

FILE NO. 041536

ORDINANCE NO.

299-04

1 [Adding Section 3409 to the Building Code to create a code compliance inspection and  
2 graduated compliance plan for non-residential buildings and structures at the Naval Station  
3 Treasure Island and Hunters Point Naval Shipyard that have been leased or transferred by  
4 the Federal government to the City, the Redevelopment Agency, or the Treasure Island  
5 Development Authority; to provide that DBI and the Fire Department may charge the City, the  
6 Redevelopment Agency or the Treasure Island Development Authority time and material fees  
7 as set forth in existing codes for responding to requests for inspection and performing  
8 associated tasks; and to provide that Section 3409 shall not go into effect until the graduated  
9 compliance plan has been filed with the California Building Standards Commission and will  
10 remain in effect until January 1, 2007 or until seven years after the lease or transfer of such  
11 buildings or structures, as long as that lease or transfer occurs prior to January 1, 2007, and  
12 unless state law extends the time for operation under a graduated code compliance plan.]

8 **Ordinance amending the Building Code to add Section 3409 to provide that building**  
9 **and structures located on the Naval Station Treasure Island (including Yerba Buena**  
10 **Island) and Hunters Point Naval Shipyard may comply with the requirements of the**  
11 **Building Code in a graduated manner over a period not to exceed seven years provided**  
12 **that: the buildings or structures were in existence at the time the bases were selected**  
13 **for closure, the Director of the Department of Building Inspection and the Fire Marshal**  
14 **determine that the buildings or structures are safe for their intended use and**  
15 **occupancy, the buildings or structures have been leased or transferred by the Federal**  
16 **Government to the City, the Redevelopment Agency, or the Treasure Island**  
17 **Development Authority, and the buildings or structures meet the code compliance**  
18 **inspection and graduated compliance plan requirements specified, to authorize the**  
19 **Department of Building Inspection and the Fire Department to charge the**  
20 **Redevelopment Agency or the City fees for time and materials expended in responding**  
21 **to requests for inspection and performing other tasks associated with the graduated**  
22 **compliance plan program, and to provide that this Section shall not go into effect until**  
23 **the graduated compliance plan has been filed with the California Building Standards**  
24 **Commission and shall remain in effect until January 1, 2007 or until seven years after**  
25

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1 the lease or transfer of buildings or structures subject to this Section, as long as that  
2 lease or transfer occurs prior to January 1, 2007, unless a state statute deletes or  
3 extends the time period for a local agency to operate under a graduated code  
4 compliance plan under California Health and Safety Code Section 18941.9 and making  
5 environmental findings.

6  
7 Note: Additions are single-underline italics Times New Roman;  
8 deletions are ~~strikethrough italics Times New Roman~~.  
9 Board amendment additions are double underlined.  
10 Board amendment deletions are ~~strikethrough normal~~.

11 Be it ordained by the People of the City and County of San Francisco:

12 Section 1. The San Francisco Building Code is hereby amended by adding Section  
13 3409, to read as follows:

14 Section. 3409

15 3409.1 General.

16 Under California Health and Safety Code Section 18941.9, the governing body of a local  
17 agency may adopt an ordinance that allows a building or other structure that is located on a military  
18 base selected for closure by action of the federal Defense Base Closure and Realignment Commission,  
19 including Naval Station Treasure Island (including Yerba Buena Island) and Hunters Point Naval  
20 Shipyard, to comply with the Health and Safety Code and with the San Francisco Building Code in a  
21 graduated manner over a period of no more than seven years provided that:

22 1. The building or structure is in existence at the time the military base is selected for  
23 closure by action of the federal Defense Base Closure and Realignment Commission;

24 2. The building or structure is safe for its intended use and occupancy as determined by the  
25 Director of the Department of Building Inspection (the "Director") and the San Francisco Fire  
Marshal (the "Fire Marshal");

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1           3. The building or structure has been or will be transferred by the federal government to  
2 either the City and County of San Francisco (the "City"), the Redevelopment Agency of the City and  
3 County of San Francisco (the "Redevelopment Agency") or the Treasure Island Development Authority  
4 ("Development Authority"); or is under a lease from the federal government to the City, the  
5 Redevelopment Agency or the Development Authority;

6           4. The building or structure meets the code compliance inspection and graduated  
7 compliance plan requirements set forth below.

8           5. The building or structure will not be used as a residence.

9           **3409.2 Code Compliance Inspections Prior to Leasing or Transfer of Title.** Before the  
10 City, the Redevelopment Agency or the Development Authority enters into a lease with the federal  
11 government or accepts title to any building or other structure located on a military base selected for  
12 closure, the City, the Redevelopment Agency or the Development Authority shall request the Director  
13 and the Fire Marshal to inspect, or cause to be inspected, the building or structure for compliance with  
14 applicable codes, in accordance with the provisions of this Section 3409. The Director and the Fire  
15 Marshal shall issue a written report containing their findings on the compliance of the building or  
16 structure to the City, the Redevelopment Agency or the Development Authority. The Director and the  
17 Fire Marshal may, in their discretion, issue the compliance report jointly or separately. Only the  
18 Director and the Fire Marshall may inspect or cause to be inspected, buildings or structures for  
19 compliance with applicable codes in accordance with this Section 3409.

20           **3409.2.1 Applicable Codes.** The Director and the Fire Marshal shall evaluate the  
21 building or structure, including any alterations or changes in use, if known, using the codes in effect at  
22 the time of original construction. If a determination of what codes were in effect at the time of original  
23 construction cannot be made, the Director and the Fire Marshal shall apply the Uniform Building  
24 Code in effect at the time of original construction jointly determine which codes are appropriate  
25 for evaluation of the building or structure for the purposes herein.

1           3409.3           **Graduated Code Compliance Plan and Timetable.**

2           3409.3.1           **Buildings with no change in occupancy or use and no anticipated alterations.**

3           3409.3.1.1       **Complying building or structure.** If, after performing the inspections required  
4 by Section 3409.2, the Director and the Fire Marshal concur that the building or structure complies  
5 with the applicable codes and will not be hazardous to life safety, fire safety, health or sanitation based  
6 on its intended use and occupancy, the Director, with the approval of the Fire Marshal, will issue a  
7 Certificate of Final Completion and Occupancy.

8           3409.3.1.2       **Remedial work required.** If, after performing the inspection required by Section  
9 3409.2, the Director and the Fire Marshal determine that remedial work is required so that the  
10 intended use and occupancy of the building or structure will not be hazardous to life safety, fire safety,  
11 health or sanitation, such work must be performed pursuant to building permits issued by the  
12 Department. All such remedial work shall either comply with current codes or be approved by the  
13 Director and the Fire Marshal as providing equivalent public safety. The Director, with the approval  
14 of the Fire Marshal, shall determine that the building or structure is safe for occupancy as evidenced  
15 by the issuance of a Temporary Certificate of Occupancy or a Certificate of Final Completion and  
16 Occupancy.

17           3409.3.1.3       **Graduated compliance plan.** A graduated plan of compliance with the  
18 applicable codes may be approved upon the concurrence of the Director and the Fire Marshal,  
19 provided that:

20           1.           The Director and the Fire Marshal have issued a written determination that, in their  
21 respective opinions, the intended use and occupancy of the building or structure will not be hazardous  
22 to life safety, fire safety, health or sanitation. This determination may, in the discretion of the Director  
23 and the Fire Marshal, be issued jointly or separately;

24           2.           The time for full compliance with the applicable codes must not exceed a period of seven  
25 years from the date that the City, the Redevelopment Agency or the Development Authority enters into a

1 lease with the federal government or accepts title to any building or other structure located on a  
2 military base selected for closure;

3 3. All required remedial work either complies with current codes or is approved by the  
4 Director and the Fire Marshal as providing equivalent public safety; and

5 4. A Temporary Certificate of Occupancy is issued by the Director, with the approval of  
6 the Fire Marshal, setting forth the approved graduated compliance plan with a timetable for full  
7 compliance with the applicable codes. The compliance plan may be amended only with the joint  
8 approval of the Director and the Fire Marshal. In no event may the time allowed for full code  
9 compliance extend beyond the seven year period as set forth in Section 3409.3.1.3(2).

10 3409.3.2 **Buildings with no change in occupancy or use but with planned alterations.**

11 3409.3.2.1 **Complying building or structure.** If, after performing the inspection required by  
12 Section 3409.2, the Director and the Fire Marshal concur that the building or structure complies with  
13 the applicable codes and will not be hazardous to life safety, fire safety, health or sanitation based on  
14 its intended use and occupancy and planned alterations, the Director, with the approval of the Fire  
15 Marshal, shall cause a Certificate of Final Completion and Occupancy to be issued.

16 3409.3.2.2 **Remedial work required.** If, after performing the inspection required by Section  
17 3409.2, the Director and the Fire Marshal determine that remedial work is required so that the  
18 intended use and occupancy of the building or structure will not be hazardous to life safety, fire safety,  
19 health or sanitation, such work must be done in conjunction with any planned alterations. A  
20 Temporary Certificate of Occupancy or a Certificate of Final Completion and Occupancy shall be  
21 issued by the Director, with the approval of the Fire Marshal.

22 3409.3.2.3 **Graduated compliance plan.** A graduated plan for compliance with the  
23 applicable codes may be approved with the concurrence of the Director and the Fire Marshal,  
24 provided that:

1           1. The Director and the Fire Marshal have issued a written determination that, in their  
2 respective opinions, the intended use and occupancy of the building or structure will not be hazardous  
3 to life safety, fire safety, health or sanitation. This determination may, in the discretion of the Director  
4 and the Fire Marshal, be issued jointly or separately;

5           2. The time for full compliance with the applicable codes must not exceed a period of seven  
6 years from the date that the City, the Redevelopment Agency or the Development Authority enters into a  
7 lease with the federal government or accepts title to any building or other structure located on a  
8 military base selected for closure;

9           3. All new work, including remedial work and alterations, either complies with current  
10 codes or is approved by the Director and the Fire Marshal as providing equivalent public safety; and

11           4. A Temporary Certificate of Occupancy is issued by the Director, with the approval of  
12 the Fire Marshal, setting forth the approved graduated compliance plan with a timetable for full  
13 compliance with the applicable codes. The compliance plan may be amended only with the joint  
14 approval of the Director and the Fire Marshal. In no event may the time allowed for full code  
15 compliance extend beyond the seven year period as set forth in Section 3409.3.2.3(2).

16           **3409.3.3 Building with a change in occupancy or use but no anticipated alterations.**

17           **3409.3.3.1 Complying building or structure.** If, after performing the inspection required by  
18 Section 3409.2, the Director and the Fire Marshal concur that the building or structure meets current  
19 requirements for the new occupancy or use and will not be hazardous to life safety, fire safety, health  
20 or sanitation based on its intended use and occupancy, the Director, with the approval of the Fire  
21 Marshal, shall cause a Certificate of Final Completion and Occupancy to be issued.

22           **3409.3.3.2 Remedial work required.** If, after performing the inspection required by Section  
23 3409.2, the Director and the Fire Marshal determine that remedial work is required so that the  
24 intended use and occupancy of the building or structure will not be hazardous to life safety, fire safety,  
25 health or sanitation, such work must be performed pursuant to building permits issued by the

1 Department. All remedial work shall either comply with current codes or be approved by the Director  
2 and the Fire Marshal as providing equivalent public safety. The building or structure may not be  
3 occupied until the Director, with the approval of the Fire Marshal, has caused the issuance of a  
4 Certificate of Final Completion and Occupancy.

5 3409.3.3.3 **Graduated compliance plan.** A graduated plan of compliance with the  
6 applicable codes may be approved with the concurrence of the Director and the Fire Marshal,  
7 provided that:

8 1. The Director and the Fire Marshal have issued a written determination that, in their  
9 respective opinions, the intended use and occupancy of the building or structure will not be hazardous  
10 to life safety, fire safety, health or sanitation. This determination may, in the discretion of the Director  
11 and the Fire Marshal, be issued jointly or separately;

12 2. The time for full compliance with the applicable codes must not exceed a period of seven  
13 years from the date that the City, the Redevelopment Agency or the Development Authority enters into a  
14 lease with the federal government or accepts title to any building or other structure located on a  
15 military base selected for closure;

16 3. All required remedial work either complies with current codes or is approved by the  
17 Director and the Fire Marshal as providing equivalent public safety; and

18 4. A Temporary Certificate of Occupancy is issued by the Director, with the approval of  
19 the Fire Marshal, setting forth the approved graduated compliance plan with a timetable for full  
20 compliance with the applicable codes. The compliance plan may be amended only with the joint  
21 approval of the Director and the Fire Marshal. In no event may the time allowed for full code  
22 compliance extend beyond the seven year period as set forth in Section 3409.3.3.3(2).

23 3409.3.4 **Buildings with a change in occupancy or use and with planned alterations.**

24 3409.3.4.1 **Complying building or structure.** If, after performing the inspection required by  
25 Section 3409.2, the Director and the Fire Marshal concur that the building or structure meets current

1 requirements for the new occupancy or use and will not be hazardous to life safety, fire safety, health  
2 or sanitation based on its intended use and occupancy and planned alterations, the Director shall  
3 cause, with the approval of the Fire Marshal, the issuance of a Certificate of Final Completion and  
4 Occupancy upon completion and approval of the planned alteration work.

5 3409.3.4.2 Remedial work required. If, after performing the inspection required by Section  
6 3409.2, the Director and the Fire Marshal determine that remedial work is required so that the  
7 intended use and occupancy of the building or structure will not be hazardous to life safety, fire safety,  
8 health or sanitation, such work must be done in conjunction with any planned alterations. The building  
9 or structure must meet current code requirements for the new occupancy. All remedial work must  
10 either comply with current codes or be approved by the Director and the Fire Marshal as providing  
11 equivalent public safety. The building or structure may not be occupied until the Director, with the  
12 approval of the Fire Marshal, has caused a Certificate of Final Completion and Occupancy to be  
13 issued.

14 3409.3.4.3 Graduated compliance plan. A graduated plan of compliance with the  
15 applicable codes may be approved with the concurrence of the Director and the Fire Marshal,  
16 provided that:

17 1. The Director and the Fire Marshal have issued a written determination that, in their  
18 respective opinions, the intended use and occupancy of the building or structure, and the planned  
19 alterations will not be hazardous to life safety, fire safety, health or sanitation. This determination  
20 may, in the discretion of the Director and the Fire Marshal, be issued jointly or separately;

21 2. The time for full compliance with the applicable codes must not exceed a period of seven  
22 years from the date that the City, the Redevelopment Agency or the Development Authority enters into a  
23 lease with the federal government or accepts title to any building or other structure located on a  
24 military base selected for closure;



1           3.       All new work, including remedial work and alterations, either complies with current  
2 codes or is approved by the Director and the Fire Marshal as providing equivalent public safety; and

3           4.       A Temporary Certificate of Occupancy is issued by the Director, with the approval of  
4 the Fire Marshal, setting forth the approved graduated compliance plan and a timetable for full  
5 compliance with the applicable codes. The compliance plan and timetable may be amended only with  
6 the joint approval of the Director and the Fire Marshal. In no event may the time allowed for full code  
7 compliance extend beyond the seven-year period.

8           3409.4       **Enforcement.**

9           3409.4.1       **Notices of Violation and Orders to Abate.** The Department and the Fire  
10 Department shall provide the City, the Redevelopment Agency or the Development Authority with a  
11 copy of any Notice of Violation or Order to Abate issued for a building or other structure subject to this  
12 section. The manner of service shall be as otherwise required by law.

13           3409.4.2       **Revocation of Certificate of Final (or Temporary) Completion and Occupancy.**  
14 In the event that: a) all code violations specified in the approved graduated compliance plan set forth  
15 by the Director and the Fire Marshall, are not complied with in the timeline provided therein; or b) the  
16 Director or Fire Marshal issues an Order to Abate code violations and the Order is not complied with  
17 during the timeline provided therein, the Director may, in writing, revoke the Certificate of Final (or  
18 Temporary) Completion and Occupancy.

19           3409.5       **Fees.** The Department and the Fire Department may charge the City, the  
20 Redevelopment Agency or the Development Authority fees for actual time and materials expended in  
21 responding to requests for inspection and performing other tasks associated with the graduated  
22 compliance plan program. Fees for permits and other services shall be as set forth in the San  
23 Francisco Building Code and the San Francisco Fire Code.

24           3409.7       **Effective Date.**  
25

1           (a)           This ordinance shall not go into effect until the date the Department files a copy  
2 of the approved graduated compliance plan with the California Building Standards Commission. The  
3 Department shall not file a copy of the approved graduated compliance plan with the California  
4 Building Standards Commission until an engineer or architect licensed by the State of California, or a  
5 building official certified by the International Conference of Building Officials or the International  
6 Code Council, who is not an employee of the City, the Redevelopment Agency or the Development  
7 Authority, has issued a written report making findings and recommendations as to the consistency of  
8 the graduated compliance plan set forth in this Section with Health and Safety Code Section 18941.9.  
9 In the event that the engineer, architect or building official finds the graduated compliance plan to be  
10 inconsistent with Health and Safety Code Section 18941.9 the Director, at his or her discretion, may  
11 initiate an amendment of this Section to take into account those findings, or may issue written findings  
12 setting forth the reasons why the Department believes the graduated compliance plan is consistent with  
13 this Section.

14           (b)           This Section 3409 shall remain in effect only until January 1, 2007 or until seven  
15 years after the lease or transfer of buildings or structures subject to this Section, as long as that lease  
16 or transfer occurred prior to January 1, 2007, unless a state statute, enacted before January 1, 2007,  
17 deletes or extends the time period for a local agency to operate under a graduated code compliance  
18 plan under California Health and Safety Code Section 18941.9.

19           3409.8           **Americans with Disabilities Act.** Nothing in this Section 3409 shall affect local,  
20 state, or federal laws as they relate to access to the disabled.

21           3409.9           **State Historic Building Code.** Nothing in this Section 3409 shall affect  
22 local or state laws as they relate to the State Historic Building Code.

23           3409.910       **Obtaining a Certificate of Final Completion and Occupancy.** Once all of the  
24 code violations specified in the approved graduated compliance plan set forth by the Director and the  
25 Fire Marshall, are complied with in the timeline provided therein, the Department (and/or the Fire

1 Marshal, as required) will re-inspect the building or structure. If, after performing the re-inspections  
2 of the building or structure, the Director and the Fire Marshal concur that the building or structure  
3 complies with the applicable codes and will not be hazardous to life safety, fire safety, health or  
4 sanitation based on its intended use and occupancy, the Director, with the approval of the Fire  
5 Marshal, will issue a Certificate of Final Completion and Occupancy.

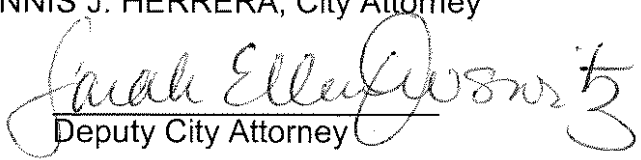
6 3409.4011 Re-inspection of buildings and structures.

7 Five years after the commencement of any graduated compliance plan authorized under this  
8 Section, the Department shall arrange for an engineer or architect licensed by the State of California  
9 or a building official certified by the International Conference of Building Officials or the  
10 International Code Council, who is not an employee of the City, the Redevelopment Agency or the  
11 Development Authority, to determine whether the buildings or other structures under the graduated  
12 compliance plan adhere to the graduated compliance plan. In the event that the engineer, architect, or  
13 building official determines that the building or structure does not adhere to the graduated compliance  
14 plan, the Department shall withdraw the certificate of occupancy for that building or structure.

15  
16 Section 2. The Planning Department concluded environmental review of this ordinance  
17 pursuant to the California Environmental Quality Act (California Public Resources Code  
18 sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
19 Supervisors in File No041533 and is incorporated herein by reference.

20  
21 APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

22  
23 By:

  
Deputy City Attorney

24  
25  
MAYOR, MAXWELL  
BOARD OF SUPERVISORS



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

**File Number:** 041536

**Date Passed:**

Ordinance amending the Building Code to add Section 3409 to provide that building and structures located on the Naval Station Treasure Island (including Yerba Buena Island) and Hunters Point Naval Shipyard may comply with the requirements of the Building Code in a graduated manner over a period not to exceed seven years provided that: the buildings or structures were in existence at the time the bases were selected for closure, the Director of the Department of Building Inspection and the Fire Marshal determine that the buildings or structures are safe for their intended use and occupancy, the buildings or structures have been leased or transferred by the Federal Government to the City, the Redevelopment Agency, or the Treasure Island Development Authority, and the buildings or structures meet the code compliance inspection and graduated compliance plan requirements specified, to authorize the Department of Building Inspection and the Fire Department to charge the Redevelopment Agency or the City fees for time and materials expended in responding to requests for inspection and performing other tasks associated with the graduated compliance plan program, and to provide that this Section shall not go into effect until the graduated compliance plan has been filed with the California Building Standards Commission and shall remain in effect until January 1, 2007 or until seven years after the lease or transfer of buildings or structures subject to this Section, as long as that lease or transfer occurs prior to January 1, 2007, unless a state statute deletes or extends the time period for a local agency to operate under a graduated code compliance plan under California Health and Safety Code Section 18941.9 and making environmental findings.

December 7, 2004 Board of Supervisors — PASSED ON FIRST READING

Ayes: 9 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Ma, Maxwell, McGoldrick,  
Peskin, Sandoval

Noes: 2 - Daly, Gonzalez

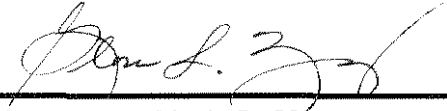
December 14, 2004 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Ma, Maxwell, McGoldrick,  
Peskin, Sandoval

Noes: 2 - Daly, Gonzalez

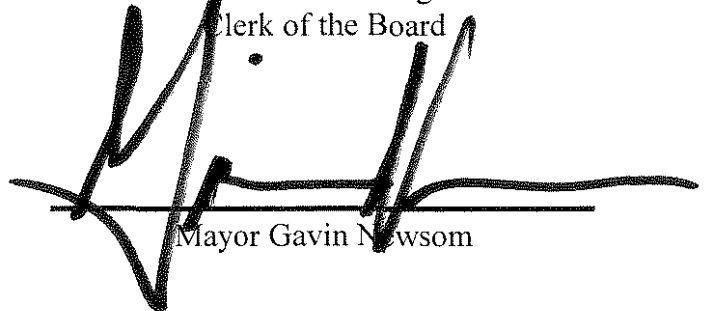
File No. 041536

I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on December 14,  
2004 by the Board of Supervisors of the City  
and County of San Francisco.



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Gloria L. Young  
Clerk of the Board



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Mayor Gavin Newsom

12/24/04

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Date Approved