

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

June 15, 2016

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On May 17, 2016, Supervisor Peskin introduced the following legislation:

**File No. 160553**

**Ordinance amending the Planning Code to clarify that all noncommercial Signs are exempt from regulation pursuant to Planning Code, Article 6; increase penalties for repeat violations for the display of illegal General Advertising Signs; shorten the time before penalties for General Advertising Sign violations begin to accrue; allow property liens for such penalties that go unpaid; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and a finding of public necessity, convenience, and welfare under Planning Code, Section 302.**

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use and Transportation Committee

c: John Rahaim, Director of Planning  
Aaron Starr, Acting Manager of Legislative Affairs  
Scott Sanchez, Zoning Administrator

Sarah Jones, Chief, Major Environmental Analysis  
AnMarie Rodgers, Legislative Affairs  
Jeanie Poling, Environmental Planning  
Joy Navarrete, Environmental Planning

1 [Planning Code - Signs - Exemptions and General Advertising Sign Penalties]

2  
3 **Ordinance amending the Planning Code to clarify that all noncommercial Signs are**  
4 **exempt from regulation pursuant to Planning Code, Article 6; increase penalties for**  
5 **repeat violations for the display of illegal General Advertising Signs; shorten the time**  
6 **before penalties for General Advertising Sign violations begin to accrue; allow property**  
7 **liens for such penalties that go unpaid; affirming the Planning Department's**  
8 **determination under the California Environmental Quality Act; and making findings of**  
9 **consistency with the General Plan, and the eight priority policies of Planning Code,**  
10 **Section 101.1, and a finding of public necessity, convenience, and welfare under**  
11 **Planning Code, Section 302.**

12 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.  
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
15 **Board amendment additions** are in double-underlined Arial font.  
16 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
17 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
18 subsections or parts of tables.

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

17 Section 1. Environmental and Planning Findings.

18 (a) The Planning Department has determined that the actions contemplated in this  
19 ordinance comply with the California Environmental Quality Act (California Public Resources  
20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
21 Supervisors in File No. \_\_\_ and is incorporated herein by reference. The Board affirms this  
22 determination.

23 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
24 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
25 with the City's General Plan and the eight priority policies of Planning Code Section 101.1.

1 The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk  
2 of the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the  
4 proposed Planning Code amendments will serve the public necessity, convenience, and  
5 welfare for the reasons set forth in Planning Commission Resolution No. \_\_\_\_\_, and  
6 the Board incorporates such reasons herein by reference.

7  
8 Section 2. General Findings.

9 (a) San Francisco is one of the most unusual and beautiful cities in the world, but it is  
10 losing its character as more general advertising signs, commonly known as billboards, pollute  
11 its streets and neighborhoods every day.

12 (b) In past years, hundreds of general advertising signs have been displayed across  
13 the City's neighborhoods: on the side of buildings, plastered next to shop windows, and  
14 stacked one-after-another on major streets. Due to new technology, billboard companies can  
15 erect signs anywhere quickly, easily, and cheaply.

16 (c) San Francisco's historic buildings, scenic views, and distinctive neighborhoods are  
17 being overrun by huge new general advertising signs. These intrusive advertisements hang  
18 over parks, playgrounds, public plazas, and homes and block views. Over the last few  
19 years there has been a dramatic increase in general advertising billboards, particularly the  
20 massive wallsapes that cover entire sides of buildings. General advertising signs are urban  
21 blight. They command viewers' attention without their consent, robbing them of the right to  
22 see the beautiful city they live in. They destroy the distinctive qualities that make San  
23 Francisco and its individual neighborhoods unique.

1           General advertising signs are currently in, adjacent to, and visible from public and  
2 historically significant civic spaces including not only parks and public plazas, but also historic  
3 buildings and the waterfront.

4           (d) The number of general advertising signs is increasing all over the City. Many  
5 areas of the City are saturated with general advertising signs. In these areas the general  
6 advertising signs are obtrusive, out of scale, and contribute to visual pollution and blight. As  
7 population, traffic, and building trends grow and shift within the City, it is difficult to assess  
8 which areas of the City will be inundated with general advertising signs next.

9           (e) The harms created by the large number of general advertising signs in San  
10 Francisco transcend aesthetic and environmental concerns, important as those concerns are  
11 to the community. There are other concrete harms as well. First, tourism, San Francisco's  
12 largest revenue-generating industry, benefits from the preservation of the City's unique  
13 character, architecture, and vistas. As general advertising signs become more and more a  
14 part of the City's landscape, its distinctive appearance recedes or is hidden, and the character  
15 that tourists visit the City to experience is lost. Second, City officials and the public have  
16 expressed concern over the negative impact of the increasing volume of general advertising  
17 signs on traffic and pedestrian safety. Third, signs identifying local services and businesses  
18 are often blocked or obscured by general advertising signs, a practice that confuses and  
19 distracts the public from finding those services and businesses.

20           (f) City officials have received complaints from the public about the proliferation of  
21 general advertising signs in the City, the commercialization of the City's public space, and the  
22 increased size of vinyl signs which cover entire sides of buildings, as well as about general  
23 advertising signs placed on architecturally and historically significant buildings.

1 (g) More than 600 cities in the United States – including San Jose, San Diego, Denver,  
2 and Seattle – and six States have protected their environment by prohibiting new general  
3 advertising signs.

4 (h) The City currently contains an ample supply of legally permitted general advertising  
5 signs.

6 (i) Planning Code Section 601 identifies the need to regulate signs in order to reduce  
7 hazards that can distract motorists and pedestrians traveling on the public right of way. Sign  
8 controls reduce the potential for accidents, especially in congested parts of the City.

9 (j) Planning Code Section 601 cites as among the special purposes for adopting sign  
10 regulation: safeguarding and enhancing of property values in residential, commercial, mixed  
11 use, and industrial areas, protecting the public investment in and the character and dignity of  
12 public buildings, open spaces and thoroughfares, and protecting the distinctive appearance of  
13 San Francisco produced by its unique geography, topography, street patterns, skyline and  
14 architectural features.

15 (k) Policy 4.14 of the Urban Design Element of the City's General Plan states, "Signs  
16 are another leading cause of street clutter. Where signs are large, garish and clashing they  
17 lose their value as identification or advertising and merely offend the viewer. Often these signs  
18 are overhanging or otherwise unrelated to the physical qualities of the buildings on which they  
19 are placed. Signs have an important place in an urban environment, but they should be  
20 controlled in their size and location."

21 (l) Upon the adoption in March 2002 of Proposition G's citywide ban on new general  
22 advertising signs, it was estimated that roughly 1,500 general advertising signs existed in San  
23 Francisco.

24 (m) In 2007, in Ordinance No. 52-07, the City adopted what were then thought to be  
25 heavy penalties for illegal general advertising signs. But, despite these penalties, roughly 200

1 additional general advertising signs have since been installed. While these signs have been  
2 removed through Planning Department enforcement activities, litigation, or a combination  
3 thereof, these 200 signs were equivalent to roughly one-quarter of the City's current total legal  
4 inventory of approximately 800 general advertising signs. Not only is this ratio of  
5 noncompliance inconsistent with the voter mandates set forth in March 2002's Proposition G,  
6 November 2007's Proposition K, and November 2009's Proposition E, but this striking pattern  
7 of unlawful activity also drains important City resources better put to other uses. Further, this  
8 pattern of unlawful activity demonstrates the continuing appeal of general advertising signs  
9 within the advertising industry, an appeal that often leads to the unlawful placement of such  
10 signs in San Francisco.

11 (n) General advertising signs remain highly prominent in the advertising industry, and  
12 have not been meaningfully displaced by internet or other digital forms of advertising.  
13 Nationally, revenue from general advertising signs "rose 4.6 percent in 2015 compared to the  
14 previous year, accounting for \$7.3 billion," according to the Outdoor Advertising Association of  
15 America, which "marks an all-time high."

16 (o) Consistent market demand for general advertising signs, notwithstanding the City's  
17 10-year-old penalty amounts levied against illegal general advertising signs, has led to a  
18 situation in which penalties resulting from the display of illegal general advertising signage are  
19 internalized as a "cost of doing business." The penalties for such illegal signage no longer  
20 serve as a meaningful deterrent to unlawful behavior, if they ever did.

21 (p) The size of a sign is a key factor in determining the profitability of a general  
22 advertising sign.

23 (q) A central purpose of administrative penalties under Article 6 of the Planning Code  
24 is to deter illegal general advertising signs. Another purpose is to compensate the City for its  
25 costs of enforcing Article 6. To encourage compliance with Article 6, the City must have the

1 ability to impose administrative penalties that are sufficiently large to deter illegal general  
2 advertising signs.

3 (r) Sign companies generally have the ability to remove illegal signage quickly after  
4 receiving notice that a sign violates Article 6 of the Planning Code. For example, in 2016, just  
5 before the Super Bowl, the City determined that a general advertising sign on the side of a  
6 building in Embarcadero Center violated Article 6. The Responsible Party removed the sign  
7 within two days of receiving notice from the City that the sign was illegally displayed.

8 (s) Current penalties for illegal general advertising signs do not deter sign companies  
9 that wish to display an illegal general advertising sign during a particular event, such as the  
10 Super Bowl or SF Pride weekend. Under current Planning Code Section 610, a sign company  
11 may display a general advertising sign a few days before the event, knowing that penalties will  
12 not begin to accrue until 30 days after a notice of violation for the sign is issued, long after the  
13 event is over and the purpose of the general advertising sign, to reach attendees of the event,  
14 has been served.

15  
16 Section 3. The Planning Code is hereby amended by revising Sections 602.10, 603  
17 and 610, to read as follows:

18 **SEC. 602.10. IDENTIFYING SIGN.**

19 A Ssign for a use listed in Article 2 of this Code as either a principal or a conditional use  
20 permitted in an R District, regardless of the district in which the use itself may be located,  
21 which Ssign serves to tell only the name, address, and lawful use of the premises upon which  
22 the Ssign is located, or to which it is affixed. ~~A bulletin board of a public, charitable or religious~~  
23 ~~institution, used to display announcements relative to meetings to be held on the premises, shall be~~  
24 ~~deemed an identifying sign.~~ With respect to shopping malls containing five or more stores or  
25 establishments in NC Districts, and shopping centers containing five or more stores or



1 establishments in NC-S Districts or in the City Center Special Sign District, ~~I~~ identifying S signs  
2 shall include S signs which tell the name of and/or describe aspects of the operation of the mall  
3 or center. Shopping malls, as that term is used in this Section, are characterized by a  
4 common pedestrian passageway which provides access to the businesses located therein.

5  
6 **SEC. 603. EXEMPTED SIGNS.**

7 Nothing in this Article 6 shall apply to any of the following signs:

8 (a) Noncommercial Signs, including but not limited to

9 \_\_\_\_\_(a1) Official public notices, and notices posted by public officers in performance  
10 of their duties;

11 \_\_\_\_\_(b2) Governmental signs for control of traffic and other regulatory purposes,  
12 street signs, danger signs, railroad crossing signs, and signs of public service companies  
13 indicating danger and aids to service or safety;

14 \_\_\_\_\_(c3) Temporary display posters, without independent structural support, in  
15 connection with political campaigns and with civic noncommercial health, safety, and welfare  
16 campaigns, ~~provided that in R districts such posters shall be removed within 60 days following the~~  
17 ~~conclusion of the campaign;~~

18 \_\_\_\_\_(d4) Flags, emblems, insignia, and posters of any nation or political subdivision,  
19 and temporary displays of a patriotic, religious, charitable, or other civic character;

20 \_\_\_\_\_(e5) House numbers, whether illuminated or not, "no trespassing," "no parking,"  
21 and other warning signs;

22 \_\_\_\_\_(f6) Commemorative plaques placed or provided by recognized historical agencies;

23 \_\_\_\_\_(7) Religious symbols;

24 \_\_\_\_\_(8) Information plaques or signs which identify to the public open space resources,  
25 architectural features, creators of artwork, or otherwise provide information required by this Code or

1 by other City agencies, or an identifying sign which directs the general public and/or patrons of a  
2 particular establishment to open space or parking resources:

3 (gb) Signs within a stadium, open-air theater, or arena which are designed primarily to  
4 be viewed by patrons within such stadium, open-air theater, or arena;

5 ~~(h) Religious symbols attached to buildings if not projecting beyond any street property line or~~  
6 ~~building setback line;~~

7 ~~(i) Flags indicating weather conditions, and single flags which are emblems of business firms,~~  
8 ~~enterprises and other organizations;~~

9 (jc) Two gGeneral aAdvertising sSigns each not exceeding 24 square feet in area on  
10 either a transit shelter or associated advertising kiosk furnished by contract with the Municipal  
11 Transportation Agency or predecessor agency for the Municipal Railway in RTO, RTO-M, RM-  
12 2, RM-3, RM-4, RC, NC, C, M, PDR, Eastern Neighborhoods Mixed Use Districts, and South  
13 of Market Mixed Use Districts, and in those P Districts where such sSigns would not adversely  
14 affect the character, harmony, or visual integrity of the district as determined by the City  
15 Planning Commission; eight gGeneral aAdvertising sSigns each not exceeding 24 square feet  
16 in area on transit shelters located on publicly owned property on a high level Municipal  
17 Railway boarding platform in an RH-1D District adjacent to a C-2 District, provided that such  
18 advertising signs solely face the C-2 District; up to three double-sided gGeneral aAdvertising  
19 sSigns each not exceeding 24 square feet in area on or adjacent to transit shelters on publicly  
20 owned high level Municipal Railway boarding platforms along The Embarcadero south of the  
21 Ferry Building, up to six double-sided panels at 2nd and King Streets, and up to four double-  
22 sided panels at 4th and King Streets; up to two double-sided panels not exceeding 24 square  
23 feet in area on each low-level boarding platform at the following E-Line stops: Folsom Street  
24 and The Embarcadero, Brannan Street and The Embarcadero, 2nd and King Streets, and 4th  
25 and King Streets; and a total of 71 double-sided gGeneral aAdvertising sSigns each not

1 exceeding 24 square feet in area on or adjacent to transit shelters on 28 publicly owned high  
2 level Municipal Railway boarding platforms serving the Third Street Light Rail Line. Each  
3 advertising sign on a low-level or high-level boarding platform shall be designed and sited in  
4 such a manner as to minimize obstruction of public views from pedestrian walkways and/or  
5 public open space.

6 Notwithstanding the above, no ~~s~~Sign shall be placed on any transit shelter or  
7 associated advertising kiosk located on any sidewalk which shares a common boundary with  
8 any property under the jurisdiction of the Recreation and Park Commission, with the exception  
9 of Justin Herman Plaza; on any sidewalk on Zoo Road; on Skyline Boulevard between Sloat  
10 Boulevard and John Muir Drive; on John Muir Drive between Skyline Boulevard and Lake  
11 Merced Boulevard; or on Lake Merced Boulevard on the side of Harding Park Municipal Golf  
12 Course, or on any sidewalk on Sunset Boulevard between Lincoln Way and Lake Merced  
13 Boulevard; on any sidewalk on Legion of Honor Drive; or in the Civic Center Special Sign  
14 Districts as established in Section 608.3 of this Code.

15 The provisions of this subsection (c) shall be subject to the authority of the ~~San~~  
16 ~~Francisco~~ Port Commission under Sections 4.114 and B3.581 of the City Charter and under  
17 State law.

18 ~~(k) Information plaques or signs which identify to the public open space resources,~~  
19 ~~architectural features, creators of artwork, or otherwise provide information required by this Code or~~  
20 ~~by other City agencies, or an identifying sign which directs the general public and/or patrons of a~~  
21 ~~particular establishment to open space or parking resources, provided that such sign shall not project~~  
22 ~~more than three inches from the wall and that its dimensions shall be no greater than 24 inches by 24~~  
23 ~~inches;~~

1 ~~(l) Nonilluminated art murals within the South of Market Mixed Use District and Eastern~~  
2 ~~Neighborhoods Mixed Use Districts, with the exception of the UMU District, if they project no more~~  
3 ~~than 18 inches from the pre-existing surface of a structure;~~

4 (md) Two ~~g~~General ~~a~~Advertising ~~s~~Signs each not exceeding 52 square feet in area on a  
5 public service kiosk furnished by contract with the Department of Public Works which contract  
6 also provides for the installation and maintenance of automatic public toilets. Each such public  
7 service kiosk shall be divided into three sections, one of which shall provide a public service,  
8 such as a newsstand, newsrack, map, public telephone, vending machine, display of public  
9 service information, or interactive video terminal;

10 (ne) Advertising placed on fixed pedestal newsrack units in accordance with Section  
11 184.12 of the Public Works Code.

12 (ef) To the extent not otherwise exempted pursuant to subsection (a) of this Section 610, Any  
13 Historic Movie Theater Projecting Sign or Historic Movie Theater Marquee when preserved,  
14 rehabilitated, restored, or reconstructed pursuant to Section 188(e) of the Planning Code.

15  
16 **SEC. 610. VIOLATION OF GENERAL ADVERTISING SIGN REQUIREMENTS.**

17 \* \* \* \*

18 (b) Administrative Penalties. The Director of Planning may impose administrative  
19 penalties for violations of the regulations governing ~~g~~General ~~a~~Advertising ~~s~~Signs set forth in  
20 this Article 6. These administrative penalties are cumulative to and do not foreclose any criminal or  
21 civil penalties that may apply under state or local law. Administrative penalties shall be imposed in  
22 accordance with the following procedures:

23 (1) Notice of Violation.

24 (A) Upon the Planning Department's determination pursuant to Section  
25 176 of this Code that a general advertising sign has been erected, installed, expanded,

1 intensified, relocated, or otherwise operated in violation of the requirements of this Code or  
2 has been denied an in-lieu identifying number pursuant to Section 604.1(c) of this Code, the  
3 Director shall send a written notice of violation to the Responsible Party *for delivery* by first  
4 class mail, ~~or hand-delivery,~~ *or electronic mail*. The notice of violation shall describe the  
5 violation(s), state that the Responsible Party has ~~thirty five calendar~~ days from the date  
6 postmarked on the notice or *three calendar days* from the date of hand-delivery *or electronic*  
7 *mail delivery* of the notice to: (i) file an application for a permit to remove the general  
8 advertising sign; (ii) correct the violation(s) pursuant to ~~S~~subsection (c); or (iii) request  
9 reconsideration pursuant to ~~S~~subsection (d). *An electronic mail message shall be considered*  
10 *delivered on the same day that it is sent.*

11 \* \* \* \*

## 12 (2) Penalties.

13 (A) Accrual of Penalties. If a Responsible Party fails to respond to the  
14 notice of violation as outlined in subsection (b)(1)(A), penalties shall accrue under this Section  
15 610 at the daily rate set forth in subsection (b)(2)(B) beginning on the *Accrual Date, which is*  
16 *defined as the sixth day after the date postmarked on a notice delivered by first class mail, or on the*  
17 *thirty-firstfourth day after hand-delivery or electronic mail delivery of a notice,* and the Director  
18 shall refer the matter to the City Attorney for further action. If the Responsible Party responds  
19 after *the Accrual Date*~~thirty days~~, but before the Director has referred the matter to the City  
20 Attorney, the Responsible Party shall be assessed a penalty based on the number of days  
21 that have passed *beginning on the Accrual Date until*~~between the end of the thirty-day period and~~  
22 the date the Responsible Party responded. Once the matter has been referred to the City  
23 Attorney for further proceedings, it shall be within the discretion of the City Attorney, in  
24 consultation with the Director, whether to allow the Responsible Party to request a  
25 reconsideration of the notice of violation or to proceed with other legal action. If the

1 Responsible Party is allowed to request reconsideration, the Responsible Party shall pay a  
2 penalty based on the amount accrued beginning on the Accrual Date until~~between the end of the~~  
3 ~~thirty-day period and~~ the date the Responsible Party responded. The Responsible Party shall  
4 pay this penalty within five ~~(5)~~ business days of notice that the Responsible Party will be  
5 allowed to request reconsideration.

6 (B) Amount of Penalties.

7 (i) The administrative penalties that the Director or administrative  
8 law judge assesses against the Responsible Party~~ies~~ shall be related to the square footage of  
9 the ~~g~~General ~~a~~Advertising ~~s~~Sign found to be in violation of the Planning Code, as shown  
10 below:

- 11 \_\_\_\_\_ ~~a.(i)~~ 100 square feet or less –\$100.~~00~~ per day per violation;  
12 \_\_\_\_\_ ~~b.(ii)~~ 101 - 300 square feet - \$1,000.~~00~~ per day per violation;  
13 \_\_\_\_\_ ~~c.(iii)~~ 301 - 500 square feet - \$1,750.~~00~~ per day per  
14 violation; and  
15 \_\_\_\_\_ ~~d.(iv)~~ Over 500 square feet - \$2,500.~~00~~ per day per  
16 violation.

17 If the violation for which the administrative penalty is assessed has increased the size  
18 of the ~~g~~General ~~a~~Advertising ~~s~~Sign, the penalty shall be based on the actual size of the  
19 ~~g~~General ~~a~~Advertising ~~s~~Sign.

20 \* \* \* \*

21 (d) Reconsideration of Notice of Violation or Administrative Penalty.

22 (1) Reconsideration Hearing.

23 (A) A Responsible Party may seek reconsideration of the issuance of the  
24 notice of violation or any administrative penalty. Any request for reconsideration shall be  
25 accompanied by written evidence that demonstrates why the notice of violation was issued in

1 error or why the administrative penalties were assessed in error. Upon receipt of a request for  
2 reconsideration within the time limits established by § subsection (b)(1)(A) or when allowed  
3 under § subsection (b)(2)(A), the Planning Department shall schedule a reconsideration  
4 hearing before an administrative law judge. Such hearing shall be scheduled for a date no  
5 later than 60 days after the request. At least 10 days before the scheduled hearing, the  
6 Planning Department shall notify the Responsible Party by mail in writing of the hearing date,  
7 time, and location.

8 (B) The administrative law judge shall hold a hearing to reconsider the  
9 Director's notice of violation or administrative penalty. The administrative law judge's decision  
10 for a reconsideration of the notice of violation shall be based upon, but not limited to, the  
11 Planning Code, any final Zoning Administrator Interpretations, the Building Code, building  
12 permits issued by the City, and any final decisions of the Board of Appeals regarding the  
13 subject property. The administrative law judge's determination of a request for reconsideration  
14 of any administrative penalty shall take into account the validity of accrual dates, accuracy of  
15 assessment based upon sign size and whether the Responsible Party was accurately  
16 identified. For repeat violations, the administrative law judge shall also take into account the  
17 considerations specified in subsection (f)(3) of this Section 610. Within 30 days of the hearing, the  
18 administrative law judge shall issue a final written decision, which shall be mailed to the  
19 Responsible Party. The final written decision shall not be appealable to the Board of Appeals.  
20 All final written decisions shall inform the Responsible Party of its right to seek judicial review  
21 pursuant to the timelines set forth in Section 1094.6 of the California Code of Civil Procedure.

22 (C) If the Planning Department rescinds the notice of violation or  
23 penalties prior to the reconsideration hearing, the case shall be considered abated and all  
24 accrued penalties shall be rescinded. If penalties or the reconsideration hearing fee set forth  
25

1 in §subsection (d)(2), below, have been paid, the Planning Department shall refund in a timely  
2 matter any unused portions of the penalties or fee.

3 If the administrative law judge overturns the notice of violation or penalties, the case  
4 shall be abated and all accrued penalties shall be rescinded. If penalties have been paid, the  
5 Planning Department shall refund the penalties.

6 If the Responsible Party withdraws its request for reconsideration of notice of violation  
7 or penalties prior to the reconsideration hearing and cures the violation(s) by filing for a  
8 building permit under subsection (c), any accrued penalties shall apply in addition to a  
9 mandatory ten-day fixed penalty based upon the daily rate outlined in §subsection (b)(2)(B). If  
10 the request for reconsideration is withdrawn within less than 10 days from the date it was  
11 timely made, the Responsible Party may apply to the Director for a reduction in the fixed  
12 penalty amount based upon the number of days less than 10 that the reconsideration request  
13 was withdrawn. Any such reduction shall be granted or denied at the sole discretion of the  
14 Director and is not appealable.

15 If the administrative law judge upholds the notice of violation or penalties, the  
16 Responsible Party shall cure the violation(s) by filing for a building permit pursuant to the  
17 procedures and requirements of §subsection (c) within fifteen days of the date the decision is  
18 mailed to the Responsible Party. The Responsible Party shall be subject to any accrued  
19 penalties, plus a mandatory twenty-day fixed penalty based upon the daily rate outlined in  
20 §subsection (b)(2)(B). If the reconsideration hearing is held within less than 20 days from the  
21 date it was timely requested, the Responsible Party may apply to the Director for a reduction  
22 in the fixed penalty amount based upon the number of days less than 20 that the  
23 reconsideration hearing was held. Any such reduction shall be granted at the sole discretion  
24 of the Director and is not appealable. If the Responsible Party does not file for a building  
25 permit within the fifteen-day period, additional penalties shall accrue at the daily rate outlined



1 in ~~S~~subsection (b)(2)(B) and the Director shall refer the case to the City Attorney for further  
2 action.

3 \* \* \* \*

4 (f) Repeat Violations.

5 \* \* \* \*

6 (2) For the purposes of this subsection ~~(f)~~, a repeat violation shall mean any  
7 violation of the general advertising provisions of this Article which ~~(1A)~~ occurs on a property  
8 that was the subject of a notice of violation under Article 6 during the previous five years and  
9 ~~(2B)~~ is owned by the same entity which owned the property upon which the general  
10 advertising was located at the time of the earlier violation. A repeat violation shall not include  
11 one based upon a notice of violation that was overturned by an administrative law judge or  
12 rescinded by the Planning Department under subsection (d)(1)(C) of this Section 610. A  
13 Responsible Party may seek reconsideration of a notice of violation for a repeat violation under  
14 subsection (d) of this Section 610, provided that the request for reconsideration is filed and all general  
15 advertising copy is removed prior to the Accrual Date, as defined in subsection (b)(2)(A) of this Section  
16 610.

17 ~~(3) Violations under this subsection (f) shall be treated like other violations of Section~~  
18 ~~610 except that (i) the 30-day period identified throughout subsection (b) shall be reduced to three~~  
19 ~~business days, (ii) the penalties set forth in subsection (b) shall begin to accrue on the fourth day, and~~  
20 ~~(iii) the general advertising sign and any sign structure must be completely removed from the site~~  
21 ~~within the three-day period. A Responsible Party may seek reconsideration under subsection (d),~~  
22 ~~provided that the request for reconsideration is filed and all general advertising copy is removed prior~~  
23 ~~to expiration of the three-day period. Penalties for violations under this subsection (f) shall accrue as~~  
24 ~~described in subsection (b)(2) of this Section 610, except that the amount of penalties shall be~~  
25 ~~calculated as follows:~~

1 (A) Daily Penalties. Daily penalties shall accrue as described below, until the  
2 date that the General Advertising Sign and any associated sign structure are removed from the site, or,  
3 if the City accepts a late request for reconsideration from the Responsible Party pursuant to subsection  
4 (b)(2)(A) of this Section 610, until the date that all copy is removed from the General Advertising Sign:

5 (i) On the Accrual Date, which is the first day on which penalties accrue,  
6 the daily penalty shall be the amount specified in subsection (b)(2)(B) of this Section 610 multiplied by  
7 2.

8 (ii) On the second day on which penalties accrue, the daily penalty shall  
9 be the amount specified in subsection (b)(2)(B) of this Section 610 multiplied by 3.

10 (iii) On the third day on which penalties accrue, the daily penalty shall  
11 be the amount specified in subsection (b)(2)(B) of this Section 610 multiplied by 4.

12 (iv) On the fourth day on which penalties accrue and for each day  
13 thereafter for which penalties accrue, the daily penalty shall be the amount specified in subsection  
14 (b)(2)(B) of this Section 610 multiplied by 5.

15 (B) Alternative Penalty. As an alternative to the daily penalties described in  
16 subsection (f)(3)(A) of this Section 610, all Responsible Parties may jointly opt to pay an alternative  
17 penalty, which consists of (i) the income earned by the Responsible Parties for the display of the illegal  
18 General Advertising Sign, including but not limited to revenue earned by the Sign owner or operator  
19 from advertisers or advertisement placement firms and revenue earned by the property owner or lessee  
20 from the lease or sublease of the property to the Sign owner or operator; plus (ii) an additional 20% of  
21 that total income amount. The income amount shall be calculated beginning on the Accrual Date, as  
22 defined in subsection (b)(2)(A) of this Section 610, until the date that the General Advertising Sign and  
23 any associated sign structure are removed from the site, or, if the City accepts a late request for  
24 reconsideration from the Responsible Party pursuant to subsection (b)(2)(A) of this Section 610, until  
25 the date that all copy is removed from the General Advertising Sign.

1 To calculate this alternative penalty, the Planning Department may require that all Responsible  
2 Parties provide evidence of their income, such as a lease between the property owner and the Sign  
3 operator or Sign owner, and any agreements between the Sign owner or operator and advertisers or  
4 advertisement placement firms who have contracted to have their advertisements displayed on the Sign  
5 during the relevant time period.

6 (C) Standard of Review. Pursuant to subsection (d) of this Section 610, a  
7 Responsible Party may request reconsideration of a notice of violation for a repeat violation by an  
8 administrative law judge. In any such proceeding, a rebuttable presumption shall exist that the penalty  
9 amount is reasonable. In reviewing a penalty imposed pursuant to subsection (f)(3) of this Section 610,  
10 the administrative law judge shall give substantial weight to that presumption, but may consider the  
11 nature and egregiousness of the violation, the financial resources of the Responsible Party, the need to  
12 deter illegal conduct, and the Responsible Party's culpability, to determine if the penalty is excessive.

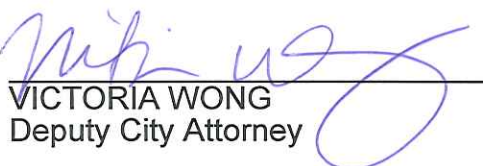
13 (g) Liens. For any penalties assessed pursuant to this Section 610, the Director may initiate  
14 proceedings to make the payment amount due and all additional authorized costs and charges,  
15 including attorneys' fees, a lien on the property pursuant to Chapter 100 of the Administrative Code.  
16 This subsection (g) does not apply to a notice of violation that has been overturned by an  
17 administrative law judge or rescinded by the Planning Department under subsection (d)(1)(C) of this  
18 Section 610.

19  
20 Section 4. Effective Date. This ordinance shall become effective 30 days after  
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
23 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
5 additions, and Board amendment deletions in accordance with the "Note" that appears under  
6 the official title of the ordinance.

7  
8 Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word  
9 of this ordinance, or any application thereof to any person or circumstance, is held to be  
10 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision  
11 shall not affect the validity of the remaining portions or applications of the ordinance. The  
12 Board of Supervisors hereby declares that it would have passed this ordinance and each and  
13 every section, subsection, sentence, clause, phrase, and word not declared invalid or  
14 unconstitutional without regard to whether any other portion of this ordinance or application  
15 thereof would be subsequently declared invalid or unconstitutional.

16  
17 APPROVED AS TO FORM:  
18 DENNIS J. HERRERA, City Attorney

19 By:   
20 VICTORIA WONG  
21 Deputy City Attorney

22 n:\legana\as2016\1600468\01106770.docx