



INFORMATION SHEET

NO. G-14

DATE : February 22, 2019
CATEGORY : General
SUBJECT : **Various Ordinances and Resolutions**

SECTIONS INVOLVED : San Francisco Building Code - Section 106A
INTENT : To clarify the implementation of various ordinances and resolutions
DISCUSSION :

(A) MAHER TOXIC ZONE ORDINANCE NO. 155-13:

Effective August 24, 2013, applications for any building or grading permit which involves the disturbance of at least 50 cubic yards of soil and in the extended Maher Zone shall be routed to DPH for compliance with the soil and/or ground testing requirements of Ordinance No. 155-13 (<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances13/o0155-13.pdf>).

CPB staff can verify whether the site is in the extended Maher Zone by inputting the address or block and lot numbers and clicking "Location". If there is a flag on "Restriction" stating "Maher Ordinance – Extended", the site is in the extended Maher Zone.

The extended Maher Zone is city-wide instead of simply along the Bay fill perimeter. Applicant can also verify whether the site is in the extended Maher Zone by reviewing the maps available soon in the Planning and DPH websites. If the project involves the disturbance of at least 50 cubic yards of soil and is in the extended Maher Zone, applicant should submit to DPH for review first, prior to starting the building permit process.

The above requirement will be exempted if applicant provided site mitigation plan approval letter, or previously approved permit, or other approval document from DPH. For such case, routing to DPH is not required.

The following stamp shall be stamped on "description of work" on the building permit application form:

<p style="text-align: center;"><u>MAHER ORDINANCE – EXTENDED</u></p> <p>Disturbance of at least 50 cu. yd. of soil: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, route to DPH for compliance with Ordinance No. 155-13. <input type="checkbox"/> Exempted - Approval from DPH attached</p>
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CPB staff shall input in the “description of work” in the PTS as follows:

1. Compliance with Ordinance No. 155-13 required. Route to DPH (Note: CPB will route to Health for compliance located at Window 20, 1660 Mission Street, 5th Floor, Tues/Thurs, 10:00 am -12:00 pm; or 1390 Market Street, Mon-Fri, Attention: Alyse Heilshorn); or,
2. Compliance with Ordinance No. 155-13 not required. Excavation <50 cu. yd. or no excavation; or,
3. Compliance with Ordinance No. 155-13 exempted. (Attach DPH letter or previously approved permit or other approval document by DPH.)

(B) NOTICE TO TENANTS OF DWELLING UNIT MERGER OR DEMOLITION:

1. Ordinance No. 208-15 (<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances15/o0208-15.pdf>) amends the Building and Planning Codes to require written and posted notice to all tenants of a building in which demolition or merger of a dwelling unit is proposed; and requiring an affidavit and notice if kitchens, stoves or bathrooms would be removed; 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 (See link to Ordinance No. 208-15).
2. Ordinance No. 208-15 is effective to permits filed on or after January 8, 2016 that authorize removal of a legal or illegal dwelling unit.
3. The Building Code amendments require that an applicant proposing to remove a stove, kitchen or bathroom sign an affidavit that such removal would not eliminate a legal or illegal dwelling unit and must post the affidavit (See Attachment) on-site and deliver the notice to all tenants residing in the building.
4. The Building Code amendments require an applicant proposing to remove a residential unit to post a notice about the application on-site and deliver the notice to all on-site tenants when an application is submitted. The notice would provide information about the permit as well as tenant counseling and translation services. Upon issuance of such building permit, the applicant must provide the same notice and information, as well as information about a possible appeal of the permit, by posting it on-site and providing it to all tenants in the building.
5. The Planning Code amendments require a notice to on-site tenants in both legal and illegal residential units when work is proposed that would remove or eliminate a residential unit. Such notice would provide information about the permit and an appeal, as well as tenant counseling and translation services. The notice would be mailed to all on-site units, whether legal or illegal, and would be posted in a common area within the building.
6. The Notice shall be at least 30 inches by 30 inches (30” X 30”) and posted in a conspicuous common area of the building.
7. The following stamp shall be stamped on the permit application form:

Post Notice per
Ord. No. 208-15

(C) CONDITIONAL USE REQUIRED TO REMOVE ANY RESIDENTIAL UNIT AND MANDATORY LEGALIZATION OF ILLEGAL UNITS IN C-3 DISTRICTS; PERMEABLE SURFACES AND LANDSCAPING REQUIREMENTS CITYWIDE FOR BUILDING ADDITIONS AND RESIDENTIAL MERGERS:

Ordinance No. 23-16 (<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances16/o0023-16.pdf>) is an Ordinance amending the Planning Code to require Conditional Use authorization for the removal of any residential unit in a C-3 (Downtown Commercial) District (whether legal or illegal) and to require compliance Citywide with landscaping and permeable surfaces

requirements for building additions and residential mergers, and to exempt from the Conditional Use application requirement illegal units in C-3 Districts where there is no legal path for legalization and residential units that have received prior Planning approval; amending the Building Code to require that notices of violation in a C-3 District mandate legalization of an illegal unit unless infeasible under the Building Code or the Planning Commission approves its removal, 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.

Ordinance No. 23-16 shall become effective April 10, 2016.

1. Any NOV's written/issued as of April 10, 2016 on an illegal unit in a C-3 District, must contain the language indicated below:

SFBC Section 102A.3.1. Dwelling Units constructed or installed without required permit(s). In the case of an unauthorized Dwelling Unit constructed or installed in an existing building in a C-3 Zoning District without the required permit or permits, in addition to the above requirements the written notice of violation shall order the property owner to file an application for a building and other permits required to legalize the unit pursuant to Building Code Section 106A.3.1.3 and Planning Code Section 207.3 unless removal of the unit is approved by the Planning Commission pursuant to Planning Code Section 317.1.

This Ordinance was amended by Ordinance No. 33-16 [see Section (D)].

(D) **CONDITIONAL USE REQUIRED TO REMOVE ANY RESIDENTIAL UNIT; MANDATORY LEGALIZATION OF UNAUTHORIZED UNITS:**

Ordinance No. 33-16 (<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances16/o0033-16.pdf>) is an Ordinance amending the Planning Code to require Conditional Use authorization for the removal of any residential unit (whether authorized or unauthorized) and to exempt from the Conditional Use application requirement unauthorized units where there is no legal path for legalization residential units that have received prior Planning approval, and single family homes that are demonstrably unaffordable or unsound; amending the Building Code to require that notices of violation order the filing of an application to legalize an authorized unit unless infeasible under the Building Code the Planning Commission approves its removal, or a serious and imminent hazard exists on the property; 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 (See link to Ordinance No. 33-16).

Ordinance No. 33-16 shall become effective April 10, 2016.

Any DBI NOV's written/issued as of April 10, 2016 on an illegal unit, must contain the language indicated below:

SFBC Section 102A.3.1. Dwelling units constructed or installed without required permit(s). In case of an unauthorized dwelling unit constructed or installed in an existing building without the required permit or permits, in addition to the above requirements the written notice of violation shall order the property owner to file an application for a building and other permits required to legalize the unit pursuant to Building Code Section 106A.3.1.3 and Planning Code Section 207.3.

Exceptions:

- Removal of the unit has been approved by the Planning Commission pursuant to Planning Code Section 317; or
- After performing a screening under Section 106A.3.1.3(a) of this Code, the Department has determined that the unauthorized dwelling unit is not able to be legalized under Section 106A.3.1.3 of this Code; or
- The Building Official has determined that a serious and imminent hazard under Section 102A.16 of this Code exists on the subject property.



SAN FRANCISCO PLANNING DEPARTMENT

New Planning Code Summary:

Notice to Tenants of Dwelling Unit Merger or Demolition

Amended Sections: 311 and 312
Case Number: 2015-008150PCA
Board File/Enactment #: 150587/208-15
Initiated by: Supervisor Wiener
Effective Date: January 8, 2016

1650 Mission St
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Summary of Planning Code Amendment:

The Ordinance amends Planning Code Sections 311 and 312 by requiring notice to tenants in unauthorized units of applications removing residential units in the buildings in which they reside.

The Way It Was:

1. Written notice is required to be mailed to tenants residing in a building where a building permit application proposing to eliminate a residential unit is filed. However, Planning Code Sections 311 and 312 did not require notice to be mailed to tenants residing in unauthorized units in the building where the building permit application was filed.
2. For the purposes of mailed notices, Project Sponsors are required to use the latest City-wide Assessor's roll for providing the addresses of owners and occupants within the notification area. However, the Planning Code did not require Project Sponsors to provide the Zoning Administrator (ZA) with a list of all tenants residing in the subject property, including those in unauthorized units.
3. The Planning Department requires Project Sponsors to post a notice along the subject property's property line when submitting a building permit application subject to Sections 311 and 312. This notice must be visible from the public street, alley or sidewalk. However, these Planning Code Sections did not require Project Sponsors to post a notice in a conspicuous common area of a subject building when submitting a building permit application to eliminate a residential unit.

The Way It Is Now:

1. In addition to the requirements listed above, Planning Code Sections 311 and 312 now also require notice to be mailed to tenants residing in unauthorized units of

a subject property when a building permit application proposing to eliminate either an authorized or unauthorized residential unit is filed.

2. In addition to using the latest City-wide Assessor's roll to provide addresses for owners and occupants within the notification area, the Planning Code requires Project Sponsors to provide the ZA with a list of all tenants residing in a building, including those residing in unauthorized units, when a building permit application proposes the elimination of at least one residential unit.
3. The Planning Code requires Project Sponsors to post a notice in a conspicuous common area of a subject building when submitting a building permit application to eliminate a residential unit. This is in addition to the existing posted notice requirement pursuant to Planning Code Sections 311(c)(2) and 312(d)(2).

Link to Signed Legislation:

<https://sfgov.legistar.com/View.ashx?M=F&ID=4178839&GUID=8851FBDA-F755-4FEA-AC25-84C8CCB8EF3B>



UNAUTHORIZED UNIT SCREENING REQUEST FORM AND AFFIDAVIT

An Unauthorized Unit, or UDU, is defined in Planning Code Section 317(b)(13) as one or more rooms within a building that have been used, without the benefit of a permit, as a separate and distinct living or sleeping space independent from other Residential Units on the property.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 415.575.9010. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder

中文: 如果您希望獲得使用中文填寫這份申請表的幫助, 請致電415.575.9010。請注意, 規劃部門需要至少一個工作日來回應。

Tagalog: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 415.575.9010. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.

CRITERIA FOR AN UNAUTHORIZED UNIT (UDU)

A UDU must meet two criteria:

1. An UDU must be independent from other Residential Units on the property, which means that the space has independent access, and there is no open, visual connection to a Residential Unit on the property.
2. Use as Independent dwelling Space. A UDU must have been used as a separate and distinct living or sleeping space.

Please note that the definition of a UDU does not rely on the existence of any cooking facilities, so a space may still be considered a UDU even if it doesn't have a kitchen; however a full bathroom is required to be considered a UDU.

Planning Staff may request a UDU screening for permits for interior work to determine if a project removes certain features that allow the space to operate as a separate unit. Scopes of work that may require UDU screening include but are not limited to:

- Removal of direct or indirect access doors
- Removal of a full bathroom
- Removal of a kitchen
- Removal of a wet bar
- Addition of a staircase to create an interior connection between floors

SUBMITTAL INSTRUCTIONS

Please complete the form below and submit it to CPC.UDU@sfgov.org with the following materials:

1. A completed [Unauthorized Unit Affidavit](#) (attached);
2. A digital set of existing and proposed plans (.pdf or .jpeg); and
3. Photographs of the space that may be a UDU.

Planning Staff will contact you with a determination if the space in question is considered a UDU.

Please note that if the Planning Department determines that a UDU is present at the site, the property owner will be required to legalize the unit, which can usually be completed administratively, or seek a Conditional Use Authorization from the Planning Commission to remove the unit. If a UDU is not present at the site, Planning Staff will review the plans for any unpermitted work on the premises. Staff may provide comments to bring the work into compliance with the Planning Code, which may include removal of the unpermitted work. If Planning Code violations persist, Staff may refer the property to the Code Enforcement Division.



UNAUTHORIZED UNIT SCREENING REQUEST FORM AND AFFIDAVIT

Property Information

Project Address:

Block/Lot(s):

Related Building Permits Applications

N/A

Building Permit Applications No(s):

Applicant Information

Name:

Owner

Authorized Agent

Primary Phone Number:

E-mail:

APPLICANT'S AFFIDAVIT AND SITE VISIT CONSENT FORM

Under penalty of perjury the following declarations are made:

- a) The undersigned is the owner or authorized agent of the owner of this property.
- b) The information presented is true and correct to the best of my knowledge.
- c) Other information or applications may be required.

I hereby authorize City and County of San Francisco Planning staff to conduct a site visit of this property, making all portions of the interior and exterior accessible.

(i.e. Owner, Architect, etc.)

Signature

Name (Printed)

Relationship to Project

Phone

Email



UNAUTHORIZED UNIT AFFIDAVIT

Project Address: _____

Block/Lot (APN): _____

“Unauthorized Unit” shall mean one or more rooms within a building that have been used, without the benefit of a building permit, as a separate and distinct living or sleeping space independent from Residential Units on the same property.

“Independent” shall mean that (i) the space has independent access that does not require entering a Residential Unit on the property and (ii) there is no open, visual connection to a Residential Unit on the property.

I, _____, do hereby declare as follows:

To the best of my knowledge:

- There is an Unauthorized Unit, as defined above, located on the subject property.
- There is not an Unauthorized Unit, as defined above, located on the subject property.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED ON THIS DAY, _____, 20____, IN _____, CA.

Signature

Name (Printed)

Relationship to Project
(i.e. Owner, Architect, etc.)

Phone

Email

Submit completed Affidavit upon request by Planning Staff or in conjunction with a UDU Screening Request form.

FOR DEPARTMENT USE ONLY

1. Does the space meet the criteria for Physical Independence as described in Planning Code Section 317(b) (13)? YES NO

If you've checked no, the space is **not** considered a UDU.

Plans Dated: _____

Photographs Provided on (date): _____

2. Has the space been used as a separate and distinct living space? YES NO
- Did the Rent Board provide records for this property? YES NO
- If yes, is there evidence of a UDU? YES NO
- Is there more than one unit accounted for in the Voter Rolls? YES NO
- Does the Unauthorized Unit Affidavit indicate that the project would remove a UDU? YES NO
- Is there any other documentation that indicates that the space has been occupied? YES NO

If yes has been checked above, describe the information further below:

An Unauthorized Unit is present at the Subject Property

There are no Unauthorized Units present at the Subject Property

Planning Information Center (PIC) Research Number: _____

Signature

Name(Printed)

Date

(Note: Please enlarge this Notice to minimum size 30" X 30")

POSTING NOTICE*

(Board of Supervisors Ordinance No. 208-15) NOTICE TO TENANTS OF DWELLING UNIT MERGER OR DEMOLITION

The building permit described below has been filed by the
City and County of San Francisco.

- 1) Permit Number: _____
- 2) Filing Date: _____
- 3) Contact for Information Regarding Permit Issuance: Department of Building Inspection
Address: 1660 Mission Street, San Francisco, CA 94103
Phone Number: (415) 558-6088
- 4) Date of Permit Issuance: _____
- 5) Contact to Appeal Issuance of Permit: Board of Appeals
Address: 1650 Mission Street, Suite 304, San Francisco, CA 94103
Phone Number: (415) 575-6880
- 6) Permittee Name: _____
Address: _____
Phone Number: _____
- 7) List of tenant counseling or legal services that can provide assistance to tenants with understanding and participating in the City's process:
 - a) Tenants Together www.tenantstogether.org
 - b) San Francisco Rent Board www.sfrb.org
 - c) San Francisco Tenants Union www.sftu.org
 - d) Bay Area Legal Aid www.baylegal.org
 - e) Law Help California www.lawhelpca.org
 - f) Lawyer Referral and Information Service of the Bar Association of San Francisco
www.sfbar.org/lawyerreferrals/index.aspx
- 8) Translation services into Spanish, Chinese, and Russian:
 - a) Google's free online language translation service: www.translate.google.com
 - b) Alta Translation Services: (800) 895-8210
 - c) JR Language Translation Services: (415) 839-2094

*Posting required for submittal of building permit application to eliminate either an authorized or unauthorized residential unit.





(Note: Please enlarge this Notice to minimum size 15" X 15")

AFFIDAVIT AND POSTING NOTICE – SELF CERTIFICATION FOR REMOVAL OF STOVE, KITCHEN, BATHROOM, OR RESIDENTIAL UNIT

For compliance with Ordinance No. 208-15 which requires to include an affidavit, signed under penalty of perjury, that the owner, or the owner's authorized representative, is not removing a legal or illegal dwelling unit, as defined in the Housing Code, when the work included in the permit is removal of a stove, kitchen, as defined in the Housing Code, or bathroom, as defined in the Housing Code. Such affidavit shall be posted prominently for at least fifteen (15) days in a conspicuous common area within the building where the work is proposed and shall be provided via hand delivery or U.S. mail to all tenants residing in the building.

PROPERTY ADDRESS: _____

PERMIT APPLICATION NO: _____ BLOCK: _____ LOT: _____

As owner or agent of owner of the above-referenced property, I hereby certify under penalty of perjury (check one only):

- A legal or illegal dwelling unit is not removed by this permit.
- A notice has been posted as required by SFBC Section 106A.3.2.3 for submittal of permit to eliminate a residential unit.

Print name of owner or agent: _____

Signature of owner or agent: _____

Date: _____

This affidavit and posting notice is required for submittal of permit to remove stove, kitchen, bathroom, or residential unit.

Legalization of Dwelling Units Installed Without a Permit SCREENING FORM – No fee to file

The Screening Form shall be completed by a California licensed architect, civil or structural engineer or contractor. Submittal of this Screening Form is to summarize the evaluation performed on the building and to identify code issues related to the legalization of existing unauthorized dwelling units under Ordinance No. 43-14.

Submit the completed Screening Form (with the supporting documents) as a hardcopy in person or by U.S. mail to Department of Building Inspection, 1660 Mission Street, San Francisco, CA 94103

**BLOCK / LOT
NUMBER**

ADDRESS

**CONTACT (OWNER
OR AGENT)**

SECTION 1 – ADMINISTRATIVE INFORMATION

Contact Name

Contact Telephone

Contact Email

Contact Mailing Address

SECTION 2 – DOCUMENTATION OF EXISTING UNAUTHORIZED DWELLING UNITS AND IDENTIFICATION OF RELATED CODE ISSUES

- Attach floor plans for the entire building to demonstrate egress or other code issues
- Attach site (plot) plan showing the location of existing buildings, other structures on the site, property lines and locations of adjacent streets or alleys.
- Assessment/costs prepared by licensed contractor, architect or engineer that outlines compliance plan to meet codes (or any equivalencies subject to approval by DBI, Fire and Planning):

Identification of code issues:

Estimated cost for compliance:

Total estimated cost for compliance = _____

Owner also to provide evidence from Water Department, telephone, gas or electric records, written lease agreements, etc. showing dwelling unit to be legalized existed prior to January 1, 2013;

- | | | | |
|--|--------------------------|---------------------------------|--------------------------|
| Previously approved Permit Application | <input type="checkbox"/> | Original construction documents | <input type="checkbox"/> |
| Previously approved Plan | <input type="checkbox"/> | Water Department bill | <input type="checkbox"/> |
| Certificate of Final Completion | <input type="checkbox"/> | Telephone bill | <input type="checkbox"/> |
| Written Lease Agreement | <input type="checkbox"/> | Gas or Electric records | <input type="checkbox"/> |
| | | Other _____ | <input type="checkbox"/> |

SECTION 3 –DESIGN PROFESSIONAL/CONTRACTOR & OWNER AFFIDAVIT

Under penalty of perjury, the Design Professional/Contractor certifies that the information provided and the Owner/Agent certifies that the information provided in Section 1 of this section are correct to the best of their knowledge.

5.1. Design Professional:

[Professional Stamp Here]

Date stamped and signed

(NOTE: In lieu of stamp,
Contractor shall provide
license number and
expiration date)

Firm Name

Design Professional
Telephone

Design Professional
Email

5.2. Owner / Agent:

- Owner
- Agent

Signature

Date

FOR DBI USE ONLY

DBI has received the materials submitted and filed under "Legalization of dwelling units installed without a permit".

Further discussions on code issues and equivalencies on compliance will be via pre-application meetings or Administrative Bulletin AB-005.

Date received by DBI