

1 [Administrative Code --Community Preservation and Blight Reduction Act]

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3 **Ordinance amending the San Francisco Administrative Code by adding Chapter 80,**
4 **Sections 80.1 through 80.10, to establish a uniform procedure for enforcement of**
5 **blight-related provisions of existing municipal code sections and to provide for:**
6 **additional definition of blight conditions subject to enforcement, administrative**
7 **penalties for failure to abate blight, summary abatement for certain blighted conditions,**
8 **an administrative process for contesting ~~the Director's~~ declarations of blight by the**
9 **Director of the Department of Public Works, and **civil penalties and injunctive remedies for****
10 **continuing violations; and making environmental findings.**

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

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

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17 Section 1. **Environmental Findings.** The Planning Department has determined that
18 the actions contemplated in this Ordinance are in compliance with the California
19 Environmental Quality Act (California Public Resources Code sections 21000 et seq.). Said
20 determination is on file with the Clerk of the Board of Supervisors in File No. 081118 and is
21 incorporated herein by reference.

22

23 Section 2. The San Francisco Administrative Code is hereby amended by adding
24 Sections 80.1 through 80.10, to read as follows:

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1 **CHAPTER 80: ANTI-BLIGHT ENFORCEMENT PROCEDURE**

2
3 **SEC. 80.1. COMMON TITLE.**

4 *This Chapter ~~may~~ shall be referred to as the Community Preservation and Blight Reduction*
5 *Act.*

6
7 **SEC. 80.2. LEGISLATIVE FINDINGS.**

8 *The San Francisco Board of Supervisors finds and declares that:*

9 (i) *Properties that are in a condition of significant deterioration or disrepair or otherwise*
10 *violate municipal code requirements attract vagrants, gang members and other criminal elements as*
11 *prime locations to conduct their illegal criminal activities.*

12 (ii) *Properties that are in a condition of significant deterioration or disrepair or otherwise*
13 *violate municipal code requirements are a blight and cause general deterioration and instability in*
14 *surrounding neighborhoods.*

15 (iii) *Properties that are in a condition of significant deterioration or disrepair or otherwise*
16 *violate municipal code requirements substantially endanger the health and safety of residents of the*
17 *blighted properties and of the surrounding neighborhoods.*

18 (iv) *Properties that are in a condition of significant deterioration or disrepair or otherwise*
19 *violate municipal code requirements pose serious threats to the public's health and safety and therefore*
20 *are declared to be public nuisances.*

21 (v) *Immediate abatement and rehabilitation of these properties is necessary and can be*
22 *accomplished by using the judicial or administrative procedures found in this Chapter.*

23
24 **SEC. 80.3. ADMINISTRATIVE ENFORCEMENT PROCEDURES.**

1 (a) Purpose. The Board of Supervisors finds that enforcement of anti-blight provisions of
2 the Municipal Code is vital to ensuring quality of life in San Francisco's neighborhoods and in the City
3 and County as a whole. A centralized administrative enforcement program with ~~dedicated~~
4 enforcement officers staff will promote coordination of anti-blight efforts across City departments,
5 including, but not limited to, the Department of Public Works, the ~~Department of City Planning~~
6 Department, the Department of Building Inspections, and the Department of Public Health. This
7 Chapter is intended to promote the general health, safety and welfare of the people of the City by
8 promoting uniform, fair, and efficient enforcement of anti-blight provisions of the Municipal Code and
9 related departmental regulations.

10 The Director of Public Works is authorized to administer and enforce the provisions of this
11 Chapter. All Enforcement Officers staff to whom the Director has delegated enforcement
12 responsibilities are authorized to inspect property and to take any other enforcement actions as may be
13 required or appropriate to administer or enforce the provisions of this Chapter.

14 Nothing in this Chapter shall be construed to limit any right or remedy otherwise available in
15 law or equity to any party harmed by a blighted property, nor shall this Chapter in any way limit the
16 City's right to enforcement under any other provision of the Municipal Code or state law or create a
17 duty or obligation on the part of the City to enforce this Chapter.

18 (b) Definitions.

19 "Blight." The presence of any one or more of the following conditions on property constitutes
20 property blight: (i) any condition that constitutes a public nuisance as defined in California Civil Code
21 Sections 3479- 3480, including but not limited to the conditions defined in San Francisco Public Works
22 Code Section 174; (ii) any condition of deterioration or disrepair that creates a substantial adverse
23 impact on neighboring properties, including but not limited to the conditions defined in San Francisco
24 Public Works Code Section 735; or (iii) any violation of the San Francisco Municipal Code that is

1 visible from the public way and creates a substantial adverse impact on neighboring properties.
2 Notwithstanding the above definition, public nuisances pertaining to unsafe buildings, structures, or
3 property conditions, as defined by Section 102A of the Building Code, shall not constitute blight for
4 purposes of this Chapter and shall remain within the exclusive enforcement authority of the
5 Department of Building Inspection to the extent required by state and local law. Blight includes, but is
6 not limited to, the following enumerated conditions:

7 (A) Property, whether improved or not, which is not kept substantially clean and
8 free from accumulations including, but not limited to, overgrown, dead or decayed trees, weeds or
9 other vegetation, rank growth, rubbish, junk, garbage, litter, debris, flyers or circulars.

10 (B) Buildings or structures which are unpainted or the exterior paint is substantially
11 worn off, provided, however, that nothing in this section shall be construed to require an owner to paint
12 a building where the architectural style indicates it was intended to be unpainted, such as a brown
13 shingle building.

14 (C) Buildings or structures or significant sections thereof including, but not limited
15 to, awnings, canopies, exterior stairs, roof, foundation, walls, fences, signs, retaining walls, driveways,
16 or walkways which are substantially deteriorated or defaced, or windows which are missing or broken
17 For the purposes of this section "defaced" includes, but is not limited to, writings, inscriptions, figures,
18 scratches, or other markings commonly referred to as "graffiti."

19 (D) Property used or intended to be used for residential purposes which
20 contains, in the outdoor area, any refrigerator, washing machine, sink, stove, heater, boiler, tank or
21 any other household equipment, machinery, furniture, or item, appliance or appliances, boxes, lumber,
22 dirt or debris, trash, garbage or refuse cans, or any items other than those commonly stored outdoors,
23 or any parts of such items, for a period of time in excess of seventy-two consecutive hours. This
24 subsection does not prohibit machinery installed in the rear setback areas for household or
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1 recreational use, furniture designed and used for outdoor activities, trash cans in the front yard during
2 the twenty-four hour period allowed for garbage pick-up and garbage bins ~~or debris boxes~~ when
3 employed in construction

4 for which a valid ~~building~~ permit has been issued by the City.

5 Notwithstanding the foregoing, this Chapter shall not apply to building, structural, or property
6 conditions that present public safety risks under the San Francisco Building Code and construction
7 codes. The Department of Building Inspection and the Fire Department retain their respective
8 jurisdiction over such conditions pursuant to applicable state and local law.

9 "Director." The Director of Public Works or the Director's designee, including any
10 Enforcement ~~Officer~~ ~~staff~~ so designated by the Director to carry out responsibilities under this
11 Chapter.

12 "~~Enforcement Officers~~ ~~Staff~~." An officer ~~Employees~~ charged with enforcement of anti-
13 blight provisions pursuant to this Chapter.

14 "Owner." The owner of the property, her agent, and/or any lessee, occupant, or other person
15 having charge or control over the property.

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17 (c) **Procedures of this Chapter – Cumulative.** The determination by the City to seek
18 enforcement of its code requirements pursuant to this Chapter is solely at the City's discretion and is
19 only one option available to the City to seek redress for the violation of its ordinances. By adopting this
20 Chapter, the Board does not intend to limit the ability of the City to use any other remedy, civil or
21 criminal, that may be available in a particular case. The City may use the procedures set forth herein
22 as an alternative to, or in conjunction with, any other available remedy and in any order that seems
23 appropriate to the City.

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1 All property blight conditions that are required to be abated according to the provisions and
2 permit requirements of this Chapter shall be subject to all provisions of the Municipal Code including,
3 but not limited to, all property improvement, zoning and fire code provisions.

4 The Director's election to utilize the procedures set forth in this Chapter shall not affect the City
5 Attorney's independent authority under the Charter to pursue a civil action against a property owner.

6 (d) **Enforcement Officers.** In consultation with relevant City agencies, the Director shall
7 oversee the training and establishment of Enforcement Officers staff with direct responsibility for
8 enforcing the blight provisions of this Chapter. Enforcement Officers Staff shall be authorized under
9 the Director's authority to inspect properties for blighted conditions as defined in this Chapter and
10 elsewhere in the Municipal Code. Pursuant to this Chapter, each Enforcement Officer staff shall
11 have authority to issue notices of violation and/or take other enforcement actions consistent with the
12 requirements of this Chapter, including but not limited to initiation of abatement actions pursuant to
13 Section 80.4, or pursuing administrative penalties pursuant to Administrative Code Chapter 100, the
14 provisions of which are hereby incorporated into this Chapter. Nothing in this Chapter shall be
15 interpreted as restricting or otherwise limiting the inspection and enforcement authority conferred
16 upon other City employees by other provisions of the Municipal Code.

17
18 **SEC. 80.4. GENERAL PROVISIONS – ABATEMENT OF NUISANCE.**

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

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

7 **(b)(c) Summary Abatement of Conditions in the Public Right-of-Way – Imminent Danger.**

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

11 **(2)** *Actions taken to abate imminently dangerous conditions may include, but are not*
12 *limited to, repair or removal of the condition creating the danger ~~and/or the restriction from use or~~*
13 *occupancy of the property on which the dangerous condition exists ~~or any other abatement~~*
14 *action determined by the Director to be necessary.*

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

17 **(b)(d) General Abatement Provisions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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9 **SEC. 80.5. GENERAL PROVISIONS – NOTICE.**

10 (a) **Notice of Violation.**

11 (1) Where the Director determines that any condition constitutes a blighted property in
12 violation of this Chapter, and that said conditions do not warrant summary abatement procedures, the
13 Director shall issue a notice of violation to the property owner. At the time the notice of violation is
14 issued, the Director shall take one or more photographs of the property showing the blighted
15 conditions, and shall make copies of the photographs available to the recipient of the notice upon
16 request. The photographs shall be dated and retained as apart of the file for the violation. The notice
17 shall generally describe the violation, give the owner 15 calendar days from the date of the service of
18 the notice to either commence abatement of the violation or request a hearing on the notice of
19 violation, and shall set forth the procedure for requesting a hearing on the violation. The notice shall
20 also inform the property owner of his or her right to request an extension of time pursuant to
21 paragraph (a)(2) of this Section in order to abate the violation, and further inform the owner that
22 where the owner fails to either commence abatement of the violation or request a hearing within 15
23 calendar days (plus an extension if applicable) from the date of service of the notice, the Director may
24 initiate proceedings in accordance with Section 80.4 to enter upon the owner's property and abate the

1 violation at the owner's expense, and/or may impose an administrative penalty under Administrative
2 Code Chapter 100 for failure to abate the violations, and/or may refer the matter to the City Attorney
3 for further enforcement action, as appropriate. In addition, the notice shall inform the owner that the
4 minimum charge for City abatement of the violation is the greater of \$400 or the actual cost to the
5 City, (including overhead and administrative costs, as well as attorneys' fees where the Director has
6 elected to seek recovery of attorneys' fees), and that the Department City's cost of preparation for
7 and appearance at the hearing required by Section 80.5 and all prior and subsequent attendant costs
8 (including enforcement fees and costs incurred and penalties assessed in ascertaining violations) shall
9 be assessed upon the property owner. Said violations will not be deemed legally abated until the
10 property owner makes full payment of the assessment of costs to the Department.

11 (2) **Extension of Time.** A property owner may receive an extension of an additional 15
12 calendar days in which to abate the violation pursuant to Section 80.4. The notice of violation issued
13 under this subsection shall specify the address, telephone and facsimile numbers for requesting such an
14 extension. An extension under this paragraph shall not affect the deadline for a property owner to
15 request a hearing on a notice of violation.

16 (b) **Summary Abatement – Imminent Danger - Contents of Notice.** Whenever it is
17 determined that summary abatement action by the City is necessary due to any condition in the public
18 right-of-way that is imminently dangerous, the Director shall issue a notice of summary abatement
19 directed to the record owner(s) of the adjacent property that has been determined to be responsible for
20 the condition to be abated. The notice shall contain:

21 (1) The street address and a legal description sufficient for identification of the
22 location of the property.

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1 (2) A statement that the public right-of-way adjacent to the property was found to be
2 imminently dangerous, with a brief and concise description of the conditions found to render the
3 property ~~condition~~ imminently dangerous in accordance with the provisions of this Chapter.

4 (3) A description of the summary abatement actions that were required and
5 performed by the City to abate the imminent danger.

6 (4) Statements advising that a charge will be assessed for the work that was
7 performed and a description of the cost recovery procedure of Section 80.8 of this Chapter.

8 (5) An order specifying what additional actions, if any, are required to be taken by
9 those persons receiving this notice and the time within which the actions must be commenced and
10 completed. Such order shall include the information required in Section 80.5(a).

11 (6) Statements advising that any person having any record title or legal interest in
12 the property as described in Section 80.5(e) may protest any abatement action taken or ordered by the
13 Director to a hearing officer as designated in Section 80.5(g), at a public hearing on the date certain
14 specified in the notice; and,

15 (7) Statements advising that failure to file a written protest or to appear at such
16 hearing will constitute a failure to exhaust administrative remedies.

17 (c) **General Abatement - Proposed Abatement Order – Contents of Notice.** Upon the
18 determination that any condition exists on the property that requires abatement action, the Director
19 may issue a proposed abatement order directed to the owner(s) of the property. The order shall
20 contain:

21 (1) The street address and a legal description sufficient for identification of the
22 location of the property;

23 (2) A statement advising that the property has been found to require abatement
24 actions, with a brief and concise description of the conditions found to require such abatement actions;
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1 ~~(3) A statement advising that: (A) the property needs abatement actions but~~
2 ~~does not have to be restricted from use or occupancy; (B) the property needs abatement~~
3 ~~actions but does not have to be restricted from use or occupancy if specified temporary or~~
4 ~~interim corrective measures are completed within a specified time; or, (C) the property needs~~
5 ~~abatement actions and must be restricted from use or occupancy. The order shall specify~~
6 ~~what, if any, temporary or interim corrective measures are required prior to the~~
7 ~~commencement of either permanent repairs or demolition.~~

8 (43) Specification of any abatement actions to be taken and the time within which the
9 actions must be commenced.

10 (54) A statement advising that if any ordered abatement action is not completed
11 within the time specified by this Chapter or in the decision of the administrative hearing officer on
12 appeal from a decision of the Director, the Director may proceed to cause the abatement work to be
13 done and charge the costs thereof against the property or its owner, including the costs of ascertaining
14 violations.

15 (65) A statement advising that: (A) any person having any record title or legal
16 interest in the building as described in Section 80.5(e) may appear and protest the notice or order of
17 any action taken or required to be taken by the Director to the hearing officer designated in Section
18 80.5(g), at a public hearing at the time and place specified in the order; and (B) failure to file a written
19 protest or to appear at such hearing will constitute a failure to exhaust the administrative remedies.

20 (d) **Recording of Abatement Order Certificates.**

21 (1) When a notice of abatement or proposed abatement order is issued, the Director
22 may file in the office of the county recorder a certificate describing the property and certifying that: (A)
23 the property, building or structure is a nuisance pursuant to the provisions of this Chapter; (B) the
24 actions proposed by the Director to abate the conditions or defects causing the property to be a
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1 nuisance; (C) if the abatement actions required by the Director are not performed, the City may do so;
2 (D) if the City performs the required abatement actions, the costs incurred for such performance may
3 become a lien against the property; and (E) those persons entitled to service pursuant to Section
4 80.5(e) have been so notified.

5 (2) Whenever an abatement order certificate has been filed and the corrections
6 ordered by the Director ~~has thereafter~~ have been completed, and any costs assessment owed to the
7 Department has been paid, the Director shall file a compliance certificate with the county recorder
8 certifying that all the required corrections have been made or that the building or structure has been
9 demolished so that the property is no longer in violation of the notice or order of abatement, whichever
10 is appropriate.

11 (e) **Service to Certain Persons Required.** Any notice or order, and any amended or
12 supplemental notice or order, that is required shall be served upon the record owner(s) of the subject
13 property. A copy of each notice or order, and any amended or supplemental notice and order, shall
14 also be served on each of the following as disclosed by official public records in the county recorder's
15 office:

16 (1) The holder of any mortgage or deed of trust or other lien or encumbrance of
17 record;

18 (2) The owner or holder of any lease of record; and

19 (3) The holder of any other estate of legal interest of record in or to the property on
20 which the nuisance is located.

21 The lack of service to any person required to be served shall not invalidate any proceedings as
22 to any other person duly served or relieve any such person from any duty or obligation imposed by the
23 provisions of this Chapter.

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1 (f) **Notice or Order - Method of Service.** Service of any required notice or order shall be
2 made either personally or by mailing a copy of such notice or order by certified mail, postage prepaid,
3 to each person entitled to service at the address that appears on the last equalized assessment roll of
4 the county or as known to the Director. If no such address appears or is known to the Director then a
5 copy of the notice or order shall be mailed, addressed to such person, at the address of the property
6 involved in the proceedings. The failure of any such person to receive such notice or order shall not
7 affect the validity of any proceedings taken pursuant to this Chapter. Service by certified mail shall be
8 effective from the date of mailing.

9 (g) **Hearing.**

10 (1) **Request for Hearing.** A property owner may request a hearing in order to
11 contest the decision of the Director by filing with the Director within 15 calendar days from the date of
12 the notice of violation, a request for hearing that specifies in detail the basis for contesting the notice of
13 violation or summary abatement.

14 (2) **Notice of Hearing.** Whenever a hearing is requested pursuant to this Section,
15 the Director shall, within seven calendar days of receipt of the request, notify the property owner of the
16 date, time, and place of the administrative review hearing by certified mail. Such hearing shall be held
17 no later than 45 calendar days after the Director receives the request, unless time is extended by the
18 Director upon request of the owner.

19 (3) **Hearing Procedure.** The hearing shall be conducted by a neutral hearing officer
20 from a City office or department outside the Department of Public Works, appointed by the City
21 Administrator. The burden of proof to establish that the property is blighted shall be on the City. The
22 owner shall be entitled to present evidence and demonstrate that his or her property is not blighted.
23 The property owner shall also be entitled to present evidence and demonstrate that requiring the owner
24 to abate the violations at her own expense would result in an ~~unfair~~ **extreme** hardship. All testimony
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1 shall be under oath, and witnesses may be cross-examined. The hearing officer may consider any
2 relevant evidence submitted by the parties, including evidence that might be excluded from a court
3 hearing because it may constitute hearsay. The hearing officer shall ensure that a record of the
4 proceedings is maintained. The determination of the hearing officer after the hearing shall be final and
5 not appealable.

6 (4) **Submittals for the Hearing.** At least five City business days prior to the hearing,
7 the property owner and the City shall submit to the hearing officer and exchange with one another,
8 written information including, but not limited to, the following: a statement of the issues to be
9 determined by the hearing officer, a statement of the evidence to be offered at the hearing and the
10 identity of any witnesses to appear at the hearing. The Director shall provide to the hearing officer a
11 copy of the Department's case file, which shall include at a minimum the notice of violation or
12 summary abatement, any other written communications between the Department and the responsible
13 party, and communications submitted by interested members of the public concerning the case. The
14 Director may also submit, but is not required to do so, written arguments on why the Director's order
15 should be upheld. Anything submitted to the hearing officer by either party to the appeal shall be
16 served upon the other party at the same time and in the same manner as it is submitted to the hearing
17 officer.

18 (5) **Decision.** The hearing officer shall issue a decision upholding or overturning
19 the Director's decision, including a summary of the issues and the evidence presented, and findings and
20 conclusions, within ten calendar days of the conclusion of the hearing. A copy of the decision shall be
21 served upon the property owner by certified mail. The decision shall be the City's final administrative
22 determination. An aggrieved party may seek judicial review of the decision pursuant to California Code
23 of Civil Procedure Sections 1094.5 and 1094.6.

1 (h) **Effect of Failure to Request or Appear at Hearing.** Unless and until any property
2 owner issued a notice or order under this Chapter shall timely request a hearing as provided in this
3 section, the notice or order shall have the full force and effect of a final order to abate. The failure of
4 any property owner issued a notice or order under this Chapter to appear at a hearing scheduled in
5 accordance with the requirements of this Chapter and contest the validity of the notice of order shall
6 preclude the owner from raising such issues in any subsequent proceeding.

7 (i) **Presumption of Noncompliance with Order.** Notwithstanding any other provision of
8 this Chapter, any person or entity served, in any manner permitted for service of process under the
9 provisions of the Code of Civil Procedure, with a notice or order by the Director setting forth the
10 nature of the violation of this Chapter, demanding correction of such violation, and specifying the time
11 within which such violation must be corrected, shall be presumed, in subsequent civil proceedings, to
12 have failed to comply with said notice or order at and after the time given in said notice or order for
13 correction of such violation has expired without correction of said violation.

14 (j) **Parallel Running of Notice Provisions.** The notices required by this Chapter, including
15 but not limited to notice(s) of inspection, violation, hearing, and abatement, may run concurrently
16 rather than sequentially in order to facilitate timely resolution and/or abatement of blight conditions.

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18 **SEC. 80.6. ABATEMENT ACTIONS PERFORMED BY CITY.**

19 (a) **Supervision of Work.** Any abatement action performed by the City pursuant to this
20 Chapter shall be accomplished under the supervision of the Director either:

21 (1) by City personnel; or

22 (2) by contract awarded by the Director or by the city department with direct
23 jurisdiction over the code violations to be abated.

1 **(b) Contract and Bid Procedures.** *Any contract for work pursuant to this Chapter shall be*
2 *contracted for and awarded pursuant to applicable Municipal Code procedures.*

3 **(c) Work Standard.** *Whenever the City performs any abatement action pursuant to this*
4 *Chapter, the City shall not be required to perform such abatement actions to the standard that the*
5 *property, building or structure complies with all applicable provisions of this Code. The City shall*
6 *perform such actions as are determined by the Director to be necessary to abate or remedy the*
7 *nuisance caused by such property, building or structure. Such limited abatement action by the City*
8 *does not relieve the property owner from any requirement to bring the property into compliance with*
9 *any applicable provisions of this Code.*

10
11 **SEC. 80.7. GENERAL PROVISIONS - INJUNCTIVE RELIEF, CIVIL PENALTIES,**

12 **ATTORNEYS' FEES AND COSTS.**

13 **(a)** *Any use of, maintenance of, or action taken with regard to any property that is contrary*
14 *to the provisions of this Chapter or any condition of any permit required by this Chapter shall be, and*
15 *is hereby declared to be, unlawful and a public nuisance. As an alternative to any other remedy, the*
16 *City Attorney may apply to any court having jurisdiction for any relief as will abate or remove such*
17 *nuisance and restrain any person, firm or corporation from using, maintaining or taking any action*
18 *regarding any property contrary to the provisions of this Chapter.*

19 **(b)** *This Chapter may be enforced by an injunction issued by any court having jurisdiction*
20 *upon any suit by the City or by the owner or occupant of any property affected by any such violation or*
21 *threatened violation or by any neighbor of any property affected by any such violation or threatened*
22 *violation.*

1 (c) In any court action to enforce this Chapter by the City Attorney, unless the specific code
2 provision violated otherwise provides for civil penalties in another amount, the City shall be entitled to
3 recover civil penalties in the amount specified by this Section:

4 (1) Up to \$100 per day for each day of violation following issuance of Notice of
5 Violation to the Owner, for the period beginning 15 days following issuance of said Notice until 90
6 days following issuance of such Notice;

7 (2) From \$100 per day to \$500 per day for each day following issuance of Notice of
8 Violation to the Owner, for the period beginning 91 days following issuance of said Notice until 120
9 days following issuance of such Notice;

10 (3) From \$500 per day to \$1,000 per day for each day following issuance of Notice
11 of Violation to the Owner, for the period beginning 121 days following issuance of such Notice;

12 (d) In deciding the amount of civil penalty to be imposed, the Court shall consider the
13 following factors:

14 (1) Whether the responsible party was properly identified;

15 (2) The nature and seriousness of the violation;

16 (3) The duration of the violation;

17 (4) The number of violations;

18 (5) The willfulness of the responsible party's misconduct;

19 (6) Efforts made by the responsible party to correct the violation;

20 (7) The impact of the violation upon the community;

21 (8) Any instance in which the responsible party has been in violation of the same or
22 similar laws at the same or other locations in the City and County of San Francisco;

23 (9) The responsible party's good faith efforts to comply;

24 (10) Whether the violation is easy to correct;

1 (11) The assets, liabilities and net worth of the responsible party; and,

2 (12) Such other factors as the Court may consider relevant to whether the responsible
3 party is likely to commit similar violations in the future.

4 (e) In any action under this section in which the City succeeds in obtaining any order from
5 the Court enforcing this Chapter, the City shall be entitled to recover from defendant its costs of
6 investigation, enforcement, and litigation, including but not limited to attorneys' fees and expert witness
7 fees. This provision is designed to support and encourage actions to abate blighted conditions in the
8 City and therefore is not a prevailing party attorneys' fee provision and in no way allows recovery by
9 any defendant of his or her costs or attorneys' fees against the City.

10 (f) Upon entry of a second or subsequent civil or criminal judgment within a two-year
11 period that finds that the owner of property is responsible for a condition that may be abated in
12 accordance with this Chapter, the court may order the owner to pay trebled costs of the abatement.

13
14 **SEC. 80.8. COST RECOVERY.**

15 (a) **Blight Abatement Fund.** The City shall maintain a special revolving fund designated as
16 the "Blight Abatement Fund." Payments shall be made out of said fund upon the demand of the
17 Director to defray the costs and expenses that may be incurred by the City in ascertaining violations,
18 enforcing the provisions of this chapter, and doing or causing to be done the necessary work of
19 repair or other abatement work performed pursuant to this Chapter. This fund may also be used to
20 defray the costs of the City performing any blight abatement where it is determined that requiring
21 private abatement of a blighted condition by a property owner would impose an extreme an unfair
22 financial burden on that property owner.

23 The Board of Supervisors may at any time transfer to the Blight Abatement Fund
24 money from the general fund of the City necessary to expedite the performance of work
25

1 relating to abatement. Any sum so transferred shall be deemed a loan to the Blight
2 Abatement Fund and shall be repaid out of the proceeds of the collections provided for this
3 Chapter. All funds collected pursuant to this Chapter shall be paid to the Controller who shall credit
4 the same to Blight Abatement Fund.

5 (b) Expenses - Accounting and Report Required. The Director shall keep an itemized
6 account of the expense incurred by the City for enforcement and abatement actions performed pursuant
7 to the provisions of this Chapter. Upon the completion of any enforcement or abatement action, the
8 Director shall prepare an invoice specifying the actions taken, the itemized and total cost of the
9 actions, and any allowable inspection fees, a description of the property where the action was
10 performed, and the names and addresses of the persons entitled to notice pursuant to Section 80.5(e).
11 This invoice shall be served on such persons in accordance with the provisions of Section 80.5(f). Such
12 invoices may be served upon the completion of each enforcement or abatement action or may be served
13 upon the completion of all necessary enforcement and abatement actions.

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

17 (d) Failure to Pay. If the responsible party fails to pay the invoice within thirty days of
18 service, the Director may take such action to collect the fees as he or she deems appropriate, including
19 (i) referral of the matter to the Bureau of Delinquent Revenue Collection under Article V, Section 10.39
20 of the Administrative Code, (ii) initiation of lien proceedings under Article XX, Section 10.230 et seq. of
21 the Administrative Code whereby the amount of the lien shall be payable in the same time and
22 manner as outstanding ad valorem real property taxes due, consistent with Article XX, Section
23 10.236, and/or (iii) requesting that the City Attorney pursue collection of the penalties imposed
24 against the responsible party in a civil action. The City Attorney may request its attorneys' fees in any
25

1 action that he or she pursues to collect the administrative penalties or to enforce collection of the
2 penalties.

3 **SEC. 80.9. JOINT OR COMMON OWNERSHIP.**

4 Whenever property that is the subject of blight abatement pursuant to this Chapter is jointly
5 owned, owned as common property or is otherwise subject to multiple ownership whether in fee or as
6 an easement, the owners of the property shall be jointly and severally liable for the nuisance. The City
7 may apportion each owner's liability in reasonable proportion to each individual's ownership interest
8 in the subject property.

9
10 **SEC. 80.10. SEVERABILITY.**

11 In the event that a court or agency of competent jurisdiction holds that federal or state law, rule
12 or regulation invalidates any clause, sentence, paragraph or section of this Chapter or the application
13 thereof to any person or circumstances, it is the intent of the Board of Supervisors that the court or
14 agency sever such clause, sentence, paragraph or section so that the remainder of this Chapter shall
15 remain in effect.

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

18 By: _____
19
20 Jerry Threet
21 Deputy City Attorney