

1 [Administrative Code – Establishing Fees under the Community Preservation and Blight
2 Reduction Act]

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4 **Ordinance amending the San Francisco Administrative Code Chapter 80, Section 80.4,**
5 **to authorize the Department of Public Works to charge a fee of \$250 to cover the cost**
6 **of inspecting blighted properties and to charge an increased fee to recover additional**
7 **inspection costs incurred in enforcement of the Community Preservation and Blight**
8 **Reduction Act; and making environmental findings.**

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

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

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15 Section 1. Findings.

16 (1) The November 4, 2008, the Board of Supervisors passed Ordinance No. 256-
17 08, amending the Administrative Code to create the Community Preservation and Blight
18 Reduction Act ("Blight Ordinance") (effective on December 7, 2008).

19 (2) Section 80.4 of the Blight Ordinance requires the Department of Public Works
20 (the "Department") to obtain Board of Supervisors approval of a blight inspection fee intended
21 to cover Department costs of inspecting blighted properties. The blight inspection fee is
22 distinct from any applicable abatement fees authorized by the Blight Ordinance.

23 (3) As documented in Board File No. _____, the Department has calculated
24 the estimated labor costs associated with blight inspection, including applicable staff time and
25 materials related to inspection, supervision, management, and processing. The Department

1 estimates that Bureau of Street Use and Management costs associated with non-graffiti
2 inspection will cost approximately \$247.85; Bureau of Street Environmental Services costs
3 associated with graffiti inspections will cost approximately \$248.94.

4 (4) The Board of Supervisors finds that a blight inspection fee of \$250 will support
5 the successful implementation of the Blight Ordinance.

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7 Section 2. Environmental Findings. The Planning Department has determined that the
8 actions contemplated in this Ordinance are in compliance with the California Environmental
9 Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is
10 on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated
11 herein by reference.

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13 Section 3. The San Francisco Administrative Code is hereby amended by amending
14 Chapter 80, Section 80.4 to read as follows:

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16 SEC. 80.4. GENERAL PROVISIONS – ABATEMENT OF NUISANCE.

17 (a) Authority. Whenever the Director determines that a property is blighted
18 property, the Director may require or take any necessary abatement or other enforcement
19 actions to cause the property blight to be abated in accordance with the provisions of this
20 Chapter, or by any other lawful means, including but not limited to abatement procedures
21 provided for elsewhere in the Municipal Code.

22 (b) Fees for Enforcement of Violation Applicable Irrespective of Abatement.
23 Whenever the Director issues a Notice of Violation pursuant to this Chapter, the Director may
24 impose a fee to recover costs associated with inspection and related enforcement costs.

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1 These fees shall be established by the department and submitted to the Board of
2Supervisors for approval. The Director shall provide notice of such fees under Section 80.5
3and may collect such fees according to the procedures in Section 80.8, below. The blight
4inspection fee charged under this section is in addition to any abatement fees authorized under Section
580.5 and Section 80.8 of this Chapter.

6 (1) Application. If the Department inspects a property and issues a notice of violation or
7summary abatement order, the owner(s) of the property shall be required to pay the Department a
8blight inspection fee of \$250 to cover the Department's inspection costs. The Department shall rescind
9the blight inspection fee if a property owner successfully contests the notice of violation or summary
10abatement order after a public hearing pursuant to Section 80.5(g) of this Chapter. The Director may
11reduce the blight inspection fee upon a showing of financial hardship by affected property owners.

12 (2) Controller Review and Adjustment of Fee Amount. Beginning with fiscal year 2009-
132010, the Controller will annually adjust the fee amount specified in this Section by the two-year
14average consumer price index change for the San Francisco/San Jose Primary Metropolitan Statistical
15Area. No later than May 15th of each year, the Controller shall file a report with the Board of
16Supervisors reporting the new fee schedule and certifying whether: (a) the blight inspection fee
17produces sufficient revenue to support the costs of providing inspection service; and whether (b) the
18blight inspection fee produces revenue significantly in excess of the costs of providing the services for
19which each inspection is conducted.

20 (3) Additional Costs. In instances where Department inspection costs exceed the blight
21inspection fee amount specified in Section 80.4, subsection (b)(1), the Director may require the
22property owner to pay an additional sum in excess of the ordinary blight inspection fee. The blight
23inspection fee, together with any additional sum authorized under this section, shall not exceed the
24actual costs incurred by the Department, as calculated on a time and materials basis. The Director

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1 also may charge for any time and materials costs that other agencies, boards, commissions, or
2departments of the City, including but not limited to the Office of the City Attorney, incur in connection
3with the inspection of the blighted property. The Director shall provide property owners with written
4itemization of the basis for the additional fees or an estimate of the additional fees to be charged.

5 (c) Summary Abatement of Conditions in the Public Right-of-Way – Imminent
6 Danger.

7 (1) Any condition of property blight in the public right-of-way that is
8 reasonably believed by the Director to be imminently dangerous to the life, limb, health or
9 safety of the public may be summarily abated by the Director in accordance with the
10 procedures of this Chapter.

11 (2) Actions taken to abate imminently dangerous conditions may
12 include, but are not limited to, repair or removal of the condition creating the danger or any
13 other abatement action determined by the Director to be necessary.

14 (3) Costs for any abatement performed on behalf of the City may be
15 recovered by the City according to the provisions of this Chapter.

16 (d) General Abatement Provisions.

17 (1) General Provision. Any thing or condition, including but not limited
18 to violations of the Municipal Code or state law, that threatens injury or damage to the health,
19 safety, welfare or property of members of the public, that obstructs the free use of property of
20 others or of the public way or commons, or otherwise interferes with the comfortable
21 enjoyment of life or property, is a public nuisance. Such public nuisances are prohibited
22 within the City and no person shall create or participate in the creation or maintenance of such
23 a public nuisance.

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1 (2) Applicability. Whenever the City, pursuant to this Chapter, takes any
2 action to abate a blighted condition or requires any person to abate any blighted condition
3 existing on private property, the procedures set forth in this Chapter may be utilized, unless
4 such use is specifically prohibited. For the purpose of this Chapter, property shall include
5 parcels of land, and/or any building, structure or portion thereof.

6 (3) Inspections of Private Property. Private property is subject to inspection
7 under this Chapter whenever:

8 (A) There is reason to believe that a condition exists on such
9 property that violates a provision of the Municipal Code, or that makes a property a public
10 nuisance, or in a blighted condition; or

11 (B) Such inspection is deemed necessary by staff to carry out
12 the provisions of the Municipal Code; or

13 (C) There is any abatement action being performed on the
14 property pursuant to a provision of this Chapter or any order issued pursuant thereto requiring
15 such action; or

16 (D) Such inspection is conducted to determine if there has been
17 completion of an abatement action pursuant to any abatement order.

18 (4) Entry onto Private Property for Inspection Authorized. Whenever it
19 is necessary to make an inspection of property to investigate or enforce any of the provisions
20 of this Chapter, any official authorized by the City to conduct such inspections may enter such
21 property at all reasonable times to inspect the same provided that:

22 (A) If such property is occupied, the official shall first present proper
23 credentials and request entry;

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1 (B) If such property is unoccupied, except in emergency
2 circumstances, the official shall make a reasonable effort to contact the owner or other
3 persons having charge or control of the property and request entry;

4 (C) If such entry is not granted or the owner or other persons
5 having charge or control of said building or structure cannot be contacted, the official seeking
6 entry shall have recourse to every remedy provided by law to secure entry.

7 (5) Inspections at Discretion of the City. All inspections authorized for
8 the purpose of investigation or enforcing the provisions of this Chapter shall be at the
9 discretion of the City and nothing in this Chapter shall be construed as requiring the City to
10 conduct any such inspection nor shall any actual inspection made imply a duty to conduct any
11 other inspection. Furthermore, nothing in this Chapter shall be construed to hold the City
12 responsible for any damage to persons or property by reason of making an inadequate or
13 negligent inspection or by reason of any failure to make an inspection or reinspection.

14 (6) Obstruction or Interference with Work Prohibited. No person shall
15 obstruct, impede or interfere or cause another to obstruct, impede or interfere with any person
16 who is engaged in abatement actions performed pursuant to the provisions of this Chapter or
17 who is directing or performing any act necessary or incidental to such abatement.

18 (7) Time Within Which to Commence and Complete Abatement Work.

19 (A) Whenever an abatement order is issued, the work shall
20 commence as soon as reasonably possible under the circumstances and be diligently
21 pursued to completion with the time periods specified in the order issued by the Director.

22 (B) If no City permits are required for the abatement action and
23 the conditions are not imminently dangerous, unless otherwise specified in the order, the

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1 abatement actions shall commence no later than 15 days from the date the order was
2 issued and be completed within 30 days from commencement.

3 (C) If City permits are required for the abatement action, unless
4 the period of time is extended by the Director, a complete application for each such permit
5 shall be submitted no later than 15 days from the date of the notice of violation. Work shall
6 begin within 30 days of the issuance of the permit and be completed within 30 days from
7 commencement of the work, unless either time period is otherwise specified in the order.

8 (8) Failure to Comply -- Abatement Action by City Authorized.
9 Whenever there is a failure to comply with an abatement notice or order within the time
10 specified in such notice or order, or within the later time specified by the decision of an
11 administrative hearing officer on appeal from the Director's decision, the Director is authorized
12 to:

13 (A) Cause the conditions that require abatement actions to be
14 repaired or abated to the extent necessary to remedy the conditions causing the nuisance.

15 (B) Extension of time permitted. Any person, firm or corporation
16 required to take abatement action pursuant to this Chapter may apply to the Director for an
17 extension of time in order to comply. The Director may grant an extension of time, if the
18 Director, at his or her discretion, determines that such an extension of time is reasonable
19 under the circumstances. The Director may require a written agreement by such person, firm
20 or corporation that the order will be complied with, as a condition for such extension. The
21 extension of time to complete an abatement action will not extend the time for any hearing
22 hereunder unless the Director expressly so states.

23 (e) Public-Owned Property. Where the property is owned by a public entity other
24 than the City, the Director shall cause removal of the blighted condition only after securing the
25 consent of an authorized representative of the public entity that has jurisdiction over the

1 property. The Director shall use all reasonable efforts to minimize blighted vacant lots
2 on City-owned property, but City-owned property shall not otherwise be subject to the
3 requirements of this Article.

4 (f) Public Rights-of-Way. The Director may choose to abate public nuisances upon
5 the public right-of-way in accordance with the notice, hearing, and abatement procedures set
6 forth in this Chapter. The owner and/or occupant of the premises or unit adjacent to a public
7 sidewalk, public stairway or other public right-of-way shall be held liable for such conditions,
8 including the cost of enforcement actions under this Chapter.

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11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

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14 By:

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16 Andrew W. Garth
17 Deputy City Attorney

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