

1 [Administrative Code – Establishing Fees under the Community Preservation and Blight
 2 Reduction Act]
 3 **Ordinance amending the San Francisco Administrative Code Chapter 80, Section 80.4,**
 4 **to authorize the Department of Public Works to charge a fee of \$250 to cover the cost**
 5 **of inspecting blighted properties and to charge an increased fee to recover additional**
 6 **inspection costs incurred in enforcement of the Community Preservation and Blight**
 7 **Reduction Act; amending Section 80.8 to clarify that the Blight Enforcement Fund is a**
 8 **Category Six special fund within the meaning of Administrative Code Title XIII, Section**
 9 **10.100-1; and making environmental findings.**

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

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

14 Section 1. Findings.

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

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

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

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

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

21 (b) Fees for Enforcement of Violation Applicable Irrespective of Abatement.
22 Whenever the Director issues a Notice of Violation pursuant to this Chapter, the Director may
23 impose a fee to recover costs associated with inspection and related enforcement costs.
24 These fees shall be established by the department and submitted to the Board of Supervisors
25 for approval. The Director shall provide notice of such fees under Section 80.5 and may

1 collect such fees according to the procedures in Section 80.8, below. The blight inspection fee
2 charged under this section is in addition to any abatement fees authorized under Section 80.5 and
3 Section 80.8 of this Chapter.

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

10 (2) Controller Review and Adjustment of Fee Amount. Beginning with fiscal year 2009-
11 2010, the Controller will annually adjust the fee amount specified in this Section by the two-year
12 average consumer price index change for the San Francisco/San Jose Primary Metropolitan Statistical
13 Area. No later than May 15th of each year, the Controller shall file a report with the Board of
14 Supervisors reporting the new fee schedule and certifying whether: (a) the blight inspection fee
15 produces sufficient revenue to support the costs of providing inspection service; and whether (b) the
16 blight inspection fee produces revenue significantly in excess of the costs of providing the services for
17 which each inspection is conducted.

18 (3) Additional Costs. In instances where Department inspection costs exceed the blight
19 inspection fee amount specified in Section 80.4, subsection (b)(1), the Director may require the
20 property owner to pay an additional sum in excess of the ordinary blight inspection fee. The blight
21 inspection fee, together with any additional sum authorized under this section, shall not exceed the
22 actual costs incurred by the Department, as calculated on a time and materials basis. The Director
23 also may charge for any time and materials costs that other agencies, boards, commissions, or
24 departments of the City, including but not limited to the Office of the City Attorney, incur in connection
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1 with the inspection of the blighted property. The Director shall provide property owners with written
2 itemization of the basis for the additional fees or an estimate of the additional fees to be charged.

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

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

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

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

14 (d) General Abatement Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (B) If no City permits are required for the abatement action and
20 the conditions are not imminently dangerous, unless otherwise specified in the order, the
21 abatement actions shall commence no later than 15 days from the date the order was issued
22 and be completed within 30 days from commencement.

23 (C) If City permits are required for the abatement action, unless
24 the period of time is extended by the Director, a complete application for each such permit
25 shall be submitted no later than 15 days from the date of the notice of violation. Work shall

1 begin within 30 days of the issuance of the permit and be completed within 30 days from
2 commencement of the work, unless either time period is otherwise specified in the order.

3 (8) Failure to Comply -- Abatement Action by City Authorized.

4 Whenever there is a failure to comply with an abatement notice or order within the time
5 specified in such notice or order, or within the later time specified by the decision of an
6 administrative hearing officer on appeal from the Director's decision, the Director is authorized
7 to:

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

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

18 (e) Public-Owned Property. Where the property is owned by a public entity other
19 than the City, the Director shall cause removal of the blighted condition only after securing the
20 consent of an authorized representative of the public entity that has jurisdiction over the
21 property. The Director shall use all reasonable efforts to minimize blighted vacant lots on City-
22 owned property, but City-owned property shall not otherwise be subject to the requirements of
23 this Article.

24 (f) Public Rights-of-Way. The Director may choose to abate public nuisances upon
25 the public right-of-way in accordance with the notice, hearing, and abatement procedures set

1 forth in this Chapter. The owner and/or occupant of the premises or unit adjacent to a public
2 sidewalk, public stairway or other public right-of-way shall be held liable for such conditions,
3 including the cost of enforcement actions under this Chapter.

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5 Section 4. The San Francisco Administrative Code is hereby amended by amending
6 Chapter 80, Section 80.8 to read as follows:

7 SEC. 80.8. COST RECOVERY.

8 (a) Blight Abatement Fund. The City shall maintain a special revolving fund
9 designated as the "Blight Abatement Fund." The Blight Abatement Fund is established as a
10 Category 6 special fund within the meaning of Administrative Code Article XIII, Section 10.100-1,
11 meaning that funds may be appropriated, interest shall not accumulate and that any fund balance shall
12 carry forward year to year. Payments shall be made out of said fund upon the demand of the
13 Director. The Blight Abatement Fund shall be used exclusively to defray ~~the~~ costs and expenses
14 ~~that may be~~ incurred by the City in ascertaining violations, enforcing the provisions of this
15 chapter, and doing or causing to be done the necessary work of repair or other abatement
16 work performed pursuant to this Chapter. This fund may also be used to defray the costs of
17 the City performing any blight abatement where it is determined that requiring private
18 abatement of a blighted condition by a property owner would impose an extreme financial
19 burden on that property owner.

20 All funds collected pursuant to this Chapter shall be paid to the Controller who shall
21 credit the same to Blight Abatement Fund.

22 (b) Expenses - Accounting and Report Required. The Director shall keep an
23 itemized account of the expense incurred by the City for enforcement and abatement actions
24 performed pursuant to the provisions of this Chapter. Upon the completion of any enforcement
25 or abatement action, the Director shall prepare an invoice specifying the actions taken, the

1 itemized and total cost of the actions, and any allowable inspection fees, a description of the
 2 property where the action was performed, and the names and addresses of the persons
 3 entitled to notice pursuant to Section 80.5(e). This invoice shall be served on such persons in
 4 accordance with the provisions of Section 80.5(f). Such invoices may be served upon the
 5 completion of each enforcement or abatement action or may be served upon the completion
 6 of all necessary enforcement and abatement actions.

7 (c) Payment Required. This invoice shall be paid within 30 days of the date it is
 8 served or within the time and in the manner specified by the Controller or Bureau of
 9 Delinquent Revenue Collection. Such payment shall be made to the Controller.

10 (d) Failure to Pay. If the responsible party fails to pay the invoice within thirty days
 11 of service, the Director may take such action to collect the fees as he or she deems
 12 appropriate, including (i) referral of the matter to the Bureau of Delinquent Revenue Collection
 13 under Article V, Section 10.39 of the Administrative Code, (ii) initiation of lien proceedings
 14 under Article XX, Section 10.230 et seq. of the Administrative Code whereby the amount of
 15 the lien shall be payable in the same time and manner as outstanding ad valorem real
 16 property taxes due, consistent with Article XX, Section 10.236, and/or (iii) requesting that the
 17 City Attorney pursue collection of the penalties imposed against the responsible party in a civil
 18 action. The City Attorney may request its attorneys' fees in any action that he or she pursues
 19 to collect the administrative penalties or to enforce collection of the penalties.

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22 APPROVED AS TO FORM:
 23 DENNIS J. HERRERA, City Attorney

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24 By: _____

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Andrew W. Garth
Deputy City Attorney

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