

1 [Nuisance Code Revision.]

2

3 **Ordinance amending sections 37, 92, 283, 585, 596, 598, 599, 600, 605, 607, 608, and**

4 **1604; adding sections 580, 581, 582 614, 615, and 616; and deleting sections 93 to 97.6,**

5 **inclusive and 606 of the San Francisco Health Code consolidating various provisions**

6 **that set forth conditions that constitute a public nuisance and to declare the presence**

7 **of mold and mildew and lead hazards as public nuisances; clarifying the requirements**

8 **regarding the maintenance of small animals, poultry and game birds in residential**

9 **districts; authorizing the Department of Public Health to recover administrative costs**

10 **incurred in pursuing an abatement action as authorized by Government Code Section**

11 **25845; and establishing an administrative enforcement process for the abatement of**

12 **nuisances; and increasing the minimum criminal penalties from \$25 to \$100 and the**

13 **maximum criminal penalties from \$250 to \$1000 for non-compliance with a Director's**

14 **Order.**

15 Note: Additions are *single-underline italics Times New Roman*;

16 deletions are ~~*strikethrough italics Times New Roman*~~.

17 Board amendment additions are double underlined.

18 Board amendment deletions are ~~strikethrough normal~~.

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

20 Section 1. Article 1 of the San Francisco Health Code is hereby amended by amending

21 Section 37, to read as follows:

22 **SEC. 37. KEEPING AND FEEDING OF SMALL ANIMALS, POULTRY AND GAME BIRDS.**

23 (a) Number of animals. It shall be unlawful for any person, firm or corporation to keep

24 or feed, or cause to be kept or fed, or permit to be kept or fed, on any premises over which

25 any such person, firm or corporation may have control within residential districts, (1) more than

1 three dogs of age six months or older without obtaining a proper permit and license to operate a dog  
2 kennel as defined in Section 220 of the San Francisco Business and Tax Regulations Code; and (2)  
3 more than a total of four of the following in any combination: dogs of age six months or older unless  
4 part of a dog kennel, Hhares, rabbits, guinea pigs, rats, mice, gerbils, chickens, turkeys, geese,  
5 ducks, doves, pigeons, game birds of any species, or cats, ~~within the residential districts.~~

6 Nothing in this section, however, shall prohibit the feeding of any wild bird not specifically  
7 prohibited by this section unless such feeding creates a public health nuisance.

8 (a b) **Enclosures.** Any person, firm or corporation, keeping, feeding, or causing to be  
9 kept or fed, or permitting to be kept or fed, on premises over which such person, firm or  
10 corporation may have control, four or less hares, rabbits, guinea pigs, rats, mice, gerbils,  
11 chickens, turkeys, geese, ducks, doves, pigeons, parrots, of any species, game birds of any  
12 species or wild animals of any species except those animals prohibited by Section 50 of this Code,  
13 shall keep same in coops or enclosures that are approved by the Director of Public Health.

14 ~~Said~~ Where the coops or enclosures are located on the outside of or on top of any buildings,  
15 premises or structures, the coops or enclosures shall be not less than 20 feet from any door or  
16 window of any building used for human habitation. ~~If after due investigation, in the opinion of the~~  
17 ~~Director of Public Health or his or her designee, the keeping or feeding of four or less hares, rabbits,~~  
18 ~~guinea pigs, chickens, turkeys, geese, ducks, doves, pigeons, parrots of any species, game birds of any~~  
19 ~~species, wild animals of any species, or cats, is not done in a sanitary manner, the Director of Public~~  
20 ~~Health may serve written notice on the person, firm or corporation or remove same from the premises~~  
21 ~~within 30 days.~~

22 (b c) **Prohibition.** It shall be unlawful for any person, firm or corporation to engage in  
23 the business of keeping, feeding, or breeding any hares, rabbits, guinea pigs, rats, mice,  
24 gerbils, chickens, turkeys, geese, ducks, doves, pigeons, parrots of any species, game birds  
25 of any species, dogs, cats, for commercial purposes, within the residential districts.

1           (e d) **Commercial Purposes.** It is hereby declared to be unlawful to conduct for  
2 commercial purposes any establishment in which dogs, cats, hares, rabbits, guinea pigs, rats,  
3 mice, gerbils, chickens, turkeys, geese, ducks, doves, pigeons, parrots of any species, game  
4 birds of any species, are kept and maintained in the commercial ~~and~~ or industrial districts  
5 without first obtaining from the Department of Public Health a permit so to do. No permit shall  
6 be issued by the Department ~~of Public Health~~ to any person, firm or corporation, to keep or  
7 maintain for commercial purposes any of the above named fowl, animals or birds within the  
8 commercial ~~and~~ or industrial districts, unless said person, firm or corporation has complied in  
9 full with the following requirements:

10           (1) It shall be unlawful to establish hereafter any place of business for the sale of the  
11 fowl, animals or birds specified above within 25 feet of any door, window or other opening of  
12 any dwelling, apartment house or hotel if live fowl, animals or birds intended for sale are kept  
13 therein; provided, however, that this restriction shall not apply if a wall, ceiling, floor or other  
14 impermeable barrier between the place of business and such habitation will prevent odors and  
15 noise from disturbing the occupants of the habitation. It shall be unlawful to keep said live  
16 fowl, animals or birds in any basement, sub-basement or cellar in any place of business  
17 unless such basement, sub-basement or cellar is adequately ventilated, as approved by the  
18 Director of Public Health and is also adequately lighted, completely ~~ratproofed~~ rodent-proofed  
19 and complies fully with the sanitary requirements set forth in Section 440, ~~Article 8, Chapter V~~  
20 of this Code.

21           (2) The floors of all such premises must be of waterproof material, smooth and of  
22 durable construction properly drained to the sewer. These floor surfaces shall be covered at  
23 the juncture of the floor and wall with a 3/8-inch minimum radius coving and shall extend up  
24 the wall at least four inches.

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1 (3) ~~Said~~ The premises shall be ~~ratproof~~ rodent-proof, all openings properly fly-screened,  
2 and adequate provision must be made for the elimination of all odors.

3 (4) The walls and ceilings of all such premises must be of durable, smooth,  
4 nonabsorbent, washable surface, and be light-colored.

5 (5) In all premises where slaughtering of fowl, birds or animals is carried on in  
6 connection with the keeping of said fowl, birds or animals, the killing room must be entirely  
7 separate from that part of the premises occupied by the live fowl, animals or birds.  
8 Refrigerating equipment must be installed for the reception of the dressed fowl, birds or  
9 animals, ~~property~~ properly connected to the sewer. Toilet and lavatory facilities for the use of  
10 the employees engaged in the handling and slaughtering of such birds, animals or fowl must  
11 be installed in conformity with the provisions of the San Francisco ~~p~~ Plumbing Code~~law~~.

12 (~~d e~~) **Exceptions.** The terms and provisions of this Section shall not apply to the  
13 keeping, liberation for exercise, or racing of homing or carrier pigeons which are not raised or  
14 kept for the market or for commercial purposes, and the lofts or pigeons houses wherein said  
15 homing or carrier pigeons are kept are elevated at least three feet above the ground or other  
16 foundation upon post-legs or pillars completely surrounded or covered by smooth, jointless  
17 galvanized sheet metal and within not less than 20 feet from the door or window of any  
18 building used for human habitation, and the entire floor and sides for at least two feet  
19 extending upwards from the bottom of the floor of said lofts or pigeons houses, are covered or  
20 protected by galvanized iron or its equivalent, concrete or 18 gauge wire mesh of not more  
21 than 1/2 inch and the interior of said lofts or pigeons houses, wherein such carrier or homing  
22 pigeons are kept, are registered by the owners thereof with the Department of Public Health ~~of~~  
23 ~~the City and County of San Francisco~~, and the said lofts or pigeon houses shall be inspected by  
24 the ~~said~~ Department ~~of Public Health of the City and County of San Francisco~~ at least once a year.

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1            (f) Definition. For the purposes of this Section, the terms "residential district," "commercial  
2 district," and "industrial district" shall have the same meanings as those found in the San Francisco  
3 Planning Code.

4            Section 2. Article 2 of the San Francisco Health Code is hereby amended by deleting  
5 Sections 93 to 97.6, inclusive, in their entirety.

6            **~~SEC. 93. RAT SHIELDS.~~**

7            ~~It shall be unlawful to permit any vessel, steamboat, or other watercraft, except vessels~~  
8 ~~engaged in domestic commerce, to lie alongside of any wharf or dock in the City and County of San~~  
9 ~~Francisco unless the chain, hawser, rope or line of any kind extending from any such vessel to the dock~~  
10 ~~or wharf is equipped with and has properly and securely attached thereto a rat shield or guard of such~~  
11 ~~design as shall be approved by the Director of Public Health, hereinafter referred to as "Director," or~~  
12 ~~a person designated by him.~~

13            ~~(a) Duty of Owner, Etc. It is hereby made the duty of the owner, agent, master or other officer~~  
14 ~~in charge of any such vessel, steamboat, or other watercraft to comply with all the provisions of this~~  
15 ~~Section.~~

16            ~~Whenever plague, either the pneumonic or bubonic type, exists in any domestic port, all vessels~~  
17 ~~engaged in domestic commerce touching at any such port shall comply with the provisions of this~~  
18 ~~Section.~~

19            ~~(b) Slaughterhouses, Exclusion of Rats. All slaughterhouses of every kind and nature and~~  
20 ~~wherever located in the City and County shall be so protected as to prevent rats from gaining access to~~  
21 ~~the building or buildings thereof, and all holes and openings in the building or basement walls shall be~~  
22 ~~thoroughly stopped with cement or other material approved by the Director of Public Health,~~  
23 ~~hereinafter referred to as "Department," and all food products stored in slaughterhouses shall be so~~  
24 ~~kept as to prevent rats from coming in contact therewith.~~

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1 ~~All slaughterhouses shall have at least two traps, or as many more traps as may be required by~~  
2 ~~the Department of pattern approved by said Department, which traps shall be baited with fresh bait at~~  
3 ~~least twice a week, and such traps shall be inspected daily by the owners, lessees or agents thereof and~~  
4 ~~all rats caught therein shall be killed and delivered to the Department, or its duly authorized deputy, or~~  
5 ~~killed and then destroyed by burning, and the trap or traps thoroughly smoked and reset and rebaited~~  
6 ~~by said owners, lessees or their agents.~~

7 ~~All buildings, places and premises whatsoever in the City and County shall at once be placed,~~  
8 ~~and shall continuously be kept, by the owner or the occupant thereof in a clean and sanitary condition,~~  
9 ~~and free from rats.~~

10 ~~(e) **Dumping of Waste Matter Prohibited.** No person, firm or corporation shall dump or place~~  
11 ~~upon any land, or in any water or waterway, within the City and County, any dead animal, butchers'~~  
12 ~~offal, fish or parts of fish, or any waste vegetable or animal matter whatever.~~

13 ~~No person, firm or corporation, whether the owner, lessee occupant or agent of any premises,~~  
14 ~~shall keep or permit to be kept in any building, area way, or upon any premises, or in any alley, street~~  
15 ~~or public place adjacent to any premises, any waste animal or vegetable matter, dead animals,~~  
16 ~~butchers, offal, fish or parts of fish, swill or any refuse matter from any restaurant, eating place,~~  
17 ~~residence, place of business or other building, unless the same be collected and kept in a tightly~~  
18 ~~covered or closed can or vessel.~~

19 ~~No rubbish, waste or manure shall be placed, left, dumped or permitted to accumulate or~~  
20 ~~remain in any building, place or premises in the City and County so that the same shall or may afford~~  
21 ~~food or a harboring or breeding place for rats.~~

22 ~~**SEC. 94. NUISANCE.**~~

23 ~~No person, firm or corporation, including, but not limited to, any department, Board or~~  
24 ~~Commission of the City and County, shall have, or permit upon any premises or real property owned,~~  
25 ~~occupied or controlled by him or it, any nuisance detrimental to health or any accumulation of filth,~~

1 ~~garbage, decaying animal or vegetable matter, waste paper, hay, grass, straw, weeds, vegetation~~  
2 ~~overgrowth, litter or combustible trash, unsanitary debris or waste material or any animal or human~~  
3 ~~excrement; or any other matter that constitutes a threat to public health and safety.~~

4 ~~**SEC. 95. ABATEMENT BY OWNERS OR DIRECTOR.** It shall be the duty of the Director~~  
5 ~~to cause any person, firm or corporation, including, but not limited to, any Department, Board or~~  
6 ~~Commission of the City and County, that permits the accumulation of materials mentioned in Section~~  
7 ~~94 to be notified in writing to abolish, abate and remove such nuisances.~~

8 ~~(a) Notice may be given by delivery, personally or by mailing such notice, either by letter,~~  
9 ~~or postal card, to the owner of the property as the same appears on the last assessment rolls of the~~  
10 ~~City and County of San Francisco. Immediately after mailing any such notice, the Director shall cause~~  
11 ~~a copy thereof, printed on a card of not less than eight inches by ten inches, to be posted in a~~  
12 ~~conspicuous place on said property.~~

13 ~~(b) The notice shall direct the owner to abolish, abate and remove the nuisance within seven~~  
14 ~~days of the mailing of the notice. It shall further advise the owner that if he or she fails to do so, the~~  
15 ~~Director will cause the removal and abatement and the owner will incur fines and other penalties as in~~  
16 ~~this Article provided. The notice shall state the name, address and telephone number of the Director of~~  
17 ~~Public Health inspector who may be contacted regarding the property in question. The owner shall~~  
18 ~~become indebted to the City and County for the costs and charges incurred by the City and County by~~  
19 ~~reason of the abatement and removal of such nuisances.~~

20 ~~(c) If the nuisance is not removed and abated within said seven days, the director shall~~  
21 ~~cause its removal and abatement within seven days.~~

22 ~~(d) The Director is hereby authorized to give notice to every owner of a vacant lot in the~~  
23 ~~City and County advising same of the provisions of this ordinance and informing such owners that~~  
24 ~~should they wish to dedicate their property to alternate uses, including but not limited to urban gardens~~  
25 ~~and park space, they may contact the Director or his or her designee for additional information.~~

1            ~~**SEC. 95.5. PENALTIES FOR VIOLATION.** Any owner of property who fails to comply with~~  
2 ~~the Director's notice to abate the nuisance as specified in Section 95 of this Code shall be guilty of an~~  
3 ~~infraction. Upon conviction thereof, said owner shall be punished for the first offense by a fine of not~~  
4 ~~less than \$80 or more than \$100; and for a second offense by a fine of not less than \$150 nor more than~~  
5 ~~\$200; and for each additional offense by a fine of not less than \$300 or more than \$500. The provisions~~  
6 ~~of this Section shall not apply to any department, board or commission of the City and County.~~

7            ~~**SEC. 96. LIEN ON PROPERTY.** The costs and charges incurred by the City and County of~~  
8 ~~San Francisco by reason of the abatement and removal of such nuisance shall be an obligation to the~~  
9 ~~City and County owing by the owner of the property, and the City and County shall have a lien on the~~  
10 ~~property in all aspects as though notice had been given.~~

11            ~~**SEC. 96.5. NOTICE OF COST AND CLAIM OF LIEN.** Upon completion of the abatement~~  
12 ~~and removal of the nuisance, the Director shall ascertain the cost thereof. The owner of such property~~  
13 ~~shall thereupon be obligated to the City and County of San Francisco in the amount of such cost of~~  
14 ~~abatement and removal and the City and County shall thereupon have a lien for such cost upon any~~  
15 ~~such real property until payment thereof, which lien shall also include additional charges for~~  
16 ~~administrative expenses of \$91 and a rate of one percent per full month compounded monthly from the~~  
17 ~~date of recordation of the lien on all fees and charges due as aforesaid. The Director shall cause a~~  
18 ~~notice thereof to be mailed in the manner herein provided for mailing notice to abate, which notice~~  
19 ~~shall demand payment thereof to the Director, and shall give notice of claim of such lien and of the~~  
20 ~~recording of the same, in the event such amount is not paid, as hereinafter set forth. The notice shall~~  
21 ~~further demand that the owner take all necessary steps to secure the property to prevent further~~  
22 ~~violations of this Article. In the event that the owner fails to secure the property within 30 days of the~~  
23 ~~mailing date of the notice of cost and claim of lien, the Director shall cause the premises to be secured~~  
24 ~~within 30 days. The Director shall thereafter ascertain the cost thereof and the owner shall thereupon~~

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1 be obligated to the City and County in the amount of such cost of securing the property in the manner  
2 set forth in this Section.

3 ~~**SEC. 96.6. RECORDING OF LIEN.** If the cost of removal and abatement is not paid to the  
4 Director within 30 days after mailing of notice thereof, the Director shall file in the Office of the  
5 Recorder of the City and County a verified claim containing a particular description of the property  
6 subject to such lien, the place and general nature of the abatement and removal for which the lien is  
7 claimed, the date of posting of said property or delivery of notice to abate and remove the nuisance, the  
8 name of the owner of the property as aforesaid and the amount of the lien claimed, which shall include  
9 the cost of verification and filing thereof.~~

10 ~~**SEC. 96.7. COLLECTION BY BUREAU OF DELINQUENT REVENUE.** The Director  
11 shall also transmit to the Bureau of Delinquent Revenue, on the expiration of such 30 day period, a  
12 statement of such unpaid cost of removal and abatement, together with the cost of verification and  
13 filing of claim therefor. The Bureau shall endeavor diligently to collect the same on behalf of the City  
14 and County by foreclosure of the lien therefor or otherwise. Any and all amounts paid or collected shall  
15 replenish the revolving fund hereinafter provided.~~

16 ~~**SEC. 96.8. RELEASE OF LIEN.** On payment of any such claim of lien, the Director shall  
17 give a release thereof.~~

18 ~~**SEC. 97. CONTINUING APPROPRIATION ACCOUNT.** There is hereby created in the  
19 general fund a continuing appropriation account entitled "Payment of Abatement and Removal of  
20 Nuisances."~~

21 ~~This account shall be credited with such sums as may be appropriated by the Board of  
22 Supervisors, amounts collected by the Director and sums received in consideration of release of liens  
23 and payment of special assessments. Expenditures from said sums shall be made to pay for the  
24 abatement and removal of nuisances as provided by Health Code Sections 94 through 96.8. In the event~~

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1 ~~that the unexpended balance in said account shall exceed \$200,000, such excess shall be transferred to~~  
2 ~~the unappropriated balance of the general fund.~~

3 ~~**SEC. 97.1. COLLECTION OF EXPENSES AS A SPECIAL ASSESSMENT.** The Director~~  
4 ~~may initiate proceedings to make unpaid expenses for removal and abatement of nuisances a special~~  
5 ~~assessment against the parcels of property from which said nuisance was removed or abated by the~~  
6 ~~Director.~~

7 ~~**SEC. 97.2. REPORT OF DELINQUENCIES TRANSMITTED TO BOARD OF**~~  
8 ~~**SUPERVISORS.** A report of delinquent charges shall be transmitted to the Board of Supervisors by~~  
9 ~~the Director as necessary, but in no event less often than once each year, commencing with the first~~  
10 ~~anniversary of the date of enactment of this ordinance. Upon receipt by the Board of Supervisors of the~~  
11 ~~report, it shall fix a time, date and place for hearing the report and any protests or objections thereto.~~

12 ~~**SEC. 97.3. NOTICE OF HEARING.** The Board of Supervisors shall cause notice of the~~  
13 ~~hearing to be mailed to the owner of the real property to which the service was rendered not less than~~  
14 ~~10 days prior to the date of hearing.~~

15 ~~**SEC. 97.4. HEARING.** At the time fixed for consideration of the report, the Board of~~  
16 ~~Supervisors shall hear it with any objections of the owners liable to be assessed for the cost of removal~~  
17 ~~and abatement by the Director. The Board of Supervisors may make such revisions, corrections or~~  
18 ~~modifications of the report as it may deem just and, in the event that the Board of Supervisors is~~  
19 ~~satisfied with the correctness of the report (as submitted or as revised, corrected or modified), it shall~~  
20 ~~be confirmed or rejected by resolution. The decision of the Board of Supervisors on the report and on~~  
21 ~~all protests or objections thereto shall be final and conclusive.~~

22 ~~**SEC. 97.5. COLLECTION OF ASSESSMENT.** Upon confirmation of the report by the~~  
23 ~~Board of Supervisors, the delinquent charges contained therein shall constitute a special assessment~~  
24 ~~against the property to which the services were rendered. Thereafter, said assessment may be collected~~

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1 ~~at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject~~  
2 ~~to the same penalties and same procedure of sale as provided for delinquent, ordinary municipal taxes.~~

3 ~~The assessments shall be subordinated to all existing special assessment liens previously~~  
4 ~~imposed upon the property and paramount to all other liens except those for state, county and~~  
5 ~~municipal taxes with which it shall be on parity. Such assessment lien shall continue until the~~  
6 ~~assessment and all interest and penalties due and payable thereon are paid. All laws applicable to the~~  
7 ~~levy, collection and enforcement of municipal taxes shall be applicable to said special assessments.~~

8 ~~**SEC. 97.6. SEVERABILITY.** If any part or provision of this ordinance or application thereof,~~  
9 ~~to any person or circumstance is held invalid, the remainder of the ordinance, including the application~~  
10 ~~of such part or provision to other persons or circumstances shall not be affected thereby and shall~~  
11 ~~continue in full force and effect. To this end the provisions of this ordinance are severable.~~

12 Section 3. Article 2 of the San Francisco Health Code is hereby amended by amending  
13 Sections 92 to read as follows:

14 ~~**SEC. 92. BUBONIC PLAGUE — RAT RODENT CONTROL.** This Section ~~and Section~~~~  
15 ~~~~93 hereof are~~ is designed to be and ~~are~~ is enacted as a police and sanitary regulation for the~~  
16 ~~protection of the public health, and particularly to prevent the propagation and spread of~~  
17 ~~bubonic plague and other established and emerging rodent borne infectious diseases through the~~  
18 ~~medium of rats. The term "rodent" as used in this Section shall mean any animal belonging to the~~  
19 ~~Order of Rodentia, such as rats and mice, but shall not include animal(s) kept in compliance with~~  
20 ~~Section 37 of this Code.~~

21 (a) **Authority of Director.** The Director of Public Health ~~of the City and County of San~~  
22 ~~Francisco,~~ or any agent or inspector appointed by ~~him or by~~ the Director ~~of Public Health~~ for the  
23 purpose, shall have authority, after announcing the purpose of his visit, and shall be permitted  
24 to enter any building or premises, or any part thereof, in the City and County ~~during reasonable~~  
25 ~~hours between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon~~ of any day, for the

1 purpose of inspecting the same, and to ascertain whether the provisions of this Section have  
2 been complied with by the owner and occupant thereof.

3 (b) All Buildings to be Free of Rodents. All buildings, places and premises whatsoever in the  
4 City and County shall immediately and continuously be kept in a clean and sanitary condition, and free  
5 from rodents by the owner and/or the occupant thereof.

6 ~~(b c) Buildings, Exclusion of Rats Rodents In Buildings.~~ All buildings and basement  
7 walls of all storerooms, warehouses, residences or other buildings within the City and County;  
8 all chicken yards or pens, chicken coops or houses, and all barns and stables, shall be so  
9 constructed or repaired as to prevent ~~rats-rodents~~ from being harbored underneath the same or  
10 within the walls thereof, and all food products or other products, goods, wares and  
11 merchandise liable to attract or to become infested or infected with ~~rats-rodents~~, whether kept  
12 for sale or for any other purpose, shall be so protected *by the owner or occupant* as to prevent  
13 ~~rats-rodents~~ from gaining access thereto or coming in contact therewith. ~~All storerooms,~~  
14 ~~warehouses, residences or other buildings in said City and County shall be provided by the~~  
15 ~~householder or his agent with one or more traps of a pattern approved by the Director of Public~~  
16 ~~Health, which traps shall be freshly baited at least twice each week by the householder or his agent,~~  
17 ~~and shall be inspected daily by the householder or his agent, and any rat or rats caught therein shall be~~  
18 ~~killed and delivered to the Director of Public Health, or its duly authorized deputy, or killed and then~~  
19 ~~destroyed by burning, and such trap or traps thoroughly smoked and reset and rebaited by said~~  
20 ~~householder or his agent.~~

21 ~~(e d) Docks, Etc., Exclusion of Rats Rodents.~~ All public and private docks and  
22 wharves in the City and County, wherever located, shall be so protected as to prevent ~~rats~~  
23 ~~rodents~~ from gaining entrance to such docks or wharves, at either high or low tide, from  
24 vessels anchored or moored alongside of such docks or wharves, or from other sources, and  
25 all food products stored in docks or wharves shall be so kept and stored as to prevent ~~rats~~

1 rodents from gaining access thereto or coming in contact therewith.

2 ~~All docks and wharves shall be provided with two or more traps of a pattern approved by the~~  
3 ~~Director of Public Health; traps shall be freshly baited at least twice each week and shall be inspected~~  
4 ~~daily, and all rats caught therein shall be killed and delivered to the Director of Public Health, or its~~  
5 ~~duly authorized deputy, or killed and then destroyed by burning, and such trap or traps shall be~~  
6 ~~thoroughly smoked and reset and rebaited.~~

7 (e) Marine Vessels; Rodent Shield; Duty of Vessel Owners.

8 (1) It shall be unlawful to permit any vessel, steamboat, or other watercraft, except vessels  
9 engaged in domestic commerce, to lie alongside of any wharf or dock in the City and County of San  
10 Francisco unless the chain, hawser, rope or line of any kind extending from any such vessel to the dock  
11 or wharf is equipped with and has properly and securely attached thereto a rodent shield or guard of  
12 such design as shall be approved by the Director or a person designated by her or him.

13 (2) Whenever plague, either the pneumonic or bubonic type, or any other disease transmitted  
14 or otherwise caused by rodents, exists in any domestic port, and the Director determines that vessels  
15 touching such port may pose a threat to the health and safety of the citizens of the City and County San  
16 Francisco, all vessels engaged in domestic commerce touching at any such port shall comply with the  
17 provisions of this Subsection.

18 (3) It shall be the duty of the owner, agent, master or other officer in charge of any such vessel,  
19 steamboat, or other watercraft to comply with this Subsection.

20 (f) Slaughterhouses, Exclusion of Rodents. All slaughterhouses of every kind and nature and  
21 wherever located in the City and County shall be so protected as to prevent rodents from gaining  
22 access to the building or buildings thereof, and all holes and openings in the building or basement  
23 walls shall be thoroughly stopped with cement or other material approved by the Director of Public  
24 Health, and all food products stored in slaughterhouses shall be so kept as to prevent rodents from  
25 coming in contact therewith.

1 (g) Dumping of Waste Matter Prohibited.

2 (1) No person, firm or corporation shall cause or permit the dumping or placing upon any  
3 land, or in any water or waterway, within the City and County, any dead animal, butchers' offal, fish or  
4 parts of fish, or any waste vegetable or animal matter whatever.

5 (2) No person, firm or corporation, whether the owner, lessee, occupant or agent of any  
6 premises, shall keep or permit to be kept in any building, area way, or upon any premises, or in any  
7 alley, street or public place adjacent to any premises, any waste animal or vegetable matter, dead  
8 animals, butchers' offal, fish or parts of fish, swill or any refuse matter from any restaurant, eating  
9 place, residence, place of business or other building, unless the same be collected and kept in a tightly  
10 covered or closed can or vessel.

11 (3) No rubbish, waste or manure shall be placed, left, dumped or permitted to accumulate or  
12 remain in any building, place or premises in the City and County so that the same shall or may afford  
13 food or a harboring or breeding place for rodents.

14 Section 4. Article 6 of the San Francisco Health Code is hereby amended by  
15 amending Section 283, to read as follows:

16 **SEC. 283. CONTAINERIZATION AND BINDING OF ~~COMMERCIAL AND~~**  
17 **~~RESIDENTIAL REFUSE FOR DISPOSAL.~~** No commercial establishment, dwelling,  
18 householder or other person or entity shall store or place out for collection any refuse that is subject  
19 to putrefaction and any other refuse destined for disposal unless it ~~be~~ is contained or secured to  
20 prevent pets and other animals from gaining access to its contents and to prevent its dispersal by the  
21 wind or other elements. All refuse other than cardboard boxes that are destined for disposal  
22 and all putrescible refuse must be placed in suitable metal or solid plastic receptacles. Plastic  
23 bags not otherwise contained in metal or solid plastic receptacles shall not in themselves  
24 constitute suitable receptacles. The contents of suitable receptacles for putrescible refuse and  
25 refuse destined for disposal shall not extend above the top or rim thereof, and shall be contained

1 by tight-fitting lids or sealed enclosures. Cardboard boxes need not be contained provided  
2 they are emptied, flattened, and tied into bundles of sufficient size to prevent their dispersal by  
3 the wind.

4 Section 5. Article 11 of the San Francisco Health Code is hereby amended by deleting  
5 Section 606 in its entirety.

6 ~~**SEC. 606. POISON IVY AND POISON OAK, A NUISANCE.** *The presence of poisonous*  
7 *growth commonly known as poison oak or poison ivy shrub is hereby declared to be a nuisance and a*  
8 *detriment to public health.*~~

9 Section 6. Article 11 of the San Francisco Health Code is hereby amended by adding  
10 Sections 580, 581, 614, 615 and 616; and amending Sections 585, 596, 598, 599, 600, 605,  
11 607, and 608, to read as follows:

12 **SEC. 580. DEFINITIONS.** *Unless otherwise specified, for the purposes of this Article, the*  
13 *following terms shall have the following meanings:*

14 (a) "Department" shall mean the San Francisco Department of Public Health.

15 (b) "Director" shall mean the Director of Public Health or his or her designee.

16 (c) "Manager" shall mean the authorized agent for the Owner of a building, structure or  
17 property, who is responsible for the day-to-day operation of said building, structure or property.

18 (d) "Owner" shall mean any Person who possesses, has title to or an interest in, harbors or  
19 has control, custody or possession of any building, property, real estate, personalty or chattel, and the  
20 verb forms of "to own" shall include all those shades of meaning.

21 (e) "Person" shall mean and include corporations, estates, associations, partnerships and  
22 trusts, one or more individual human beings, any department, Board or Commission of the City and  
23 County of San Francisco, and any agencies or instrumentalities of the State of California or the United  
24 States to the extent allowable by law.

25 ///

1           (f)       “Responsible Party” shall include the Owner and/or Manager and/or any Person that  
2 created a condition that constitutes a nuisance as defined by this Article.

3           **SEC. 581. NUISANCE PROHIBITED.**

4           (a)       No Person shall have upon any premises or real property owned, occupied or controlled  
5 by him, or her, or it, any public nuisance.

6           (b)       The following conditions are hereby declared to be a public nuisance:

7           (1)       any accumulation of filth, garbage, unsanitary debris or waste material or decaying  
8 animal or vegetable matter unless such materials are set out for collection in compliance with Section  
9 283 of this Code;

10          (2)       any accumulation of hay, grass, straw, weeds, or vegetation overgrowth;

11          (3)       any accumulation of waste paper, litter or combustible trash unless such materials are  
12 set out for collection in compliance with Section 283 of this Code;

13          (4)       any buildings, structures, or portion thereof found to be unsanitary;

14          (5)       any matter or material which constitutes, or is contaminated by, animal or human  
15 excrement, urine or other biological fluids;

16          (6)       any visible or otherwise demonstrable growth of mold or mildew in the interiors of any  
17 buildings or facilities;

18          (7)       ~~any abandoned, wrecked, dismantled or inoperative vehicle or parts thereof, on private~~  
19 ~~or public property, as governed by Article 14, Section 230 et seq. of the San Francisco Traffic Code;~~

20          (8)       any pest harborage or infestation including but not limited to pigeons, skunks, raccoons,  
21 opossums, and snakes, except for pigeon harborages that comply with Section 37(e) of this Code;

22          (9)       any noxious insect harborage or infestation including, but not limited to cockroaches,  
23 fleas, scabies, lice, spiders or other arachnids, houseflies, wasps and mosquitoes, except for  
24 harborages for honey-producing bees of the genus Apis regulated by the California Food and

25        ///



1 Agriculture Code Sections 29000 et seq. which are not otherwise determined to be a nuisance under  
2 State law;

3 (10) any article of food or drink in the possession or under the control of any person which is  
4 tainted, decayed, spoiled or otherwise unwholesome or unfit to be eaten or drunk. The term "food" as  
5 used in this subparagraph includes all articles used for food or drink by human, whether simple, mixed  
6 or compound;

7 (11) any lead hazards which are within the control of the Owner or Manager of the building,  
8 structure or property. Unless otherwise stated in this Article, the term "lead hazards" as used in this  
9 subparagraph shall have the same meaning as that set forth in Section 1603 of this Code. For the  
10 purposes of this subparagraph, the term "children" as used in Section 1603 of this Code shall mean  
11 any person who is up to 72 months of age. For the purposes of this subparagraph, any paint, both  
12 interior and exterior, found on buildings and other structures built before 1979 is presumed to be lead-  
13 based paint, such presumption may be rebutted by competent evidence demonstrating that such paint is  
14 not lead-based paint;

15 (12) any vacant lots, open spaces, and other properties in the City and County of San  
16 Francisco, which become infested with poison oak (*Toxicodendron diversilobum*) or poison ivy shrub  
17 (*Rhus toxicodendron*) hereafter referred to as poisonous growth;

18 (13) any violation of Section 37 of this Code;

19 (14) any violation of Section 92 of this Code;

20 (15) any violation of Section 590 of this Article; and

21 (16) anything else that the Director deems to be a threat to public health and safety.

22 **SEC. 585. ENFORCEMENT – SPOILED FOOD.**

23 Any article of food or drink in the possession or under the control of any person firm,  
24 association or corporation which is tainted, decayed, spoiled or otherwise unwholesome or unfit to be  
25 eaten or drunk is hereby declared to be and is a public nuisance.

1            In addition to any other enforcement authorities provided for in this Article, The Department  
2 of Public Health of the City and County is hereby authorized ~~and directed to abate said nuisance,~~  
3 ~~and to seize, confiscate, condemn, and destroy any article of food or drink in the possession of~~  
4 ~~any person, firm, association or corporation which has become tainted, decayed, spoiled, or otherwise~~  
5 ~~unwholesome or unfit to be eaten or drunk~~ that is a nuisance as set forth in Section 581(b)(10) of this  
6 Article.

7            ~~The term "food" as used herein includes all articles used for food or drink by man, whether~~  
8 ~~simple, mixed or compound.~~

9            **SEC. 596. ENFORCEMENT INSANITARY BUILDINGS, ETC.**

10           ~~(a) **Definition.** All buildings, structures, or parts thereof which are insanitary are hereby~~  
11 ~~declared to be and are nuisances, and the Director of Public Health is hereby authorized and~~  
12 ~~empowered to abate the same in the manner provided in Sections 596 to 600, inclusive, of this Article.~~

13           ~~(b a) **Complaints.** Whenever a written or oral complaint shall be is made to the~~  
14 ~~Department Director of Public Health that any building, structure or part thereof is in an insanitary~~  
15 ~~condition a nuisance as defined by Section 581 exists in a building or structure or on a property, the~~  
16 ~~said Director shall order a hearing of said complaint and fix the time and place thereof. The complaint~~  
17 ~~shall contain specific allegations setting forth the conditions complained of inspect the building,~~  
18 ~~structure or property to verify the existence of a nuisance thereon.~~

19           ~~(b) **Notice to Abate.** Whenever the Director determines that a nuisance, as defined by~~  
20 ~~Section 581 of this Article, exists in a building or structure or on a property, the Director shall cause a~~  
21 ~~Notice to Abate to be served either personally or by first class mailing to the Responsible Parties. If~~  
22 ~~the Notice to Abate is served on the Owner by mail, it shall be mailed to the address that appears on~~  
23 ~~the last assessment rolls of the City and County of San Francisco. If the Notice to Abate is served on~~  
24 ~~the Manager by mail, it shall be mailed to the Manager's principal place of business or to the address~~  
25 ~~of the building, structure or property. If the Notice of Abate is served on any other Person who created~~

1 a condition that constitutes a nuisance, it shall be mailed to the Person's last known address at which  
2 such Person receives mail, if ascertainable. Thereafter, the Director may cause a copy thereof to be  
3 posted in a conspicuous place on the building, structure or property. The failure of a Responsible  
4 Parties to receive such notice when sent in the manner set forth in this Subsection shall not effect in any  
5 manner the validity of any proceeding against that party under this Article.

6 (c) Contents of Notice to Abate.

7 (1) The notice shall state with reasonable specificity a description of the nuisance such that  
8 the Responsible Parties can reasonably understand the nature of the nuisance to be abated. The notice  
9 shall direct the Responsible Parties to abolish, abate, and remove the nuisance within a reasonable  
10 period of time set by the Director given the nature and severity of the nuisance and any other  
11 circumstances of which the Director is aware of. Such time period shall not exceed 30 days.

12 (2) The notice shall further advise the Responsible Parties that if they fail to comply with the  
13 notice, the Director may: (A) hold a Director's Hearing to be held to consider whether it would be  
14 appropriate to issue a Director's Order to abate the nuisance and other appropriate orders as provided  
15 for in this Article or (B) cause the abatement and removal of the nuisance and the Owner shall be  
16 indebted to the City and County of San Francisco for the costs, charges, and fees incurred by the City  
17 and County of San Francisco by reason of the abatement and removal of such nuisance

18 (3) The notice shall inform the Responsible Party that they maybe liable for other charges,  
19 costs, including administrative costs, expenses incurred by the Department, fines, and penalties as  
20 provided for in this Article.

21 (4) The notice shall state the name, business address and telephone number of the  
22 Department staff who may be contacted regarding the building, structure or property in question.

23 (5) At the discretion of the Director and to assure lawful disposal of any items constituting a  
24 nuisance in whole or in part, the notice may contain a requirement that the Responsible Party abating

25 ///

1 the nuisance provide to the Director proof of lawful disposal of such items and the form of such proof  
2 acceptable to the Director.

3 (d) **Action by the Director.** If the nuisance is not abated and removed within the time  
4 period set forth in the notice, the Director shall either: (1) hold a Director's Hearing in accordance  
5 with this Section or (2) abate and remove the nuisance as soon as practicable. The Owner shall be  
6 assessed a re-inspection fee as provided in Section 609 of this Code to cover the Department's costs  
7 incurred to verify the abatement of the nuisance.

8 (e) **Notice of Hearing.**

9 (1) ~~Upon the filing of such complaint~~ If the Responsible Parties failed to comply with the  
10 Notice to Abate, the Director may hold a hearing by ~~of Public Health shall cause~~ serving a copy  
11 thereof ~~of the Notice to Abate~~, together with a notice of the time and place set for the hearing  
12 thereof, ~~to be served by~~ personally ~~service~~ or by ~~certified~~ mail upon the ~~Responsible Parties.~~ owner  
13 of said structure, building or part thereof complained of, or his agent, or the lessee, and the occupant  
14 thereof, and ~~The Director~~ shall ~~cause~~ post a copy of ~~said complaint~~ ~~the Notice to Abate~~, together  
15 with ~~the said~~ ~~#~~Notice of ~~H~~Hearing, ~~to be posted~~ in conspicuous places throughout ~~said the~~  
16 ~~building,~~ structure ~~or property~~. The time fixed for the hearing ~~of said complaint~~ shall not be less  
17 than 30 days after ~~the~~ service and posting of the copy of ~~said complaint and said the~~ ~~#~~Notice of  
18 ~~Hearing~~; except ~~that~~ in those circumstances where the Director ~~of Public Health or his designee~~  
19 has issued a written determination that the ~~nuisance conditions complained of~~ constitutes ~~such a~~  
20 severe and immediate hazard to life, health or safety ~~that thirty days' notice is impracticable,~~ in  
21 ~~which case~~ the time fixed for the hearing ~~of said complaint~~ shall not be less than 12 hours after  
22 ~~the personal~~ service and posting ~~of the copy of said complaint and said the~~ ~~#~~Notice of ~~H~~Hearing.  
23 ~~Said The~~ ~~#~~Notice of ~~H~~Hearing shall ~~require~~ ~~inform~~ all persons interested to appear at the hearing  
24 to show cause, if any ~~they have~~, why ~~said the building,~~ structure, ~~building or property~~ ~~the part~~  
25 ~~thereof complained of,~~ should not be declared ~~insanitary,~~ and ~~why the Certificate of Sanitation, if~~

1 building is a hotel, should not be revoked a nuisance or in the case where the Department has abated  
2 and removed the nuisance, why a lien should be not placed against the property for the costs incurred  
3 by the Department. In the case of unsanitary buildings, Ssaid notice shall also state that the  
4 hearing may result in the revocation of the certificate of sanitation, if any, and the mandatory  
5 vacation of occupants from the premises-building.

6 (2) If the Notice of Hearing is served by certified mail on the Owner, the Director shall mail the  
7 Notice of Hearing to the address as it appears on the last assessment rolls of the City and County of  
8 San Francisco. If the Notice is served by certified mail on the Manager, the Director shall mail the  
9 Notice of Hearing to the Manager's principal place of business, if any, or to the address of the  
10 building, structure or property in question. If the Notice of Hearing is served by certified mail on any  
11 Person who created the condition that constitutes a nuisance, the Director shall mail the Notice of  
12 Hearing to the last known address of such Person at which it receives mail, if ascertainable. The  
13 failure of the Responsible Parties to receive such notice when sent in the manner set forth in this  
14 Subsection shall not effect in any manner the validity of any proceeding under this Article.

15 (f) **Director's Hearing.** A public hearing shall be held at the time and place designated in  
16 the Notice of Hearing. Subject to the procedures prescribed by the Director for the orderly conduct of  
17 the hearing, all persons having an interest in the building, structure or property in question or having  
18 knowledge of facts material to the Notice to Abate may present evidence for consideration by the  
19 Director. Any hearing conducted pursuant to this Section shall be electronically recorded.

20 (g ~~d~~) **Decision-Director's Order.**

21 (1) Within 30 days after the conclusion of the hearing, Tthe Director of Public Health,  
22 ~~upon conclusion of said hearing,~~ shall issue a written order setting forth finding of facts and a  
23 determination based ~~decide~~ upon the facts found in the record submitted whether or not ~~said-alleged~~  
24 condition constitutes a nuisance, as defined by Section 581, exists or had existed in the building or  
25 structure or on the property and if the Department abated and removed the nuisance, the costs of

1 abatement and removal of the nuisance by the Department, under the terms of Section 596 to 600,  
2 inclusive, of this Article and shall embody said decision in a formal statement setting forth his findings.  
3 The order shall be served on the Responsible Parties in the same manner as set forth in Subsection (e)  
4 of this Section and shall be served on all other parties who provided testimony at the hearing by first  
5 class mail, if such parties request at or before the hearing that the order be sent to them.

6 (2) Upon a finding that a nuisance exists in the building or structure or on the property, the  
7 Director shall require in the order the abatement of the nuisance within a specified time period not to  
8 exceed 30 days. The time period shall be determined based on the nature and severity of the nuisance  
9 and any other circumstances of which the Director is aware. The order shall state that failure to abate  
10 and remove the nuisance will result in the abatement of the nuisance by the Department and that the  
11 Owner shall become indebted to the City and County of San Francisco for the costs, charges, and fees  
12 incurred by reason of the abatement and removal of such nuisance upon demand. The order shall  
13 inform the Responsible Parties that it shall be indebted to the City and County of San Francisco for all  
14 administrative costs incurred by the Department in the prosecution of the abatement action and that  
15 such costs are due upon demand. The order shall further state that failure to pay such costs, charges,  
16 and fees may result in a lien against the property. The order shall require the Responsible Parties to  
17 abate and remove the nuisance in compliance with all applicable federal, State, and local laws and  
18 regulations.

19 (3) In the case where Director determines that a nuisance had existed and that the  
20 Department had abated and removed the nuisance, the order shall itemize the costs of abatement and  
21 removal and all administrative costs incurred by the Department. The order shall notify the Owner  
22 that a lien will be assessed against the property for any outstanding costs if the Owner fails to  
23 reimburse the Department for the costs incurred by the Department as a result of the abatement and  
24 removal of the nuisance within ten (10) days of the service of the order and that the lien shall also  
25 include additional charges for administrative expenses of \$1,000 or 10 percent of the costs of

1 abatement and removal, whichever is higher, and interest at a rate of 1-1/2 percent per full month  
2 compounded monthly from the date of recordation of the lien on all fees and charges due as aforesaid.

3 (4) The order shall advise the Responsible Parties that the order issued is final and of the  
4 Owner's right to petition the Superior Court of San Francisco for appropriate relief pursuant to  
5 Section 1094.6 of the California Code of Civil Procedures. The order shall notify the Owner that the  
6 filing of a petition with the Superior Court shall not automatically stay the effectiveness of the order or  
7 extend the time period in which the Responsible Parties have to abate the nuisance.

8 (5) In case of an unsanitary building, the Director shall revoke the certification of  
9 sanitation, if the building is a hotel and may order the vacation of any unsanitary building for all  
10 purposes, and shall cause a copy of said order to be posted in conspicuous places throughout the  
11 aforesaid structure, building or part thereof determined by the Director to be a nuisance, and a copy  
12 thereof is to be personally served upon the Owner thereof or his agent, or the lessee or the occupant  
13 thereof. The order shall specify the time within which said structure, building or part thereof  
14 determined by the Director to be a nuisance shall be vacated. The order shall further advise that  
15 structure, building or part thereof vacated hereunder shall not be reoccupied without the written  
16 permission of the Director. Such permission shall be granted when the nuisance cited is abated within  
17 the time set forth in the order.

18 (e) Order of Vacation, Etc. The Director of Public Health, upon his determination and  
19 finding that the structure, building or part thereof complained of, is a nuisance, shall revoke the  
20 Certification of Sanitation, if the premises are a hotel, and shall abate the nuisance pursuant to Section  
21 599, or shall order the vacation of same for all purposes, and shall cause a copy of said order to be  
22 posted in conspicuous places throughout the aforesaid structure, building or part thereof determined by  
23 said Director to be a nuisance, and a copy thereof is to be personally served upon the owner thereof or  
24 his agent, or the lessee or the occupant thereof. The order shall specify the time within which said  
25 structure, building or part thereof determined by said Director to be a nuisance shall be vacated, and

1 ~~the nuisance abated, and in addition it will further advise the owner that if he fails to do so, said~~  
2 ~~Director will cause the removal and abatement of the nuisance, and in addition will incur penalties as~~  
3 ~~in this Article provided. The owner shall become indebted to the City and County of San Francisco for~~  
4 ~~the costs and charges incurred by the City and County of San Francisco by reason of the abatement~~  
5 ~~and removal of such nuisance. The order shall further require the owner of the building to repair or~~  
6 ~~demolish the structure in accordance with the requirements of the State Housing Act.~~

7 (h f) Regulations. The Director ~~of Public Health~~ is hereby empowered to promulgate  
8 administrative regulations to implement the provisions of this ~~ordinance~~ Article and applicable  
9 provisions of ~~s~~State law.

10 **SEC. 598. PENALTY FOR RESISTING ORDER TO VACATE.** Any ~~o~~Owner, or the  
11 agent of such ~~o~~Owner, or the lessee, or the occupant of any building, structure, property  
12 building or part thereof ordered vacated hereunder who shall herself or himself or through  
13 others forcibly resist or prevent the enforcement of such order shall be guilty of a  
14 misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$25  
15 \$100, nor and not more than ~~\$250~~ \$1,000, or by imprisonment in the County Jail for a period of  
16 not less than 10 days nor more than three months, or by both such fine and imprisonment.

17 **SEC. 599. ABATEMENT COLLECTION.**

18 ~~(a) — Notice to Director. Unless within the time specified by the Director of Public Health,~~  
19 ~~the owner, or his agent, or the lessee, or the occupant of said building structure or part thereof, shall~~  
20 ~~notify the Director of Public Health in writing that he will make or cause to be made such alterations~~  
21 ~~or repairs as in the judgment of the Director of Public Health shall be necessary for the purpose of~~  
22 ~~making said building, structure or part thereof sanitary, the Director of Public Health shall proceed to~~  
23 ~~abate the same. If said notice be given as aforesaid the Director of Public Health shall grant a~~  
24 ~~reasonable time to make said alterations and repairs. If said alterations and repairs are not made and~~  
25 ~~completed within said time allowed by said Director, the Director of Public Health shall by formal~~



1 ~~statement, order, and in accordance with said order, cause the abatement of said nuisance and the~~  
2 ~~destruction of said building, structure or part thereof, herein provided, found and determined to be a~~  
3 ~~nuisance. Abatement shall include, but not be limited to, vacation of the building or structure, the~~  
4 ~~providing of alternate housing for displaced residents of said vacated building or structure, lockup and~~  
5 ~~barricading of buildings or structures, provision of or security of utilities, removal of refuse, debris or~~  
6 ~~hazardous material, rodentproofing, vermin eradication and fencing of the property occupied by the~~  
7 ~~building or structure.~~

8 ~~(b) — Reoccupation. The structure, building or part thereof vacated hereunder shall not be~~  
9 ~~reoccupied without the written permission of the Director of Public Health, but such permission must~~  
10 ~~be granted when within the time allowed as hereinbefore specified the alterations and repairs required~~  
11 ~~to be made by the Director of Public Health shall have been made.~~

12 ~~(c) — Lien for Costs and Penalties. The costs and charge incurred by the City and County of~~  
13 ~~San Francisco by reason of the abatement and removal of such nuisance shall be an obligation to the~~  
14 ~~City and County owing by the owner of the real property which the building or structure occupies and~~  
15 ~~the City and County shall have a lien on said property in all aspects as though notice had been given.~~

16 ~~(a d)~~ **Notice of Cost and Claim of Lien.**

17 (1) Upon satisfactory compliance of the Director's order, the Director shall ascertain the  
18 administrative costs incurred by the Department and the Owner of such real property shall thereupon  
19 be obligated to the City and County of San Francisco in the amount of such administrative costs. The  
20 City and County of San Francisco thereupon be obligated to the City and County of San Francisco in  
21 the amount of such administrative costs. The City and County of San Francisco shall thereupon have a  
22 lien for such costs upon such real property until payment thereof, which lien shall also include  
23 additional charges for administrative expenses of \$1,000, or 10 percent of the costs of abatement and  
24 removal, whichever is higher, and interest at a rate of 1-1/2 percent per full month compounded  
25 monthly from the date of recordation of the lien on all fees and charges due as aforesaid. The Director

1 shall cause a notice itemizing the administrative costs to be mailed in the manner herein provided for  
2 mailing Notice of Hearing, which notice shall demand payment thereof to the Department, and shall  
3 give notice of claim of such lien and of the recording of the same, in the event such amount is not paid,  
4 as hereinafter set forth.

5 (2) Upon the Responsible Parties' failure to comply with the Director's order and the  
6 completion of the abatement and removal of the nuisance by the Department, the Director of  
7 Public Health shall, in addition to ascertaining the administrative costs as set forth in subparagraph  
8 (1) of this Section, ascertain the costs of abatement and removal incurred by the City thereof and  
9 ~~The~~ Owner of such real property shall thereupon be obligated to the City and County of San  
10 Francisco in the amount of such costs of abatement and removal. and In addition to the lien  
11 provided for in subparagraph (1) of this Section, the City and County of San Francisco shall  
12 ~~thereupon~~ have a lien for such costs of abatement and removal upon such real property until  
13 payment thereof, which lien shall also include additional charges for administrative expenses  
14 of \$1,000, or 10 percent of the costs of abatement and removal, whichever is higher, and  
15 interest at a rate of 1-1/2 percent per full month compounded monthly from the date of  
16 recordation of the lien on all fees and charges due as aforesaid. The Director of Public Health  
17 shall cause a notice itemizing the cost of abatement and removal to be mailed in the manner  
18 herein provided for mailing ~~Notice to abate of~~ Hearing, which notice shall demand payment  
19 thereof to said the Department Director, and shall give notice of claim of such lien and of the  
20 recording of the same, in the event such amount is not paid, as hereinafter set forth.

21 (b) **Recording of Lien.** If the costs as provided for in subsection (a) of this Section of  
22 ~~removal and abatement is~~ are not paid to the Department Director of Public Health within 45 days  
23 after mailing of notice thereof, the Director ~~of Public Health~~ shall file in the Office of the  
24 Recorder of the City and County a verified claim containing a particular description of the  
25 property subject to such lien, the place and general nature of the administrative costs and of the

1 abatement and removal for which the lien is claimed, the date of posting of said property, ~~or~~  
2 ~~delivery~~ the date of the service of ~~a~~ Notice to ~~a~~ Abate and the Director's order, and the date of the  
3 removal of the nuisance, the name of the ~~e~~ Owner of the property as aforesaid and the  
4 amount of the lien claimed, which shall include the cost of verification and filing thereof.

5 (c f) **Collection by Bureau of Delinquent Revenue.** The Director ~~of Public Health~~  
6 shall also transmit to the Bureau of Delinquent Revenue, on the expiration of such 45-day  
7 period, a statement of each such unpaid costs ~~of removal and abatement~~, together with the cost  
8 of verification and filing and claim therefor. The bureau shall endeavor diligently to collect the  
9 same on behalf of the City and County by foreclosure of the lien therefor or otherwise. Any  
10 and all amounts paid or collected shall replenish the revolving fund hereinafter provided.

11 (d g) **Release of Lien.** On payment of any such claim of lien, the Director ~~of Public~~  
12 ~~Health~~ shall give a release thereof.

13 (e h) **Continuing Appropriation Account.** There is hereby created a Special  
14 Revenue Fund for a continuing appropriation account entitled "Payment of Property Owner's  
15 Delinquencies for Abatement and Removal of Nuisances."

16 The account shall be credited with such sums as may be appropriate by the Board of  
17 Supervisors, amounts collected by the ~~Department~~ ~~Director of Public Health~~ and sums received  
18 in consideration of release of liens and payment of special assessments. Expenditures from  
19 said sums shall be made to pay for the abatement and removal of nuisances as provided in  
20 ~~Health Code Sections 596 through 600~~ this Article. In the event that the unexpended balance in  
21 said account shall exceed \$200,000 such excess shall be transferred to the unappropriated  
22 balance of the general fund.

23 (f i) **Collection of Expenses as a Special Assessment.** The Director ~~of Public~~  
24 ~~Health~~ may initiate proceedings to make unpaid expenses for the administration of the abatement  
25 action and for the abatement and removal ~~and abatement~~ of nuisances a special assessment

1 against the parcels of property from which ~~the said~~ nuisance was abated and removed ~~or abated~~  
2 by the Department Director.

3 (g j) **Report of Delinquencies Transmitted to Board of Supervisors.** A report of  
4 delinquent charges shall be transmitted to the Board of Supervisors by the Director ~~of Public~~  
5 ~~Health~~ as necessary, but in no event less often than once each year, commencing with the  
6 first anniversary of the date of enactment of this ordinance. Upon receipt by the Board of  
7 Supervisors of the report, it shall fix a time, date and place for hearing the report and any  
8 protests or objections thereto.

9 (h k) **Notice of Hearing.** The Board of Supervisors shall cause notice of the hearing  
10 to be mailed to the ~~owner~~ Owner of the real property and any person or entity with a recorded interest in  
11 the property to which the service was rendered not less than 10 days prior to the date of  
12 hearing.

13 (i m) **Hearing.** At the time for consideration of the report, the Board of Supervisors  
14 shall hear it with any objections of the ~~owner~~ Owners liable to be assessed for all administrative costs  
15 incurred and the costs of abatement and removal ~~and abatement~~ by the Director, if any ~~of Public~~  
16 ~~Health~~. The Board of Supervisors may make such revisions, corrections or modifications of the  
17 report as it may deem just and, in the event that the Board of Supervisors is satisfied with the  
18 correctness of the report (as submitted or as revised, corrected or modified), it shall be  
19 confirmed or rejected by resolution. The decision of the Board of Supervisors on the report  
20 and on all protests or objections thereto shall be final and conclusive.

21 (j n) **Collection of Assessment.** Upon confirmation of the report by the Board of  
22 Supervisors, the delinquent charges contained therein shall constitute a special assessment  
23 against the property to which the services were rendered. At the time the special assessment is  
24 imposed, the Director shall give notice to the Owner and other parties with an interest in the property  
25 by certified mail, and shall inform them that the property may be sold by the Tax Collector for unpaid

1 delinquent assessments after three years. Thereafter, said assessment may be collected at the  
2 same time and in the same manner as ordinary municipal taxes are collected and shall be  
3 subject to the same penalties and same procedure of sale as provided for delinquent, ordinary  
4 municipal taxes.

5 The assessments shall be subordinate to all existing special assessment liens  
6 previously imposed upon the property and paramount to all other liens except those for ~~s~~State,  
7 county and municipal taxes with which it shall be on parity. Such assessment lien shall  
8 continue until the assessment and all interest and penalties due and payable thereon are  
9 paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be  
10 applicable to said special assessments. However, if any real property to which the costs of  
11 abatement and removal relates has been transferred or conveyed to a bona fide purchaser for value, or  
12 if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date  
13 on which the first installment of taxes would become delinquent, then the costs of abatement and  
14 removal shall not result in a lien against the real property but instead shall be transferred to the  
15 unsecured roll for collection.

16 (k) **Severability.** If any part or provision of this ~~ordinance~~ Article or application  
17 thereof, to any person or circumstance is held invalid, the remainder of the ordinance,  
18 including the application of such part or provision to other persons or circumstances shall not  
19 be affected thereby and shall continue in full force and effect. To this end the provisions of this  
20 ordinance are severable.

21 **SEC. 600. PENALTY.** In addition to any other penalties provided in this Article, Any  
22 person, ~~firm or corporation,~~ or their agents, violating any of the provisions of Sections 596 to  
23 599, inclusive, of this Article, or failing to comply with any direction or order of the Director of  
24 Public Health given pursuant to the provisions of Sections 596 to 599, inclusive, of this Article, by  
25 ///

1 ~~the Director of Public Health or any other agent of said Director of Public Health~~, shall be guilty of a  
2 misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$25  
3 ~~\$100~~ ~~nor and not~~ more than ~~\$1000~~~~\$250~~, or by imprisonment in the County Jail for a period of not  
4 less than 10 days nor more than three months, or by both such fine and imprisonment.

5 **SEC. 605. POISON IVY AND POISON OAK, REMOVAL ON NOTICE.** ~~Owners of all~~  
6 ~~vacant lots and open spaces in the City and County of San Francisco, which become infested with~~  
7 ~~poison oak or poison ivy shrub (Rhus toxicodendron) hereafter referred to in Section 606 of this Article~~  
8 ~~as poisonous growth, are hereby declared to be a nuisance causing a detriment to public health. Any~~  
9 ~~Owner permitting poisonous growth as defined in Section 581(b)(12) is~~ required to cause the  
10 removal and destruction of such poisonous growth when ordered by the Director pursuant to this  
11 Article, within three days after the receipt of notice to remove same. Notice to remove such growth  
12 shall be given by the Department of Public Health and served by delivering a copy thereof to the owner  
13 or his agent personally, or if such owner or agent be not known, then by posting same in a conspicuous  
14 place on the lot or space to be described in this notice.

15 **SEC. 607. ENFORCEMENT.** The Department ~~of Public Health~~ is hereby charged with  
16 the proper enforcement of Sections 605 ~~and 606~~ of this Article.

17 **SEC. 608. PENALTY.** Any person, firm, association or corporation, neglecting or  
18 refusing to remove and destroy such poisonous growth within the time period set by the Director  
19 under this Article, three days after receipt of notice so to do, shall be deemed guilty of a  
20 misdemeanor and upon conviction thereof shall be subject to a fine of not more than ~~\$1000~~~~\$50~~  
21 or by imprisonment in the County Jail for a period of not more than 15 days, or by both such  
22 fine and imprisonment.

23 **SEC. 614. VACANT LOT DEDICATION.** The Director is hereby authorized to give notice to  
24 every Owner of a vacant lot in the City and County of San Francisco advising the Owners to contact

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1 the Director that should the Owners wish to dedicate their properties to alternative uses, including but  
2 not limited to urban gardens and park space.

3 **SEC. 615. DISCRETIONARY DUTIES.** Subject to the limitations of due process and  
4 applicable requirements of State and federal law, and notwithstanding any other provision of this  
5 Code, whenever the words "shall" or "must" are used in establishing a responsibility or duty of the  
6 City, its elected or appointed officers, employees, or agents, it is the legislative intent that such words  
7 establish a discretionary responsibility or duty requiring the exercise of judgment and discretion.

8 **SEC. 616. DISCLAIMER OF LIABILITY.**

9 (a) The degree of protection required by this Article is considered reasonable for regulatory  
10 purposes. This Article shall not create liability on the part of the City, or any of its officers or  
11 employees for any damages that result from reliance on this Article or any administrative decision  
12 lawfully made pursuant to this Article.

13 (b) In undertaking the implementation of this Article, the City and County of San Francisco is  
14 assuming an undertaking only to promote the public health, safety, and general welfare. It is not  
15 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable  
16 in money damages to any person who claims that such breach proximately caused injury.

17 (c) Except as otherwise required by State or federal law, all inspection specified or authorized  
18 by this Article shall be at the discretion of the City and nothing in this Article shall be construed as  
19 requiring the City to conduct any such inspection nor shall any actual inspection made imply a duty to  
20 conduct any other inspection.

21 Section 7. Article 26 of the San Francisco Health Code is hereby amended by  
22 amending Section 1604 to read as follows:

23 **SEC. 1604. AUTHORITY OF THE DIRECTOR.**

24 (a) The Director is authorized to administer and enforce the provisions of this  
25 Article; to conduct a case management program for elevated blood lead level children; to

1 conduct a program for the remediation of lead hazards in residential and nonresidential  
2 buildings, indoor or outdoor property or premises, and dwelling units; to order vacation of any  
3 dwelling unit; and to enforce the provisions of this Article by any lawful means. The Director's  
4 authority to abate nuisances under this Article shall be in addition to authority granted under  
5 other law, including Articles ~~2 and~~ 11 of the San Francisco Health Code, and the Director may  
6 combine all such authorities to protect persons from lead hazards and to seek collection or  
7 reimbursement of nuisance abatement costs. The Special Revenue Fund created under  
8 Section 599~~(e)(A)~~ of the San Francisco Health Code may be used to abate lead hazards in  
9 any structure, building or part thereof as provided in Article 11.

10 (b) Upon showing of proper credentials, persons authorized by the Director, when  
11 necessary for the performance of their duties, shall have the right to enter any building,  
12 premises or dwelling unit specified in Section 1626 of this Article and perform sampling,  
13 testing or periodic surveillance of potential lead hazards. The Director shall seek the consent  
14 of the owner or current occupant before entry.

15 (c) The Director may promulgate such regulations as may be necessary from time  
16 to time to carry out the provisions of this Article. The definitions for lead-contaminated dust,  
17 water and soil, and the definition of lead-based paint expressed in Section 1603 may be  
18 amended by such regulations in light of scientific evidence or guidance from federal or State  
19 agencies, without further action by the Board of Supervisors.


20 (d) Prior to adoption of any rule or regulation under this Article, the Director shall  
21 provide a 30-day public comment period by providing published notice in an official  
22 newspaper of general circulation in the City and County of San Francisco of the intent to issue  
23 or amend the rule or regulation. Rules and regulations shall be approved by the Health  
24 Commission at a public hearing. In addition to the notices required by law, the Secretary of

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1 the Health Commission shall send written notice, at least 15 days prior to the hearing, to any  
2 interested party who sends a written request to the Health Commission for notice of hearings  
3 on lead regulation. Regulations promulgated by the Director and approved by the Health  
4 Commission shall be maintained in the Office of the Clerk of the Board of Supervisors.

5  
6 APPROVED AS TO FORM:  
7 LOUISE H. RENNE, City Attorney

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10 By:   
11 WILLIAM CHAN  
12 Deputy City Attorney

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# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 010269

**Date Passed:**

Ordinance amending Sections 37, 92, 283, 585, 596, 598, 599, 600, 605, 607, 608, and 1604; adding Sections 580, 581, 582, 614, 615, and 616; and deleting Sections 93 to 97.6, inclusive and 606 of the San Francisco Health Code consolidating various provisions that set forth conditions that constitute a public nuisance and to declare the presence of mold and mildew and lead hazards as public nuisances; clarifying the requirements regarding the maintenance of small animals, poultry and game birds in residential districts; authorizing the Department of Public Health to recover administrative costs incurred in pursuing an abatement action as authorized by Government Code Section 25845; and establishing an administrative enforcement process for the abatement of nuisances; and increasing the minimum criminal penalties from \$25 to \$100 and the maximum criminal penalties from \$250 to \$1000 for non-compliance with a Director's Order.

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May 14, 2001 Board of Supervisors — CONTINUED ON FIRST READING

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,  
Newsom, Peskin, Sandoval, Yee

May 21, 2001 Board of Supervisors — CONTINUED ON FIRST READING

Ayes: 9 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Peskin,  
Sandoval  
Absent: 2 - Newsom, Yee

May 29, 2001 Board of Supervisors — PASSED, ON FIRST READING

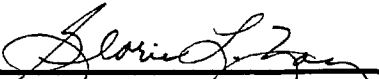
Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, Newsom, Peskin,  
Sandoval, Yee  
Absent: 1 - McGoldrick

June 4, 2001 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, Newsom, Peskin,  
Sandoval, Yee  
Absent: 1 - McGoldrick

File No. 010269

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on June 4, 2001 by the Board of Supervisors of the City and County of San Francisco.

  
\_\_\_\_\_  
Gloria L. Young  
Clerk of the Board

JUN 15 2001  
\_\_\_\_\_  
Date Approved

  
\_\_\_\_\_  
Mayor Willie L. Brown Jr.