

1 [Code Enforcement Fund; Fees.]

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3 **Ordinance amending the San Francisco Administrative Code by amending Section**
4 **10.100-166 to expand the Planning Department's Code Enforcement Fund beyond**
5 **general advertising signs and authorize the Fund to receive revenues from all types of**
6 **code enforcement activities, including monetary judgments, and authorize expenditure**
7 **of the funds for administration and enforcement of all Planning Code violations;**
8 **amending the San Francisco Planning Code by amending Sections 303(I) and 358 to**
9 **clarify that wall signs are included in the requirements; amending Sections 303(I) and**
10 **604.2 to delete the requirement to submit a site map, amending Section 358 to increase**
11 **the annual inventory maintenance fee, clarify use of the general advertising sign**
12 **inventory fees and to make technical changes to the language of the section; amending**
13 **Section 604.2 to provide that violation of the Code's general advertising sign inventory**
14 **requirements is a public nuisance, to clarify that the definition of the term "general**
15 **advertising sign company" includes the operator of the sign, to modify language**
16 **required to be in the affidavit submitted with the sign inventory, to conform the penalty**
17 **and appeal procedure with Section 610, and to make other clarifying and technical**
18 **changes to the language of the section; adopting CEQA and Planning Code Section**
19 **302 findings.**

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Note: Additions are *single-underline italics Times New Roman*;
deletions are ~~*strikethrough italics Times New Roman*~~.
Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

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Section 1. The Planning Department has determined that the actions contemplated in
this Ordinance are in compliance with the California Environmental Quality Act (California

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1 Public Resources Code sections 21000 et seq.) Said determination is on file with the Clerk of
2 the Board of Supervisors in File No. _____ and is incorporated herein.

3 Section 2. Pursuant to Planning Code Section 302, this Board of Supervisors finds that
4 this Ordinance will serve the public necessity, convenience and welfare for the reasons set
5 forth in Planning Commission Resolution No. _____, a copy of which is on file
6 with the Clerk of the Board of Supervisors in File No. _____ and is incorporated
7 herein by reference.

8 Section 3. The San Francisco Administrative Code is hereby amended by amending
9 Section 10.100-166, to read as follows:

10 SEC. 10.100-166. PLANNING CODE ENFORCEMENT FUND.

11 (a) Establishment of Fund. The Planning Code Enforcement Fund is established as
12 a ~~e~~Category ~~f~~Four fund to receive funds collected, pursuant to Sections 604.2, 610, 611, 1013,
13 and 1119 of the Planning Code, for fees for the General Advertising Sign Program and penalties
14 and fees assessed for violations of regulations governing general advertising signs; Section
15 176 and 176.1 of the Planning Code for collection of penalty fees; Section 350 (c)(1) of the Planning
16 Code for time and material costs for correcting code violations and violations of Planning Commission
17 and Department conditions of approval, and monetary judgments for violations of the Planning Code.

18 (b) Use of Fund. Proceeds in the fund are to be expended as follows: (i) for
19 administration and enforcement of the Planning Code, ~~'s sign regulations,~~ including but not
20 limited to funding Planning Department personnel assigned to work on ~~administration and code~~
21 enforcement ~~of sign regulations, the appeal process,~~ and the services of the City Attorney and
22 other Departments. ~~(ii) to the extent authorized by state law, penalties and fees collected by the City~~
23 ~~Attorney in any action to abate violations of the Planning Code's sign regulations shall be used to fund~~
24 ~~administration and enforcement of the sign regulations including the services of the City Attorney.~~

1 Section 4. The San Francisco Planning Code is hereby amended by amending Section
2 303(l), to read as follows:

3 SEC. 303(l).

4 (l) Relocation of Existing General Advertising Signs pursuant to a General
5 Advertising Sign Company Relocation Agreement.

6 (1) Before the Planning Commission may consider an application for a conditional
7 use to relocate an existing lawfully permitted general advertising sign as authorized by
8 Section 611 of this Code, the applicant sign company must have:

9 (A) Obtained a current Relocation Agreement approved by the Board of Supervisors
10 under Section 2.21 of the San Francisco Administrative Code that covers the sign or signs
11 proposed to be relocated; and

12 (B) Submitted to the Department a current sign inventory, ~~site map~~, and the other
13 information required under Section 604.2 of this Code; and

14 (C) Obtained the written consent to the relocation of the sign from the owner of the
15 property ~~upon which~~ where the existing sign ~~structure is erected~~ is located.

16 (D) Obtained a permit to ~~demolish~~ remove the sign ~~structure at~~ from the existing
17 location.

18 (2) The Department, in its discretion, may review in a single conditional use
19 application all signs proposed for relocation by a general advertising company or may require
20 that one or more of the signs proposed for relocation be considered in a separate application
21 or applications. Prior to the Commission's public hearing on the application, the Department
22 shall have verified ~~the completeness and accuracy of the general advertising sign company's sign~~
23 ~~inventory~~ that the sign company has no violations with any owned or operated general advertising
24 sign.

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1 (3) Only one sign may be ~~erected in~~ installed at a new location, which shall be the
2 same square footage or less than the existing sign proposed to be relocated. In no event may
3 the square footage of several existing signs be aggregated in order to ~~erect~~ install a new sign
4 with greater square footage.

5 (4) In addition to applicable criteria set forth in subsection (c) above, the Planning
6 Commission shall consider the size and visibility of the signs proposed to be located as well
7 as the following factors in determining whether to approve or disapprove a proposed
8 relocation:

9 (A) The factors set forth in this subsection (A) shall weigh in favor of the
10 Commission's approval of the proposed relocation site:

11 (i) The sign or signs proposed for relocation are lawfully existing ~~but are not in~~
12 ~~conformity with the sign regulations that existed~~ nonconforming uses prior to the adoption of
13 Proposition G on March 5, 2002.

14 (ii) The sign or signs proposed for relocation are on a City list, if any, of priorities for
15 sign removal or signs preferred for relocation.

16 (iii) The sign or signs proposed for relocation are within, adjacent to, or visible from
17 property under the jurisdiction of the San Francisco Port Commission, the San Francisco
18 Unified School District, or the San Francisco Recreation and Park Commission.

19 (iv) The sign or signs proposed for relocation are within, adjacent to, or visible from
20 an Historic District or conservation district designated in Article 10 or Article 11 of the Planning
21 Code.

22 (v) The sign or signs proposed for relocation are within, adjacent to, or visible from
23 a zoning district where general advertising signs are prohibited.

24 (vi) The sign or signs proposed for relocation are within, adjacent to, or visible from
25 a designated view corridor.

1 (B) The factors set forth in this Subsection (B) shall weigh against the Commission's
2 approval of the proposed relocation:

3 (i) The sign or signs proposed for relocation are or will be obstructed, partially
4 obstructed, or removed from public view by another structure or by landscaping.

5 (ii) The proposed relocation site is adjacent to or visible from property under the
6 jurisdiction of the San Francisco Port Commission, the San Francisco Unified School District,
7 or the San Francisco Recreation and Park Commission.

8 (iii) The proposed relocation site is adjacent to or visible from an Historic District or
9 conservation district designated in Article 10 or Article 11 of the Planning Code.

10 (iv) The proposed relocation site is within, adjacent to, or visible from a zoning
11 district where general advertising signs are prohibited.

12 (v) The proposed relocation site is within, adjacent to, or visible from a designated
13 view corridor.

14 (vi) There is significant neighborhood opposition to the proposed relocation site.

15 (5) In no event may the Commission approve a relocation where:

16 (A) The sign or signs proposed for relocation have been ~~erected~~ installed, placed,
17 replaced, reconstructed, or relocated on the property, or intensified in illumination or other
18 aspect, or expanded in area or in any dimension in violation of Article 6 of this Code or without
19 a permit having been duly issued therefore; or

20 (B) The proposed relocation site is not a lawful location under Planning Code
21 Section 611(c)(2); or

22 (C) The sign in its new location would exceed the size, height or dimensions, or
23 increase the illumination or other intensity of the sign at its former location; or

24 (D) The sign in its new location would not comply with the Code requirements for
25 that location as set forth in Article 6 of this Code; or

1 (E) The sign has been previously removed from its former location; or

2 (F) The owner of the property upon which the existing sign ~~structure is erected~~ is
3 located has not consented in writing to the relocation of the sign.

4 (6) The Planning Commission may adopt additional criteria for relocation of general
5 advertising signs that do not conflict with this Section 303(l) or Section 611 of this Code.

6 Section 5. The San Francisco Planning Code is hereby amended by amending Section
7 358, to read as follows:

8 SEC. 358. GENERAL ADVERTISING SIGNS FEES.

9 (a) The fee for the relocation agreement application pursuant to Section 611 and
10 Administrative Code Section 2.21 shall be \$1,148.00 per individual relocation agreement
11 application.

12 (b) The fee for the ~~initial~~ inventory registration and for inventory updates processing
13 pursuant to Section 604.2 shall be \$643.00 per sign ~~structure~~. For inventory updates to notice
14 the Department of a change in ownership of a sign, the buyer shall be responsible for the \$643.00 fee.
15 Both parties are responsible to notify the Department of the change, pursuant to Section 604.2 of this
16 Code.

17 (c) The fee for inventory registration for a sign that has an in-lieu application pursuant
18 to Section 604.1 shall be \$367.00 per sign ~~structure~~.

19 (d) The fee for annual inventory maintenance pursuant to Section 604.2 shall be
20 ~~\$75.00~~ \$211 per sign in FY2009-2010, and revert back to \$75 per sign in FY2010-2011 and beyond.

21 (e) Fee Review and Adjustment. Beginning with fiscal year 2007-2008, the fees
22 established in this Section may be adjusted each year, without further action by the Board of
23 Supervisors, to reflect changes in the relevant Consumer Price Index, as determined by the
24 Controller. No later than April 15th of each year, the Director shall submit the Department's
25 current fees schedule to the Controller, who shall apply the price index adjustment to produce

1 a new fee schedule for the following year. No later than May 15th of each year, the Controller
2 shall file a report with the Board of Supervisors reporting the new fee schedule and certifying
3 that: (a) the fees produce sufficient revenue to support the costs of providing the services for
4 which the fee is charged and (b) the fees do not produce revenue that exceeds the costs of
5 providing the services for which each permit fee is charged. Notwithstanding the procedures
6 set forth in this Section, the Board of Supervisors, in its discretion, may modify the fees by
7 ordinance at any time.

8 Section 6. The San Francisco Planning Code is hereby amended by amending Section
9 604.2, to read as follows:

10 SEC. 604.2. GENERAL ADVERTISING SIGN INVENTORIES.

11 *In light of the findings of Proposition G, approved by the voters in March of 2002, a violation of*
12 *the Code's general advertising sign requirements is deemed to be a public nuisance.*

13 (a) Submission of Initial Sign Inventory. Within 60 days of the effective date of this
14 Section, any general advertising sign company that owns a general advertising sign located in
15 the City shall submit to the Department a current, accurate, and complete inventory of its
16 general advertising signs together with the inventory processing fee required by subsection (f)
17 below. Any general advertising company that commences ownership of one or more general
18 advertising signs located in the City after the effective date of this Section shall submit an
19 inventory together with the inventory processing fee within 60 days after its commences such
20 ownership whether or not the signs on the inventory have previously been reviewed by the
21 Department in its review of the inventory of a previous owner.

22 (b) All Signs to be Included in the Inventory; Inclusion Not Evidence of Legality. The
23 inventory shall identify all general advertising signs located within the City that the general
24 advertising company owns and/or operates under a lease, license or other agreement
25 whether or not those signs can be proved to be lawfully existing. Inclusion of a sign on the

1 inventory shall not be considered evidence that a sign is lawfully existing. For purposes of
2 this Section, a "general advertising sign company" shall mean an entity that owns or operates a
3 general advertising sign ~~structure~~, as distinguished from the person or entity that owns the
4 property on which the sign is located.

5 (c) The initial sign inventory required by subsection (a) above shall ~~include a site map~~
6 ~~that shows the location of all signs identified in the inventory, and shall~~ provide the following
7 information for each sign:

8 (1) The location of the sign by street address, by block and lot, and by nearest
9 intersection;

10 (2) A photograph of the sign in its existing location on the lot, specifically identifying
11 the sign;

12 (3) The date of original erection or installation of the sign, if known;

13 (4) The permit number or in-lieu identifying number issued by the Department
14 pursuant to Section 604.1(c) of this Code;

15 (5) The approved and existing area, dimensions, height, and any other special
16 features of the sign such as illumination or movement;

17 (6) The type of sign, ~~as defined in Section 602 of this Code~~;

18 (7) Evidence that the sign has not been removed and still exists at the authorized
19 location, and that the sign company is the owner or operator of the sign ~~structure~~;

20 (8) Permit number and, in the case of subsequent modifications of the sign,
21 including, but not limited to, illumination, permit application number or permit number;

22 (9) Evidence that the sign still is in use for general advertising; and

23 (10) Information, if known, whether the sign had a prior use as a non-general
24 advertising sign, including, but not limited to, a business sign or exempt sign, and the duration
25 of such prior use.

1 (d) Affidavit. The general advertising sign company shall submit with the inventory
2 an affidavit signed under penalty of perjury by a duly authorized officer or owner of the sign
3 company stating that:

4 (1) ~~The sign inventory and site map are current, accurate, and complete to the best of his or~~
5 ~~her knowledge;~~

6 (2) —The officer or owner believes, after the exercise of reasonable and prudent
7 inquiry, that all signs on the inventory have been erected or installed with an appropriate City
8 permit or have an in-lieu identifying number granted by the Director of Planning;

9 (2) The general advertising sign company is the owner of all sign~~s~~ ~~structures~~ listed
10 on the inventory.

11 (e) Inventory Update. Any general advertising sign company that has submitted ~~an~~
12 ~~initial~~ a sign inventory pursuant to subsection (a) above shall be responsible for keeping its
13 inventory updated by reporting in writing to the Department the sale or removal of any general
14 advertising sign identified in the inventory, the purchase of a sign from another sign company
15 or owner, or the relocation of a sign pursuant to a Relocation Agreement and conditional use
16 authorization. Such reporting to the Department shall be made within 30 days of the actual
17 sale, removal, purchase, or relocation of the sign. The fee charged to a sign company for an
18 update to its initial sign inventory shall be the fee per sign~~structure~~ set forth in Section 358 of
19 this Code.

20 (f) Inventory ~~Processing~~ Registration Fee. With the submission of the initial sign
21 inventory required by subsection (a) above, the general advertising sign company shall pay
22 the inventory ~~processing~~ registration fee set forth in Section 358 of this Code. After payment of
23 this initial inventory ~~processing~~ registration fee, the general advertising sign company shall
24 annually pay an inventory maintenance fee as set forth in Section 358. The Department shall
25 use the inventory ~~processing~~ registration fee solely for the following purposes:

1 (1) To compensate the Department for its costs in verifying that the general
2 advertising signs identified in the corresponding inventory are lawfully existing;

3 (2) To ~~obtain removal, through abatement actions or other Code enforcement activities, of~~
4 ~~any signs included on the inventory that the Department determines to be existing illegally~~ ensure all
5 general advertising signs are included in the inventory with accurate and current information.

6 (g) Departmental Notification of Failure to Submit Complete Inventories. The
7 Department shall notify in writing those sign companies that have not submitted or have
8 submitted incomplete sign inventories, or have not timely submitted an inventory update.

9 (1) Within ~~30~~ 45 days of the date of notification provided under subsection (g), the
10 sign company shall submit a complete inventory with the inventory processing fee and a
11 penalty of ~~\$580~~560 per sign for those signs that were not identified or those improperly
12 identified. Failure to do so will result in the Department issuing a notice of violation pursuant to
13 Section 610.

14 (2) If the sign company fails to submit the complete inventory with the processing
15 fee and full penalty amount provided in subsection (g)(1), then, within ~~6~~ 30 days of the date of
16 notification provided under subsection (g), the penalty will increase to \$1,1~~6~~20 per sign for
17 those signs that were not identified or those improperly identified.

18 (3) Any penalties assessed pursuant to subsections (g)(1) and (2) above, are
19 appealable to ~~the Board of Appeals~~ an administrative law judge, pursuant to Section 610.

20 ~~———— (4) ——— The Board of Appeals, in reviewing the appeal of the penalty assessed may reduce the~~
21 ~~amount of the penalty if the Board of Appeals finds that the sign owner: (i) was not properly notified or~~
22 ~~(ii) had previously submitted a sign inventory that included the signs for which the penalty was~~
23 ~~assessed. The Board of Appeals also may reduce the amount of the penalty if it finds that any action on~~
24 ~~the part of the Department resulted an improper assessment of the penalty charge.~~

1 (54) If the sign company fails to submit the full penalty amount assessed pursuant to
2 subsections (g)(1) and (2) or as modified by the ~~Board of Appeals~~ Administrative Law Judge
3 pursuant to Section 610 subsections (g)(3) and (4), the Planning Department ~~shall~~ may request
4 the ~~City's Treasurer~~ Tax Collector ~~to pursue collection of any penalty including imposition of a~~
5 special assessment lien in accordance with the requirements of Article XX of Chapter 10 of the San
6 Francisco Administrative Code (commencing with Section 10.230). The Director may also request that
7 the City Attorney pursue collection of the penalty against the Responsible Party in a civil action to
8 enforce the provisions of this Code. ~~the outstanding penalties after 90 days of the date of notification~~
9 ~~provided under subsection (g).~~

10 (6)(5) All penalty revenues received shall be deposited in the Code Enforcement Fund.

11 (h) The Department shall submit to the Commission and the Board of Supervisors
12 an annual report that includes: (i) annual revenues from the inventory ~~processing~~ registration
13 fee, annual inventory maintenance fee, ~~in-lieu application fee~~, and the relocation agreement
14 application fee, (ii) annual expenditures for the sign inventory program, and (iii) a progress
15 report on the number of general advertising signs verified in the sign inventory; in-lieu
16 requests; and code enforcement actions ~~for general advertising signs processing, backlog,~~ and
17 abatement actions.

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

20 By: _____
21 JUDITH A. BOYAJIAN
22 Deputy City Attorney