



INFORMATION SHEET

NO. G-17

DATE : August 12, 2016

CATEGORY : General

SUBJECT : Legalization of Dwelling Units Installed Without a Permit

REFERENCE : San Francisco Building Code
Administrative Bulletin AB-005: Procedures for Approval of Local Equivalencies
Administrative Bulletin AB-028: Pre-application and Pre-addendum Plan review
Procedures
Ordinance No. 43-14

DISCUSSION :

(A) Summary of Ordinance No. 43-14

1. Voluntary program that allows one unauthorized dwelling unit per lot that existed prior to January 1, 2013 to pursue legalization with DBI and Planning.
2. Units with current Notices of Violation shall be suspended if owner opts to pursue legalization and cleared if the unit is legalized within one year.
3. Units that have pursued no-fault evictions with the Rent Board after March 2014 must wait either 5 or 10 years before they may apply for legalization
4. Capital improvement costs for legalization cannot be passed through to the tenant occupant, and the owner must provide temporary relocation compensation to the tenant occupant if applicable per Rent Board standards.
5. Legalized units cannot pursue subdivision or condo conversion with DPW.

(B) OWNER ANONYMITY:

Prior to submittal of the screening form to DBI for filing, the applicant may pursue the screening process anonymously. Anonymity is no longer possible after submittal of the screening form to DBI for filing.

(C) SCREENING PROCESS:

DBI will provide an initial screening process that is non-binding to help owners understand the estimated costs to legalize before filing an official application. Owners may hire an engineer or design professional or contractor for representation. The owner or professional agent may go to the Unit Legalization Counter on the 1st Floor of 1660 Mission Street to meet informally with DBI Technical Services staff to arrive at a cost estimate. DBI staff may consult with the Fire Department if applicable. Following the screening process, the owner or professional agent may formally apply for legalization with the Planning Department and submit building permit applications with DBI. Electrical and plumbing permits will also be required.

(D) SCREENING FORM:

The Screening Form identifies all the building code issues applicable to legalization. The screening form will not be used by the Department in an official capacity.

Attached to the Screening Form is the Checklist requiring floor plans for the entire building and a site plan showing location of all structures on the subject lot; 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; assessment/costs prepared by licensed contractor, architect or engineer that outlines compliance plan to meet codes (or any equivalencies DBI and Planning agree upon); etc.

(E) FUNDING SOURCES:

DBI will provide information on available funding sources for building code compliance including the CALHOMESF loan from the Mayor's Office of Housing and Community Development.
(Also see Attachment B: Checklist item 38)

(F) DETERMINATION OF EQUIVALENCIES:

Through pre-application meeting (see AB-028) or AB-005, DBI and Fire shall determine whether building code equivalencies are applicable to the various code issues related to legalization.

Director of DBI and Fire Marshall shall determine whether equivalencies from previous building code cycles may apply to facilitate authorization of existing units under Planning Code 207.3, and coordinate with Zoning Administrator in drafting a joint Administrative Bulletin DBI and Planning determine are necessary/helpful to implement this ordinance. Any such AB developed jointly or separately shall be completed within one year of the effective date of this ordinance (May 2015).

(G) REPORT TO ASSESSOR:

Legalized units may (or can) increase the property value, and shall be reported to the Assessor when completed, so property taxes may increase as a consequence of legalization. Provide all floor plans (before and after), cost documents and any documents included with application. Final application should be recorded with the Office of the Assessor-Recorder.

(H) RENT CONTROL REQUIREMENTS:

If the building where the unit is being legalized is subject to the Rent Ordinance, the legalized unit shall also be subject to the Rent Ordinance.

(I) EFFECTIVENESS OF PROGRAM:

Director of DBI and the Zoning Administrator must issue a joint report on the effectiveness of the legalization program six months after the ordinance takes legal effect, and this report must be updated every six months for three years. After this initial 3-year program period, the updated legalization list shall be included in the City's annual housing inventory. The Planning Department shall create and maintain a Master List of authorized/legalized units.

(J) MONITORING FEE:

DBI will suspend collection of the \$52 monthly monitoring fee tied to any NOV where the owner has filed an application to legalize one unit, per this ordinance, as an additional incentive to make the owners/public aware of the option to legalize.

(K) PERMIT PROCESS FOR FILING A BUILDING PERMIT APPLICATION FOR THE FORMAL LEGALIZATION OF THE EXISTING UNAUTHORIZED DWELLING :

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

Unit Legalization
Per Ordinance 43-14

CPB staff shall input in the "description of work" in the PTS as follows:

"Legalization of dwelling units installed without a permit per Ordinance No. 43-14."

Tom C. Hui 7/13/16
Tom C. Hui, S.E., C.B.O., Director or Date
Department of Building Inspection

John Rahaim 7/13/16
John Rahaim, Director Date
Planning Department

Daniel deCossio 8/3/16
Daniel deCossio Date
Fire Marshal

Robert A. Collins 8/12/16
Robert Collins Date
Rent Board

Attachments:

- A. Screening form
- B. Checklist

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

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

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ATTACHMENT B
Legalization of Dwelling Units Installed Without a Permit
 Checklist

The intent of this Checklist is to provide a general guideline for the legalization of dwelling units installed without a permit. This checklist may not cover all code issues related to the legalization process.

Referenced Codes:

- San Francisco Building Code (SFBC)
- San Francisco Existing Building Code (SFEBBC)
- San Francisco Planning Code
- San Francisco Fire Code (SFFC)
- San Francisco Mechanical Code (SFMC)
- San Francisco Plumbing Code
- San Francisco Electrical Code (SFEC)
- San Francisco Energy Code
- California Historical Building Code (CHBC)

* Code section referenced is SFBC unless noted otherwise.

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
1.	Applicable codes shall be SF Building Code (SFBC), San Francisco Existing Building Code (SFEBBC), SF Mechanical Code (SFMC), SF Electrical Code (SFEC), SF Plumbing Code, SF Energy Code (SFEC), and SF Planning Code, SF Fire Code (SFFC) and California Historical Building Code (CHBC).			

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
2.	<p>Rent Board Verification. Ordinance No. 43-14 states that the Planning Department must verify that certain no-fault evictions have not occurred within certain time frames. The applicant shall check whether or not they meet those criteria. If such an eviction has occurred within the limited timeframe, the legalization may not be processed, even if the unauthorized unit could otherwise meet the Building Code requirements. The Planning Department will verify that information with the Rent Board during the permit review process.</p>			
3.	<p>A dwelling unit is a room or suite of two or more rooms that is designed for, or is occupied by, one family doing its own cooking therein and having only one kitchen. A housekeeping room as defined in the Housing Code shall be a dwelling unit for purposes of this Code. For the purposes of this Code, a live/work unit shall not be considered a dwelling unit.</p>	<p>Planning Code Sections 102.7 & 102.13</p>		
4.	<p>Landscaping. Pursuant to Planning Code Section 132, 20 percent of the front setback area shall be remain unpaved and devoted to plant material, including the use of climate appropriate plant materials. Please indicate compliance with this requirement on the plans. A link to the Guide to the San Francisco Green Landscaping Ordinance is below: http://www.sf-planning.org/ftp/files/publications_reports/Guide to SF Green Landscaping Ordinance.pdf</p>	<p>Planning Code Section 132</p>		
5.	<p>Permeability. Pursuant to Planning Code Section 132, the front setback area shall be at least 50 percent permeable so as to increase stormwater infiltration. The permeable surface</p>	<p>Planning Code Section 132</p>		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	<p>may be inclusive of the area counted towards the landscaping requirement; provided, however, that turf pavers or similar planted hardscapes shall be counted only toward the permeable surface requirement and not the landscape requirement. Please indicate compliance with this requirement on the plans. A link to the Guide to the San Francisco Green Landscaping Ordinance is below: http://www.sf-planning.org/ftp/files/publications_reports/Guide to SF Green Landscaping Ordinance.pdf</p>			
6.	<p>Street Tree. When a dwelling unit is proposed, including legalizing an illegal dwelling unit, the property must comply with the street tree requirements. One tree of 24-inch box size is required for each 20 feet of frontage of the property along each street or alley, with any remaining fraction of 10 feet or more of frontage requiring an additional tree. Such trees shall be located either within a setback area on the lot or within the public right-of-way along such lot. This property is required to provide one street tree. Please indicate compliance with this requirement on the plans.</p>	<p>Planning Code Section 138</p>		
7.	<p>Street Tree Referral. Prior to Planning Department approval, you must obtain a referral form Department of Public Works (DPW). DPW determines whether or not required trees can feasibly be planted. Please bring to the following to DPW: (1) a completed Tree Planting and Protection Checklist, (2) project plans [11"x17" is acceptable] and (3) a DPW tree planting application. Submittals can be made to DPW's offices at 1155 Market St or electronically at www.sfdpw.org -> "Services A-Z" -> "Trees".</p>			

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	<p>After doing their analysis and fieldwork, DPW will provide the applicant with a signed referral form with their determination which should then be provided to Planning staff. Planning staff cannot approve the building permit application without the referral form from DPW. This information may be submitted directly to Kate Conner at the Planning Department, 1650 Mission Street, 4th Floor. The Tree Protection and Planting checklist is linked below: http://sf-planning.org/modules/showdocument.aspx?documentid=8321</p>			
8.	<p>Bicycle Parking. When a dwelling unit is proposed, including legalizing an illegal dwelling unit, the property must comply with bicycle parking requirements. In order to legalize an illegal unit per Planning Code Section 207.3, bicycle parking spaces must be provided on-site in a secure, weather protected space meeting dimensions set in Zoning Administrator Bulletin No. 9, easily accessible to residents and not otherwise used for automobile parking or other purposes. Each space is required to be 2'-0" by 6'-0. An area devoted to bicycle parking must be shown on the plans. A link to Zoning Administrator Bulletin No. 9 is below: http://www.sf-planning.org/ftp/files/publications_reports/ZAB_BicycleParking_9-7-13.pdf</p>	Planning Code Section 155		
9.	<p>Provide floor plans for the entire building to demonstrate exiting and other issues. The Floor Plans must show all existing rooms adjacent to the dwelling unit to be legalized. Label the use of each room.</p>			

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10.	<p>Provide Site (Plot) Plan: Show the location of existing buildings, other structures on the site, property lines and locations of adjacent streets or alleys.</p> <ul style="list-style-type: none"> • Show dimensions between dwelling unit walls and property lines. • Show the direction of true North. 			
11.	Provide evidence from Water Department, telephone, gas or electric records, written lease agreements, etc. Showing dwelling unit to be legalized existed prior to Jan. 1 , 2013			
12.	Minimum ceiling heights. Occupiable spaces, <i>habitable spaces</i> and <i>corridors</i> shall have a ceiling height of not less than 7 feet 6 inches.	1208.2		
13.	Bathrooms, toilet rooms, kitchens, storage rooms and laundry rooms shall be permitted to have a ceiling height of not less than 7 feet.	1208.2		
14.	Ceiling height. The means of egress shall have a ceiling height of not less than 7 feet 6 inches.	1003.2		
15.	Foundation slab needs to be lowered if (12) (13) or (14) are not met.			
16.	Minimum room widths. Habitable spaces, other than a kitchen, shall be not less than 7 feet in any plan dimensions. Kitchens shall have a clear passageway of not less than 3 feet between counter fronts and appliances or counter fronts and walls.	1208.1		
17.	Room area. Every dwelling unit shall have no less than one room that shall have not less than	1208.3		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	<p>120 square feet of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet.</p> <p>Exception: Kitchens are not required to be of a minimum floor area.</p>			
18.	<p>Efficiency Dwelling Units.</p> <p>Unless modified by local ordinance pursuant to Health and Safety Code Section 17958.1, efficiency dwelling units shall comply with the following:</p> <ol style="list-style-type: none"> 1. The unit shall have a living room of not less than 150 square feet of floor area. An additional 100 square feet of floor area shall be provided for each occupant of such unit in excess of two. 2. The unit shall be provided with a separate closet. 3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided. 4. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower. 	1208.4		
19.	<p>Private garages and carports Separation.</p> <p>Separations shall comply with the following:</p> <p>(1) The private garage shall be separate from the dwelling unit and its attic area by means of gypsum board, not less than 5/8-inch in thickness, applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than a 5/8-inch (15.9 mm) Type X gypsum board or</p>	406.3.4.		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	<p>equivalent and ½-inch (12.7 mm) gypsum board applied to structures supporting the separation from habitable rooms above the garage. Door openings between a private garage and the dwelling unit shall be equipped with either solid wood doors or solid or honeycomb core steel doors not less than 1.3/8inches in thickness or doors in compliance with Section 716.5.3 with a fire protection rating of not less than 20 minutes. Openings from a private garage directly into a room used for sleeping purpose shall not be permitted. Doors shall be self-closing and self-latching.</p> <p>(2) Ducts in a private garage and ducts penetrating the walls or ceiling separating the dwelling unit, including its attic area, from the garage shall be constructed of sheet steel of not less than 0.019 inches, in thickness, and shall have no openings into the garage.</p> <p>(3) A separation is not required between a Group R-3 and U carport, provided the carport is entirely open on two or more sides and there are not enclosed areas above.</p>			
20.	<p>Fire-resistance rating. Horizontal assemblies separating dwelling units in the same building and horizontal assemblies separating sleeping units in the same building shall be a minimum of 1-hour fire-resistance-rated construction.</p>	711.3		
21.	<p>Noise Insulation Enforcement Procedures. APPLICABILITY. The noise requirements apply only to residential use buildings for which permits were applied after August 22, 1974, i.e. to Form 1 and 2 applications. They do not apply to buildings constructed before 1974 in which</p>	Administrative Bulletin AB-026		

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	new units are created through alterations, additions or change of use.			
22.	<p>Section 1030 Emergency Escape and Rescue</p> <p>1030.1 General. In addition to the means of egress required by this chapter, provisions shall be made for emergency escape and rescue openings in Group R occupancies. Basements and sleeping rooms below the fourth story above grade plane shall have at least one exterior emergency escape and rescue opening in accordance with this section. Where basements contain one or more sleeping rooms, emergency escape and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement.</p> <p>Such openings shall open directly into a public way or to a yard or court that opens to a public way.</p> <p>Exceptions:</p> <ol style="list-style-type: none"> 1. In Groups R-1 and R-2 occupancies constructed of Type I, Type IIA, Type IIIA or Type IV construction equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1. 2. Basements with a ceiling height of less than 80 inches (2032 mm) shall not be required to have emergency escape and rescue openings. 3. Emergency escape and rescue openings are not required from basements or sleeping rooms that have an exit door or exit access door that opens directly into a public way or to a yard, court or exterior exit balcony that opens to a public way. 	1030 Information Sheet No. EG-03		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	<p>4. Basements without habitable spaces and having not more than 200 square feet (18.6 m²) in floor area shall not be required to have emergency escape and rescue openings.</p> <p>1030.2 Minimum size. Emergency escape and rescue openings shall have a minimum net clear opening of 5.7 square feet (0.53 m²).</p> <p>Exception: The minimum net clear opening for grade-floor emergency escape and rescue openings shall be 5 square feet (0.46 m²).</p> <p>1030.2.1 Minimum dimensions. The minimum net clear opening height dimension shall be 24 inches (610 mm). The minimum net clear opening width dimension shall be 20 inches (508 mm). The net clear opening dimensions shall be the result of normal operation of the opening.</p> <p>1030.3 Maximum height from floor. Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 44 inches (1118 mm) measured from the floor.</p> <p>(For R3, also see Information Sheet no. EG-03)</p>			
23.	<p>Landings shall have a width not less than the width of the stairway or the door, whichever is greater. Doors in the fully open position shall not reduce a required dimension by more than 7 inches (178 mm). Where a landing serves an occupant load of 50 or more, doors in any position shall not reduce the landing less than one-half its required width. Landings shall have a length measured in the direction of travel not less than 44 inches (1118 mm).</p>	1010.1.6		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
24.	Habitable rooms (excluding kitchens, home offices and media rooms) within a dwelling unit or congregate residence shall be provided with natural light by means of exterior glazed openings in accordance with Section 1205.2.	1205.1 Exception		
25.	<p>Natural light. The minimum net glazed area shall be not less than 8% of the floor area of the room served.</p> <p>Adjoining spaces. For the purpose of natural lighting, any room is permitted to be considered as a portion of an adjoining room where one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or 25 square feet, whichever is greater.</p>	1205.2 1205.2.1		
26.	Stairways within dwelling units and exterior stairways serving a dwelling unit shall have an illumination level on tread runs of not less than 1 foot-candle.	1205.4		
27.	The openable area of the openings to the outdoors shall be not less than 4 percent of the floor area being ventilated.	1203.5.1		
28.	Enclosed attic & enclosed rafter spaces shall have cross ventilation not be less than 1/150 of the area of the ventilated space. A minimum of 1" airspace shall be provided between insulation and the roof sheathing.	1203.2		
29.	<p>Garage and carports.</p> <p>Ventilations shall be provided as follows: Natural ventilations shall be required, and such space shall be provided with ventilation outlets</p>	406.3.7		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	in the walls or exterior doors. The total net area of such ventilation outlets shall be 200 square inches for a space up to 1,000 square feet in area and shall be increased 30 square inches for each additional 200 square feet of floor area up to maximum floor area of 3,000 square feet.			
30.	Indicate the location of attic access.			
31.	Sleepers and sills on a concrete or masonry slab that is in direct contact with earth shall be of naturally durable or preservative-treated wood.	2304.12.1.4		
32.	Wood framing members, including wood sheathing, that are in contact with exterior foundation walls and are less than 8 inches (203 mm) from exposed earth shall be of naturally durable or preservative-treated wood.	2304.12.1.2		
33.	Exiting through the garage area shall meet all requirements of Administrative Bulletin AB-020.	AB-020		
34.	Fire-resistance rating requirement for exterior walls based on fire separation distance shall meet requirements of Table 602.	Table 602		
35.	Openings in exterior walls shall comply with Sections 705.8.1 through 705.8.6.	705.8		
36.	Approval of New Openings in New and Existing Building Property Line Walls shall meet requirements of Administrative Bulletin AB-009.	AB-009		

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37.	Bathrooms. Rooms containing bathtubs, showers, spa and similar bathing fixtures shall be mechanically ventilated in accordance with the California Mechanical Code.	1203.5.2.1		
38.	Energy Conservation. Qualified historical buildings or properties covered by this part are exempted from compliance with energy conservation standards.	CHBC Section 8-901.5		
39.	Access Compliance. All publicly funded buildings used for congregate residences or for one- or two-family dwelling unit purposes shall conform to the provisions applicable to living accommodations.	1.9.1.1.3 Chapters 11A & 11B		
40.	Carbon monoxide alarms. When a permit is required for alterations, repairs or additions with a total cost or calculated valuation exceeding \$1,000, existing dwellings or sleeping units with a fossil fuel-burning heater or appliance, fireplace or an attached garage shall have a carbon monoxide alarm installed in accordance with Section 420.6.2. Carbon monoxide alarms shall only be required in the specific dwelling unit or sleeping unit for which the permit was obtained.	420.6.2.2		
41.	Smoke alarms: When the valuation of an addition, alteration or repair to a Group R Occupancy exceeds \$1,000 and a permit is required, or when one or more sleeping rooms are added or created in existing Group R Occupancies, smoke alarms shall be installed in accordance with Section 907.	SFBC Section 3401.8.1 or; SFBC Section 401.5		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
42.	Preliminary review by Plumbing Inspection Division. Call 558-6570 as required.	San Francisco Plumbing Code		
43.	Preliminary review by Electrical Inspection Division. Call 558-6570 as required.	San Francisco Electrical Code		
44.	School Impaction Fee Administration. The California State Legislature had amended School Facilities Fees legislation and exempts any residential addition of less than 500 square feet.	Information Sheet No. G-11		
45.	17912. Rules and regulations promulgated pursuant to the provisions of this part and building standards published in the State Building Standards Code, relating to the erection or construction of buildings or structures, shall not apply to existing buildings or structures or to buildings or structures as to which construction is commenced or approved prior to the effective date of the rules, regulations, or building standards, except by act of the Legislature, but rules, regulations, and building standards relating to use, maintenance, and change of occupancy shall apply to all hotels, motels, lodging houses, apartment houses, and dwellings, or portions thereof, and buildings and structures accessory thereto, approved for construction or constructed before or after the effective date of such rules, regulations, or building standards.	California Health and Safety Code Section 17912		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
46.	<p>Assessor-Recorder’s Office: Legalized units shall be reported to the Assessor when completed for applicable property tax assessment. Under State law, the Assessor is responsible for establishing a taxable value on property located in the City & County of San Francisco. A property that legalizes a unit under this program may be subject to an increase in the assessed value depending on whether the building was originally purchased with the existing illegal in-law unit and the extent to which new construction occurs to bring the unit into compliance. Please contact the Assessor’s Office with additional questions: call 311 or visit assessor@sfgov.org.</p>			
47.	Other.			