

1 [Amending Planning Code Section 610 to provide for administrative law judges to conduct
2 reconsideration hearings concerning the unlawful operation of general advertising signs and
3 to establish a fee for requesting a reconsideration hearing concerning administrative penalties
4 for the unlawful operation of general advertising signs.]

4 **Ordinance amending the San Francisco Planning Code by amending Section 610 to**
5 **provide for neutral administrative law judges to conduct reconsideration hearings**
6 **concerning the Planning Director's assessment of administrative penalties for the**
7 **unlawful operation of general advertising signs; to make additional procedural**
8 **clarifications; to establish a fee for requesting a reconsideration hearing; and to make**
9 **environmental findings and findings of consistency with the priority policies of**
10 **Planning Code Section 101.1 and the General Plan.**

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

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

16 Section 1. **Findings.** The Board of Supervisors of the City and County of San
17 Francisco hereby finds and determines that:

18 (a) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
19 ordinance will serve the public necessity, convenience and welfare.

20 (b) Pursuant to Planning Code Section 101.1, the Board of Supervisors finds that this
21 ordinance is consistent with the Priority Policies of Section 101.1(b) of the Planning Code and
22 with the General Plan and hereby incorporates a report containing those findings as if fully set
23 forth herein. A copy of said report is on file with the Clerk of the Board of Supervisors in File
24 No. _____.

1 (c) The Planning Department concluded environmental review of this ordinance
2 pursuant to the California Environmental Quality Act. Documentation of that review is on file
3 with the Clerk of the Board of Supervisors in File No. _____.
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5 Section 2. The San Francisco Planning Code is hereby amended by amending Section
6 610, to read as follows:

7 **SEC. 610. VIOLATION OF GENERAL ADVERTISING SIGN REQUIREMENTS.**

8 (a) General. The penalties and methods of enforcement set forth in this Section
9 610 are in addition to those set forth in Section 176 of this Code and in addition to any other
10 penalties or methods of enforcement authorized by law.

11 (b) Administrative Penalties. The Director of Planning may impose administrative
12 penalties for violations of the regulations governing general advertising signs set forth in this
13 Article, in accordance with the following procedure:

14 (1) Notice. Upon the Planning Department's determination pursuant to Section 176
15 of this Code that a general advertising sign has been erected, ~~or otherwise~~ installed, expanded,
16 relocated, or otherwise operated ~~installed~~ in violation of the requirements of this Article, the
17 Director shall send a written notice of alleged violation, by first class mail or hand-delivery, to
18 both the owner or owners of the property, as listed in the Assessor's records, and the
19 company that erected or installed the sign, if different from the owner or owners (together, the
20 "Responsible Parties"). The notice shall describe the violations, state that the Responsible
21 Parties have up to ~~ten (10) five~~ business days from the date postmarked on the notice or from the
22 date of hand-delivery to remove the sign or otherwise correct the violation, or to provide information
23 to the Planning Department why the notice of alleged violation was issued in error. The Director must
24 determine whether the notice of alleged violation was issued in error within thirty (30) calendar days of
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1 issuing the notice of alleged violation. If the Responsible Parties do not remove the sign or correct the
2 violation and have not provided information that satisfies the Planning Department that the notice of
3 alleged violation was issued in error, the Director shall send a written notice of violation, by first class
4 mail or hand-delivery to the Responsible Parties. The notice shall describe the violations, state that the
5 Responsible Parties have up to five business days from the date postmarked on the notice or from the
6 date of hand-delivery to remove the sign or otherwise correct the violation or be subject to the
7 imposition of administrative penalties and abatement action, state the amount of the
8 administrative penalty ~~and fees~~ to be imposed, and notify the Responsible Parties that they
9 have the right to request ~~the Director's~~ reconsideration by filing ~~such~~ a request for a hearing
10 within ten (10~~5~~) business days of the date postmarked on the notice of violation or from the date of
11 hand-delivery of the notice of violation. If the identity of the company that installed the sign is
12 unknown, the notice of alleged violation and notice of violation to the company shall be sent as
13 soon as its identity is determined.

14 (2) Amount of Penalty. The administrative penalties assessed against the
15 Responsible Parties by the Director shall be at least \$1,000.00 but shall not exceed \$2,500.00
16 per day per violation per Responsible Party. In determining the amount of the penalty or in
17 reviewing the administrative penalty at a reconsideration hearing, the Director or the administrative
18 law judge shall take into account:

- 19 (i) Whether there have been any previous violations within the past five years;
20 (ii) The nature of the violation and its impact on the public;
21 (iii) The Responsible Party or Parties' efforts, if any, to correct the violation;
22 (iv) The speed of compliance with the City's enforcement action;
23 (v) Whether the Responsible Party knew or should reasonably have known that
24 there was a violation; and
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1 (vi) Such additional factors as the Director or the administrative law judge may
2 determine are appropriate.

3 (3) ~~Additional Reconsideration Hearing Fees. There shall be a hearing fee of \$ 1,720.00~~
4 ~~for each Responsible Party requesting a reconsideration hearing. If a Responsible Party requests a~~
5 ~~single Reconsideration Hearing concerning more than five (5) general advertising signs, an additional~~
6 ~~hearing fee of \$685.00 shall be charged for each additional five (5) general advertising signs. The~~
7 ~~Reconsideration Hearing fee shall be waived if the Responsible Party would qualify for a waiver of~~
8 ~~court fees and costs pursuant to California Government Code Section 68511.3. In addition to the~~
9 ~~administrative penalty assessed pursuant to Subsection (2) above, the Director may assess additional~~
10 ~~fees to cover the costs incurred in enforcing the administrative penalty, or abating the violations,~~
11 ~~including the costs of other City agencies.~~

12 (4) Duration of Penalties. Penalties and fees assessed under this Section shall
13 continue to accrue against the Responsible Parties until the violations of Article 6 have been
14 abated or otherwise remedied in the sole judgment of the Director. ~~However, p~~Penalties and
15 fees shall not accrue for ~~15~~ 10 business days after the date of the notice of violation required in
16 Subsection (b)(1) above and during the pendency of any request for reconsideration filed
17 pursuant to Subsection (7) below ~~and for a five-day period after the Director's final decision has~~
18 ~~been mailed or hand delivered to the Responsible Party or Parties.~~

19 (5) Collection. The Director shall notify the Responsible Party or Parties in writing
20 of the amount of the penalty ~~and fees~~ and declare that such costs are due and payable to the
21 Treasurer of the City and County of San Francisco within 30 calendar days of the date of the
22 notice. If the penalty ~~and fee are~~ is not paid within 30 calendar days of the notice, the Director
23 shall request that the Tax Collector pursue collection of the penalty ~~and fee~~ against the
24 property owner, up to and including imposition of a special assessment lien in accordance
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1 with the requirements of Article XX of Chapter 10 of the San Francisco Administrative Code
2 (commending with Section 10.230). The Director shall request that the City Attorney pursue
3 collection of the penalty ~~and fee~~ against the sign company.

4 (6) Planning Code Enforcement Fund. ~~Fees and P~~penalties collected pursuant to
5 this Section 610 shall be deposited in the Planning Code Enforcement Fund established in
6 Administrative Code Section 10.100-166.

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1 (7) Review of Imposition of Penalty. Any person designated as a Responsible Party
2 may seek ~~the Director's~~ reconsideration of that designation or of the assessment and amount
3 of the penalty ~~or fee~~ imposed by requesting a hearing on the matter. Reconsideration is
4 initiated by filing a request for reconsideration and hearing with the Planning Department
5 ~~Director~~ that specifies in detail the basis for the request. The request shall be filed within ~~15~~
6 ten (10) business days of the date postmarked on the notice of the violation or from the date of
7 hand-delivery of notice ~~of the imposition of the penalty or fee~~. Upon receipt of a request for a
8 reconsideration hearing, the Director shall request that the Controller appoint a neutral administrative
9 law judge to conduct the reconsideration hearing and to render a final written decision. Within ~~10-20~~
10 business days of the appointment of a neutral administrative law judge ~~receipt of the request for~~
11 ~~reconsideration~~, unless extended by mutual agreement of the affected parties, ~~the Director or~~
12 ~~his or her designee~~ the administrative law judge shall reconsider the matter and render a final
13 decision, which shall not be appealable. The administrative law judge's decision may only be
14 based upon the Planning Code, any final Zoning Administrator Interpretations, and any final decisions
15 of the San Francisco Board of Appeals. All final written decisions shall apprise the Responsible Party
16 or Parties of their right to seek judicial review in the Superior Court of San Francisco pursuant to
17 Section 1094.6 of the California Code of Civil Procedure.

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

20 By: _____
21 Sarah Ellen Owsowitz
22 Deputy City Attorney