feed](http://www.trulia.com/blog/rss/deborah_bremner/)

**Department of Building Inspection Unsafe Buildings, Structure or Property or Public Nuisance Abatement Procedure:**

1. Receive complaints.
2. Inspect.
3. Serve a Notice of Municipal Code Violation (NOV) (see Attachment A) to the owner by first class mail if the property is determined unsafe.
4. Post the NOV on the property.
5. NOV shall include:
	1. Violations
	2. Deadline
	3. Date for reinspection
	4. Penalties, fees and costs
6. Any action plan from the owner needs to be approved by a DBI senior inspector.
7. DBI may send a courtesy reminder (see Attachment B) to the owner.
8. No successive NOVs.
9. Schedule an administrative hearing within 60 days of the deadline if the owner has not corrected the violation by the deadline.
10. Issue a Notice of Administrative Hearing and the Information Sheet (see Attachment C) to the owner by certified mail at least 10 days before the date set for the hearing.
11. Conduct the Administrative Hearing.
12. Issue a written decision (“Administrative Order”)
13. Serve the Administrative Order to the owner by certified mail.
14. Record a copy of the Administrative Order in the Assessor-Recorder’s Office.

**OTHER CONDITIONS:**

Other conditions will be evaluated on a case-by-case basis by the Supervisor or Manager.

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Tom C. Hui, S.E., C.B.O., Date

Director

Department of Building Inspection

Attachment A: Notice of Violations Warnings

Attachment B: Notice of Violation Final Warning

Attachment C: Director’s Hearing Information Sheet

Attachment D: Ordinance 60-16 webpage link:

http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances16/o0060-16.pdf

Attachment E: Table of San Francisco Building Code, Housing Code, Electrical Code and Plumbing Code Comparison after Ordinance 60-16 Implementation

This Information Sheet is subject to modification at any time. For the most current version, visit our website at http://www.sfdbi.org

**ATTACHMENT E**

**Table of San Francisco Building Code, Housing Code, Electrical Code and Plumbing Code Comparison after Ordinance 60-16 Implementation**

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|  | San Francisco Building Code (SFBC) | Housing Code | Electrical Code | Plumbing Code |
| Inspection(Section 102A.3) | 1. Determined by Building Official or
2. Any one or any agency/department submits a complain
 | 1. Routine /Complaint Inspection by City
2. Same as SFBC Section 102A.3
3. SFHC 302(b)(c)

SFHC 303(a) | Same as SFBC Section 102A.3 | Same as SFBC Section 102A.3 |
| Notice of Municipal Code Violation (NOV)(Section 102A.4) | * Served within 15 days after Building Official’s determination
* No successive NOV for the same violation or violations
 | Same as SFBC Section 102A.4SFHC 201(a) | Same as SFBC Section 102A.4 | Same as SFBC Section 102A.4 |
| Deadline and date for reinspection(Section 102A.4) | Stated in NOV | Same as SFBC Section 102A.4 | Same as SFBC Section 102A.4 | Same as SFBC Section 102A.4 |
| Penalties, Fees and Costs(Section 102A.4) | 1. SFBC Tables 1A-D and 1A-K
2. SFBC Section 103A
 | 1. Criminal Penalty

SFHC 2041. Civil Penalty
 | Civil Penalty | Civil Penalty |
| Notice of Hearing(Section 102A.5) | Within 60 days of the deadline | Same as SFBC Section 102A.5 | Same as SFBC Section 102A.5 | Same as SFBC Section 102A.5 |
| Conduct of Hearing(Section 102A.6) | Hearing Officer shall not be the same individual who signed the NOV | Same as SFBC Section 102A.6 | Same as SFBC Section 102A.6 | Same as SFBC Section 102A.6 |
| Administration Order (decision)(Section 102A.7) | Within 30 days following the hearing | Same as SFBC Section 102A.7 | Same as SFBC Section 102A.7 | Same as SFBC Section 102A.7 |
| Non-Exclusive Remedies (Section 102A.8) | City Attorney may institute civil proceedings for the violations under any circumstances | Same as SFBC Section 102A.8 | Same as SFBC Section 102A.8 | Same as SFBC Section 102A.8 |