

FILE NO. 090076

ORDINANCE NO. 82-09

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

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

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

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

Section 1. Findings.

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

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

(3) As documented in Board File No. 090076, the Department has calculated the estimated labor costs associated with blight inspection, including applicable staff time and materials related to inspection, supervision, management, and processing. The Department estimates that Bureau of Street Use and Management costs associated with non-graffiti

1 inspection will cost approximately \$247.85; Bureau of Street Environmental Services costs  
2 associated with graffiti inspections will cost approximately \$248.94.

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

5  
6 Section 2. Environmental Findings. The Planning Department has determined that the  
7 actions contemplated in this Ordinance are in compliance with the California Environmental  
8 Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is  
9 on file with the Clerk of the Board of Supervisors in File No. 090076 and is incorporated  
10 herein by reference.

11  
12 Section 3. The San Francisco Administrative Code is hereby amended by amending  
13 Chapter 80, Section 80.4 to read as follows:

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

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

20 (b) Fees for Enforcement of Violation Applicable Irrespective of Abatement.  
21 Whenever the Director issues a Notice of Violation pursuant to this Chapter, the Director may  
22 impose a fee to recover costs associated with inspection and related enforcement costs.  
23 These fees shall be established by the department and submitted to the Board of Supervisors  
24 for approval. The Director shall provide notice of such fees under Section 80.5 and may  
25 collect such fees according to the procedures in Section 80.8, below. *The blight inspection fee*

1 charged under this section is in addition to any abatement fees authorized under Section 80.5 and  
2 Section 80.8 of this Chapter.

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

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

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

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

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

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

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

12 (d) General Abatement Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20                   (C)    If City permits are required for the abatement action, unless the  
21 period of time is extended by the Director, a complete application for each such permit shall  
22 be submitted no later than 15 days from the date of the notice of violation. Work shall begin  
23 within 30 days of the issuance of the permit and be completed within 30 days from  
24 commencement of the work, unless either time period is otherwise specified in the order.  
25

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

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

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

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

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

1  
2 Section 4. The San Francisco Administrative Code is hereby amended by amending  
3 Chapter 80, Section 80.8 to read as follows:

4 SEC. 80.8. COST RECOVERY.

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

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

19 (b) Expenses - Accounting and Report Required. The Director shall keep an  
20 itemized account of the expense incurred by the City for enforcement and abatement actions  
21 performed pursuant to the provisions of this Chapter. Upon the completion of any enforcement  
22 or abatement action, the Director shall prepare an invoice specifying the actions taken, the  
23 itemized and total cost of the actions, and any allowable inspection fees, a description of the  
24 property where the action was performed, and the names and addresses of the persons  
25 entitled to notice pursuant to Section 80.5(e). This invoice shall be served on such persons in



1 accordance with the provisions of Section 80.5(f). Such invoices may be served upon the  
2 completion of each enforcement or abatement action or may be served upon the completion  
3 of all necessary enforcement and abatement actions.

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

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

17  
18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20  
21 By:



22  
23 Andrew W. Garth  
24 Deputy City Attorney  
25



# 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:** 090076

**Date Passed:**

Ordinance amending the San Francisco Administrative Code Chapter 80, Section 80.4, to authorize the Department of Public Works to charge a fee of \$250 to cover the cost of inspecting blighted properties and to charge an increased fee to recover additional inspection costs incurred in enforcement of the Community Preservation and Blight Reduction Act; amending Section 80.8 to clarify that the Blight Abatement Fund is a Category Six special fund within the meaning of Administrative Code Title XIII, Section 10.100-1; and making environmental findings.

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May 5, 2009 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

May 12, 2009 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

File No. 090076

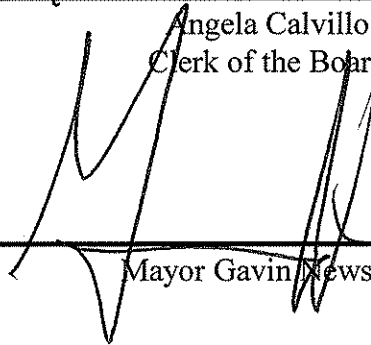
I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on May 12, 2009 by  
the Board of Supervisors of the City and  
County of San Francisco.



Angela Calvillo  
Clerk of the Board

5/20/09

Date Approved



Mayor Gavin Newsom