

ORDINANCE 2006-016

AN ORDINANCE OF THE CITY OF SAN PABLO AMENDING CHAPTER 15.52 OF THE SAN PABLO MUNICIPAL CODE REGARDING HEALTH AND SAFETY INSPECTIONS OF RESIDENTIAL PROPERTY.

WHEREAS, the City of San Pablo prior to 1986 had no Housing Code Enforcement Program designed for inspection of single-family and multiple-family dwelling units, hotels and motels throughout the community, thereby allowing the housing inventory of the City to become substandard and deteriorated through the lack of maintenance or alterations and uses in violation of the law; and

WHEREAS, deficient and substandard housing has a detrimental effect upon the stability of neighborhoods, is environmentally undesirable and, consequently, is detrimental to the entire community throughout all economic levels; and

WHEREAS, the City enacted a Residential Health and Safety ordinance in 1986 and amended the ordinance in 1992, 2001, and 2004 to try to remedy some of these problems; and

WHEREAS, it has been determined that further amendments to the ordinance must be made to increase the effectiveness of the Residential Health and Safety Program; and

WHEREAS, it has been determined that a new certificate of compliance is needed whenever a residential property is offered for sale within 12 months of a prior sale; and

WHEREAS, it has been determined that a new category of temporary resale certificate of compliance is needed to allow a sale to proceed when deficiencies cannot be corrected before the close of escrow; and

WHEREAS, in order to attain these objectives, the ordinance within maintains and improves a comprehensive program of Housing Code Enforcement to protect occupants from substandard housing and to maintain neighborhood stability and an environmentally desirable community for all residents; and

WHEREAS, it is not the intent of this ordinance to require that existing buildings comply with current uniform codes where such buildings at the time they were constructed conformed to such codes then in effect unless required by other laws and ordinances or unless deficiencies exist which endanger the life, limb, health, property, safety or welfare of the public or occupants thereof:

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN PABLO DOES ORDAIN AS FOLLOWS:

SECTION 1 Chapter 15.52 of the San Pablo Municipal Code is hereby amended as follows:

Chapter 15.52

RESIDENTIAL HEALTH AND SAFETY ORDINANCE

- 15.52.010 Short title.**
- 15.52.020 Definitions.**
- 15.52.030 Certificate required for occupancy.**
- 15.52.040 Resale certificate of compliance - Transfer of residential unit.**
- 15.52.042 Resale certificate of compliance – Contents and duration.**
- 15.52.044 Temporary resale certificate of compliance.**
- 15.52.046 Temporary resale certificate of compliance – Contents and duration.**
- 15.52.050 Periodic certificate of compliance - Non-owner occupied unit.**
- 15.52.060 Periodic certificate of compliance – Contents and duration.**
- 15.52.070 Noncompliance with existing codes – Correction of deficiencies.**
- 15.52.080 Fees established by council resolution.**
- 15.52.090 Availability of property for inspection.**
- 15.52.100 Appeals.**
- 15.52.110 Enforcement and implementation of regulations.**
- 15.52.120 Code violations – Tenant’s right to request inspection.**
- 15.52.130 Violation – Penalty.**

15.52.010 Short title.

This chapter shall be cited as “The residential health and safety ordinance.”

15.52.020 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

“Administrator” means the building official for the city.

“Buyer” means the buyer or transferee, or his authorized agent, who has entered into a real estate transaction agreement with the owner.

“Change in use” means to occupy a unit for other than a residence in accordance with the zoning code for the city.

“City” means the city of San Pablo, California.

“Non-owner occupied” means any unit whose most recent occupant was not the owner.

“Occupant” means any person who occupies a unit whether as an owner, tenant or permittee of the owner.

“Owner” means the owner of record as shown on the last equalized assessment roll or the authorized agent of the owner.

“Person” means an individual, partnership, corporation or association, or rental agent of any of the foregoing.

“Unit” means a dwelling unit in a single-family, two-family, or multiple-family residence building, including motels, hotels and boardinghouses and similar living accommodations.

15.52.030 Certificate required for occupancy.

No person shall occupy, change the use of or sell, exchange, rent, lease or otherwise permit any non-owner occupied unit more than three years from the original construction date, or any owner-occupied unit more than ten years from the original construction date, to be occupied until a resale certificate of compliance, periodic certificate of compliance, or temporary resale certificate of compliance is issued by the administrator, as provided in this chapter. Failure to obtain any certificate required by this chapter or any other violation of this chapter shall constitute a violation of local codes dealing with health, safety or building within the meaning of Revenue and Taxation Code Sections 17274 and 24436.5.

15.52.040 Resale certificate of compliance - Transfer of residential unit.

A. When a residential single-family, owner occupied unit more than ten years old, or a residential non-owner occupied unit more than three years old, is being sold, transferred, assigned, by operation of law or otherwise, the owner shall file with the administrator a written application for resale certificate of compliance on a form to be prescribed by the administrator, accompanied by the fee therefor, unless as exempted under Section 15.52.040B. Within five working days after the application is received the owner shall request an inspection and the administrator shall cause an inspection of the property to be made for compliance with the city’s codes so as to remove or mitigate potential threats to the health and safety of the occupants or future occupants. Units that are being sold and in escrow will have first priority to be inspected. If the unit is determined to be safe, the administrator shall issue a resale certificate of compliance.

B. If a residential unit has a current, valid periodic certificate of compliance, and has not been sold, transferred, assigned, by operation of law or otherwise within the past twelve months, then a resale certificate of compliance is not needed.

C. As an alternative to paying for a city inspection of such residential unit, the owner may arrange for an inspection from a private inspection company that is licensed to do business in the city of San Pablo, and which uses and completes a city-approved inspection form. No sale or transfer of the property may occur until such inspector files with the city, under penalty of perjury, an inspection form indicating that all potential threats to the health and safety of the occupants or future occupants have been removed. Such report shall also be served upon the buyer. Upon receipt of such report, the administrator shall issue a resale certificate of compliance, unless he or she has reasonable suspicion justifying an inspection by the city. In such a case, the administrator shall cause an inspection to be made at city’s initial expense, and shall commence abatement proceedings against the property upon discovery of any violations. Any inspector who issues a false report shall be guilty of a misdemeanor.

15.52.042 Resale certificate of compliance--Contents and duration.

- A. The resale certificate of compliance shall state:
 - 1. The date of issue;
 - 2. The length of time the certificate shall be considered current;
 - 3. The legal use and occupancy of the unit;

4. The address of the building;
5. The name of the person to whom it is issued; and
6. The certification that the unit complies with the provisions of applicable codes and ordinances.

B. The resale certificate of compliance shall expire upon the completion of sale, transfer, or assignment; or twelve months from the date of issue; whichever is earlier.

C. If a residential single-family, owner-occupied unit is under ten years of age or a non-owner occupied unit is under three years of age, the administrator shall issue a letter of exemption in lieu of a resale certificate of compliance upon request of the owner.

15.52.044 Temporary resale certificate of compliance.

If the owner cannot complete all work needed to remove or mitigate potential threats to the health and safety of the occupants or future occupants as specified in Section 15.52.040A before the anticipated date of close of escrow, the buyer may file with the administrator a written application for a temporary resale certificate of compliance. Upon approval of the application and issuance of a temporary resale certificate of compliance by the administrator to the buyer, the buyer shall assume all obligations of the owner as specified in Sections 15.52.040A and 15.52.070, and shall comply with the city's codes so as to remove or mitigate, within sixty days of close of escrow, the potential threats to the health and safety of the occupants or future occupants.

15.52.046 Temporary resale certificate of compliance – Contents and duration.

A. The temporary resale certificate of compliance shall state:

1. The date of issue;
2. The length of time the certificate shall be considered current;
3. The legal use and occupancy of the unit;
4. The address of the building; and
5. The name of the person to whom it is issued.

B. The temporary resale certificate of compliance shall expire upon the completion of all work needed to remove or mitigate potential threats to the health and safety of the occupants or future occupants as specified in Section 15.52.040A, or sixty days from close of escrow, whichever is earlier.

15.52.050 Periodic certificate of compliance - Non-owner occupied unit.

A. All non-owner occupied units more than three years old shall require a periodic certificate of compliance, unless as exempted under Section 15.52.050B. When a unit has not previously had a periodic certificate of compliance or when the period indicated on the current periodic certificate of compliance has less than thirty days to expiration the owner shall file with the administrator a written application for a periodic certificate of compliance on a form to be prescribed by the administrator, accompanied by the fee.

B. If the residential unit has been sold, transferred, assigned, by operation of law or otherwise within the past twelve months, and a valid resale certificate of compliance or temporary resale certificate of compliance was issued, then a periodic certificate of compliance is not required for twelve months after the close of escrow, or until the expiration date of a valid periodic certificate of compliance; whichever is later.

C. Within a reasonable time, not to exceed sixty days, after the application is received, the owner shall request an inspection and the administration shall cause an inspection of the unit to be made for compliance with health and safety codes. If the unit is in compliance with the code and ordinances, the administrator shall issue a periodic certificate of compliance.

15.52.060 Periodic certificate of compliance--Contents and duration.

A. The periodic certificate of compliance shall state:

1. The date of issue;
2. The length of time the certificate shall be considered current;
3. The legal use and occupancy of the unit;
4. The address of the building;
5. The name of the person to whom it is issued; and
6. The certification that the unit complies with the provisions of applicable codes and ordinances.

B. Periodic certificates of compliance for non-owner occupied units shall be good for periods of twelve, eighteen, twenty-four, thirty-six, forty-eight and sixty months, depending on the number of demerits a property receives at time of original inspection. The administrator shall establish a schedule of demerits and certificate duration.

C. The periodic certificate of compliance shall be void upon a change of the use of property, or upon expiration.

D. If a residential non-owner occupied unit is under three years of age, the administrator shall issue a letter of exemption in lieu of a certificate of compliance upon request of the owner.

15.52.070 Noncompliance with existing codes--Correction of deficiencies.

A. Where an inspection discloses that the property contains code deficiencies that threaten the health and safety of current or future occupants, the administrator shall give written notice of each deficiency to the owner within five days of inspection completion.

B. No resale certificate of compliance or periodic certificate of compliance shall be issued to the owner until all health and safety deficiencies are corrected. Except as provided in Section 15.52.040C, all required corrections shall be made prior to completion of the sale or transfer of title.

C. If the owner fails to correct all such deficiencies within six months after the original application was filed, he shall file a new application and again pay the application fee. If a temporary resale certificate of compliance was issued and the new owner fails to correct all such deficiencies within sixty days after the close of escrow, he shall file a new application and pay the application fee. The acceptance of such new application shall not waive the city's right to proceed with any civil or criminal remedy for previous failures to comply with this chapter.

15.52.080 Fees established by council resolution.

The filing fees for all certificates of compliance, letters of exemption, or noncompliance fees shall be as established by resolution of the city council.

15.52.090 Availability of property for inspection.

The owner shall be responsible for making the property available for inspection by the city. Should access to any unit be denied by the tenant because of illness, law or any other verifiable, legitimate reason, the owner shall reschedule the inspection at no cost to owner. A noncompliance fee may be charged to the owners if they do not appear for a scheduled inspection or they do not otherwise provide access to the property.

15.52.100 Appeals.

Any person aggrieved by the determination of the administrator under this chapter may appeal to the appeals board in the manner provided in the housing code.

15.52.110 Enforcement and implementation of regulations.

The administrator may promulgate written rules and regulations pertaining to the enforcement, interpretation, and implementation of this chapter. Nothing in this chapter shall prevent the administrator, in emergency situations, from taking such temporary action as is, in his or her judgment, within the spirit and intent of this chapter and adopted rules and regulations.

15.52.120 Code violations--Tenant's right to request inspection.

A tenant may request an inspection because of an actual code violation, which has previously been reported in writing to the owner and/or their authorized representative. The tenant must fill out a request for inspection form, which will be provided by the city, and the inspection will be performed at no cost to the owner. If the inspection discloses that the property is not in compliance with the code and ordinances and a current, valid certificate of compliance exists, such certificate of compliance shall become invalid until such time as all deficiencies are corrected. In such cases, the provisions of Section 15.52.070 shall be followed. The administrator's determination of noncompliance may be appealed as provided for in Section 15.52.110.

15.52.130 Violation--Penalty.

Unless otherwise indicated, any person who violates any provision of this chapter shall be deemed guilty of an infraction and, upon conviction thereof, shall be punished therefor as provided in Section 1.08.020 of this code.

SECTION 2 Severability. If any sections, subsections, sentences, clauses, phrases or portions of his ordinance are for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that It would have passed this and each section, subsection, phrase or clause of this ordinance whether or not any one or more sections, subsections, phrases Or clauses may be declared invalid Or unconstitutional on their face or as applied.

SECTION 3 Effective Date. This ordinance shall become effective thirty (30) days following its adoption and shall be published once within fifteen (15) days after adoption in the West County Times a newspaper of general circulation in the City of San Pablo, or, in the alternative the City Clerk may cause to be published a summary or display advertisement prepared by the City Attorney's office of this ordinance and a certified copy of the text of this ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this ordinance, within fifteen (15) days after adoption, a certified copy of this ordinance together with the vote for and against shall be posted in the office of the City Clerk.

First read at a regular meeting of the City Council of the City of San Pablo on 3rd day of October, 2006, and finally passed and adopted at a second meeting of said City Council held on the 16th day of October, 2006, by the following vote:

AYES:	COUNCILMEMBERS:	McNeil, Morris, Gomes, Brown and Calloway
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST:

/s/ Ted J. Denney
Ted J. Denney, City Clerk

APPROVED:

/s/ Genoveva Garcia Calloway
Genoveva Garcia Calloway, Mayor