

1 [Authorizing administrative penalties for littering and specified nuisance violations.]

2

3 **Ordinance amending Sections 37, 38, and 63 of the Police Code, Sections 41.13, 283.1,**  
4 **287 and 600 of the Health Code and Sections 170, 173, 174, 174.2, 184.63, and 724.5 of**  
5 **the Public Works Code to authorize the assessment of administrative penalties as an**  
6 **alternative to infractions for littering and specified nuisance violations; amending the**  
7 **Police Code by adding a new Section 39-1 to establish procedures for the imposition,**  
8 **review and collection of administrative penalties.**

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

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

13 Section 1. The San Francisco Police Code is hereby amended by amending Sections  
14 37, 38 and 63, and adding a new Section 39-1, to read as follows:

15 **SEC. 37. PENALTY.**

16 (a) Any person who shall violate any of the provisions of Sections 33, 34, 35 or 36 of  
17 this Article shall be guilty of an infraction and, upon conviction thereof, shall be punished for  
18 the first offense by a fine of not less than \$80 nor more than \$100; and for a second offense  
19 by a fine of not less than \$150 nor more than \$200; and for each additional offense by a fine  
20 of not less than \$300 nor more than \$500.

21 (b) Any person who shall violate any of the provisions of Section 35(a) of this Article  
22 shall be guilty of an infraction and, upon conviction thereof, shall be punished for the first  
23 offense by a fine of not less than \$80 nor more than \$100; for a second offense by a fine of  
24 not less than \$150 nor more than \$200; and for each additional offense by a fine of not less  
25 than \$300 nor more than \$500.

1            (c) Alternatively, any person who violates any of the provisions of Sections 33, 34, or 35(a) of  
2 this Article shall be subject to an administrative penalty not to exceed \$300 for each violation.  
3 Administrative penalties authorized by this section shall be assessed, enforced and collected in  
4 accordance with Section 39-1 of this Code.

5            **SEC. 38. ENFORCEMENT OF LITTER LAWS; DESIGNATED OFFICERS AND**  
6 **EMPLOYEES.**

7            The classes of officers or employees of the City and County of San Francisco  
8 hereinbelow set forth may have the duty of enforcing those provisions of state law or the San  
9 Francisco Municipal Code which relate to abatement of nuisance conditions on public property or  
10 the littering of private or public property, including, but not limited to, streets, sidewalks, parks,  
11 squares or recreation areas within said City and County, the removal or abatement of any  
12 such litter from said private or public property or the unauthorized use of litter receptacles. *In*  
13 addition to any other authority provided by state law or the Municipal Code, each of these classes of  
14 officers or employees may also issue citations or notices of violation imposing administrative penalties  
15 authorized by Section 39-1.

16	Classification No.	Class Title
17	3130	Arboretum Director
18	3203	Pool Lifeguard
19	3210	Head Lifeguard
20	3230	Golf Director
21	3234	Harbormaster
22	3287	Assistant Recreation Supervisor
23	3289	Recreation Supervisor
24	3291	Principal Recreation Supervisor
25	3322	Assistant Head Animal Keeper

1	3324	Head Animal Keeper
2	3340	Zoo Director
3	3418	Gardener Assistant Supervisor
4	3422	Park Section Supervisor
5	3432	Assistant Director, Arboretum
6	3436	Tree Topper Supervisor I
7	3440	Landscaping and Street Planting Supervisor
8	3462	Assistant Director, Golf Course Maintenance
9	3464	Area Supervisor, Parks, Squares and Facilities
10	3466	Assistant Superintendent, Parks, Squares and
11		Facilities
12	5170	Superintendent, Street Cleaning and Tree Planting
13	5173	Assistant Superintendent, Street Cleaning and Tree
14		Planting
15	6120	Environmental Health Inspector
16	6122	Senior Environmental Health Inspector
17	6124	Principal Environmental Health Inspector
18	6126	Chief, Bureau of Environmental Health Services
19	6127	Assistant Chief, Bureau of Environmental Health
20		Services
21	6230	Street Inspector
22	6231	Senior Street Inspector
23	6232	Street Inspector Supervisor
24	7215	General Laborer Supervisor I
25	7281	Street Cleaning General Foreman

1	8214	Parking Controlman
2	8280	Environmental Control Officer
3	<u>8282</u>	<u>Senior Environmental Control Officer</u>
4	H4**	Inspector, Bureau of Fire Prevention and Public
5		Safety
6	H220	Lieutenant, Bureau of Fire Prevention and Public
7		Safety
8	H32	Captain, Bureau of Fire Prevention and Public Safety
9	H40	Battalion Chief, Fire Department
10	H50	Assistant Chief, Fire Department

11 **SEC. 39-1. PROCEDURE FOR ASSESSMENT AND COLLECTION OF**

12 **ADMINISTRATIVE PENALTIES FOR SPECIFIED LITTERING AND NUISANCE**

13 **VIOLATIONS.**

14 (a) This Section shall govern the imposition, assessment and collection of administrative  
15 penalties imposed pursuant to Sections 37, 38, and 63 of the Police Code, Sections 41.13, 283.1, 287,  
16 and 584600 of the Health Code, and Sections 170, 173, 174, 174.2, 184.63 and 724.4 724.5 of the  
17 Public Works Code.

18 (b) The Board of Supervisors finds:

19 (1) That it is in the best interest of the City and its citizens to provide an alternative,  
20 administrative penalty mechanism for enforcement of the littering and nuisance violations  
21 covered by this section in addition to the existing enforcement mechanisms authorized under  
22 the California Penal Code; and

23 (2) That the administrative penalty scheme established by this section is not intended  
24 to be punitive in nature, but is instead intended to compensate the public for the injury and  
25 damage caused by the prohibited conduct. The administrative penalties authorized under this

1 section are intended to be reasonable and not disproportionate to the damage or injury to the  
2 City and the public caused by the prohibited conduct.

3 ~~(b)~~(c) Administrative Citation. Where an officer or employee designated in Section 38  
4 determines that there has been a violation of a local litter or nuisance law that authorizes imposition of  
5 an administrative penalty, the officer or employee may issue an administrative citation to the person  
6 and/or entity responsible for the violation. For purposes of this Section, an entity is responsible if an  
7 officer, employee or agent of the entity commits the violation. The citation shall inform the person or  
8 entity responsible of the date, time, place and nature of the violation and the amount of the  
9 proposed penalty, and shall state that the penalty is due and payable to the City Treasurer within 15  
10 City business days from the date of the notice, if not contested within the time period specified.  
11 The citation shall also state that the person or entity responsible has the right, pursuant to Subsection  
12 ~~(e)~~(d), to request administrative review of the citing officer or employee's determination as to the  
13 violation and assessment of penalties; and shall set forth the procedure for requesting  
14 administrative review. The notice shall inform the owner of the date, time, place and nature of  
15 the violation and the amount of the proposed penalty, and shall state that the penalty  
16 becomes effective if not contested within the time period specified. In addition, the notice  
17 shall set forth the procedures for requesting the hearing. The Director shall serve the  
18 administrative citation as follows:

19 1. Where there is a nexus between the violator and a specific property:

20 (A) One copy of the Notice shall be posted in a conspicuous place upon the building or  
21 property.

22 (B) One copy of the Notice shall be served upon each of the following:

23 (i) The person, if any, in real or apparent charge and control of the premises or  
24 property involved;

25 (ii) The owner of record.

1                    Service required by subparagraph (B) may be made by personal service or by certified  
2 mail.

3                    2. Where the issuing officer or employee is unable to ascertain a nexus between the  
4 violation and property within the City, a completed copy of the administrative citation may be served  
5 on the individual who has committed the violation by ~~presenting the person with a completed copy~~  
6 of the citation ~~personal service or by certified mail.~~

7                    3. For purposes of this Section, there is a nexus where activity on the property has caused,  
8 contributed to, or been a substantial factor in causing, the violation.

9                    ~~(e)~~(d) Request for Hearing;Hearing.

10                   (1) A person or entity that has been issued an administrative citation may request  
11 administrative review in order to contest the ~~notice of violation citation~~ issued in accordance with this  
12 section. Administrative review shall be initiated by filing a request for administrative review with the  
13 Director of Public Works within 15 City business days from the date of the ~~notice of violation~~ citation.  
14 Failure to request a hearing within the time specified in the ~~notice~~ citation shall be deemed an  
15 admission that the cited person or entity committed the violation identified in the administrative  
16 citation.

17                   (2) Whenever administrative review is requested pursuant to this Section, the Director of  
18 Public Works shall, within five City business days of receipt of the request, notify the requestor of the  
19 date, time, and place of the administrative review hearing by certified mail. Such hearing shall be held  
20 no later than thirty (30) calendar days after the Director receives the request, unless time is extended  
21 by mutual agreement of the affected parties.

22                   (3) The administrative review hearing shall be conducted by a neutral hearing officer from  
23 outside the Department of Public Works ~~and the department whose employee issued the citation,~~  
24 assigned by the Director of Administrative Services. The Director of Administrative Services may  
25 issue rules as needed to implement this requirement. The parties may present evidence and

1 testimony to the hearing officer. All testimony shall be under oath. The hearing officer shall  
2 ensure that a record of the proceedings is maintained. The burden of proof to uphold the  
3 violation shall be on the City, but the administrative citation shall be prima facie evidence of the  
4 violation.

5 (4) The hearing officer shall issue a decision including a summary of the issues and the  
6 evidence presented, and findings and conclusions, within ten (10) calendar days of the conclusion of  
7 the hearing. The hearing officer may uphold the penalty imposed by the citation, reduce the  
8 penalty, or dismiss the citation. A copy of the decision shall be served by certified mail upon the  
9 person or entity contesting the violation. The decision shall be a final administrative determination.  
10 An aggrieved party may seek judicial review of the decision pursuant to California Code of Civil  
11 Procedure Sections 1094.5 and 1094.6.

12 (d)(e) Payment and Collection of Penalty

13 (1) Where a person or entity has not made a timely request for administrative review,  
14 the penalty shall be due and payable to the City Treasurer on or before 15 City business days  
15 from the date of issuance.

16 (2) Where a person or entity has made a timely request for administrative review, and  
17 the penalty has been upheld in whole or in part upon review Unless a timely notice of appeal  
18 of the hearing officer's decision is filed, any administrative penalty imposed by the hearing officer  
19 shall be due and payable not later than ten City business days from the date of the notice of decision  
20 issued under subparagraph (e) (d)(4).

21 (3) If all or any portion of the amount a penalty due and payable under paragraphs (1)  
22 or (2) remains unpaid after that the specified due date, the Director of Public Works shall send the  
23 violation written notice that the penalty is overdue. Penalties that remain unpaid 30 days after the due  
24 date shall be subject to a late payment penalty of ten percent (10%) plus interest at the rate of one  
25 percent (1%) per month on the outstanding balance, which shall be added to the penalty amounts from

1 the date that payment is due. Persons and entities against whom administrative penalties are imposed  
2 shall also be liable for the costs and attorney's fees incurred by the City and County in bringing any  
3 civil action to enforce the provisions of this section, including obtaining a court order judgment for  
4 the amount requiring payment of the administrative penalty and other costs and charges.

5 (2)(4) Where there is a nexus between the violation and property in the City owned by the  
6 violation, the Director shall further inform the violator that if the amount due is not paid within 30 days  
7 from the date of the notice, the Director shall initiate proceedings to make the amount due and all  
8 additional authorized costs and charges, including attorneys fees, a lien on the property. Such liens  
9 shall be imposed in accordance with Chapter 10, Article XX of the Administrative Code.

10 (e)(f) The revenues generated by penalties from an administrative citation issued pursuant to  
11 this Section may be expended only by the department that is responsible for issuing the administrative  
12 citation, except that each department other than Public Works that issues administrative citations  
13 pursuant to this Section shall reimburse the Department of Public Works for the costs incurred by the  
14 Department of Public Works in administering review of those citations issued by the other department.  
15 The revenues from administrative citations issued by Class 8280 Environmental Control Officers and  
16 8282 Senior Environmental Control Officers may be expended exclusively by the Department of  
17 Public Works for the purpose of funding litter enforcement and abatement except where the use or  
18 expenditure of those revenues is specifically directed by law to another program within the Department  
19 of Public Works

20 **SEC. 63. OBSTRUCTIONS ON STREETS AND SIDEWALKS.**

21 (a) It shall be unlawful for any person, firm or corporation, occupying or having charge  
22 or control of any premises, to place or cause to be placed, or suffer to remain upon the  
23 sidewalk, or upon the half of the street in front of such premises, any Article or substance  
24 which shall obstruct the passage of such street or sidewalk.



1 (b) It shall be unlawful for any person, firm or corporation to enter into a lease, rental  
2 agreement or contract of any kind, written or oral, with or without compensation, for the use of  
3 any street or sidewalk.

4 (c) As an alternative to any other fines or penalties applicable to a violation of this section, any  
5 person, firm or corporation who is in violation of this section shall be subject to an administrative  
6 penalty not to exceed \$300 for each violation. The administrative penalty shall be assessed, enforced  
7 and collected in accordance with Section 39-1 of this Code.

8 Section 2. The San Francisco Health Code is hereby amended by amending Sections  
9 41.13, 283.1 287, and ~~584600~~, to read as follows:

10 **SEC. 41.13. PENALTIES.**

11 Any person violating any of the provisions of Sections 41.1 through 41.12, inclusive, of  
12 this Article, except the provisions of Sections 41.5.1, 41.11(c), 41.12(a) and 41.12(d), shall be  
13 deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of  
14 not more than \$500 or by imprisonment in the County Jail for a period of not more than six  
15 months, or by both such fine and imprisonment.

16 Any person violating the provisions of Sections 40, 41.11(c) and 41.12(a) of this Article  
17 shall be deemed to be guilty of an infraction and upon conviction thereof shall be punished for  
18 the first offense by a fine not to exceed \$10; for the second offense by a fine not to exceed  
19 \$25; for a third and each additional offense by a fine not to exceed \$50.

20 Any person violating the provisions of Section 41.12(d) of this Article shall: (1) upon the  
21 first offense in any 12-month period, be deemed to be guilty of an infraction and upon  
22 conviction thereof shall be punished by a fine not to exceed \$10; (2) upon the second offense  
23 in any 12-month period, be deemed to be guilty of an infraction and upon conviction thereof  
24 shall be punished by a fine not to exceed \$50; (3) upon the third and each additional offense  
25 in any 12-month period, be deemed to be guilty of a misdemeanor and upon conviction

1 thereof shall be punished by a fine of not more than \$500 or by imprisonment in the County  
2 Jail for a period of not more than six months, or by both such fine and imprisonment.  
3 Any person violating the provisions of Section 41.5.1 of this Article shall be subject to the  
4 penalties provided in said section.

5 *In the alternative to any other penalty imposed under this Section for a violation of Section 40,*  
6 *a person violating Section 40 may be assessed an administrative penalty not to exceed \$300 for each*  
7 *violation. Such penalty shall be assessed, enforced and collected in accordance with Section 39-1 of*  
8 *the Police Code.*

9 **SEC. 283.1. PENALTY.**

10 Any person, firm or corporation violating any of the provisions of Section 283 of this  
11 Article shall be guilty of an infraction and, upon conviction thereof, shall be punished for the  
12 first offense by a fine of not less than \$80 nor more than \$100; and for a second offense by a  
13 fine of not less than \$150 nor more than \$200; and for each additional offense by a fine of not  
14 less than \$250 nor more than \$500. *In the alternative, any person, firm or corporation violating*  
15 *any of the provisions of Section 283 of this Article may be assessed an administrative penalty not to*  
16 *exceed \$300 for each violation. Such penalty shall be assessed, enforced and collected in accordance*  
17 *with Section 39-1 of the Police Code.*

18 **SEC. 287. PENALTIES.**

19 Any person who shall violate any of the provisions of Section 280 or 286 of this Article,  
20 shall be guilty of an infraction or a misdemeanor. If charged as an infraction, upon conviction  
21 thereof, said person shall be punished for the first offense by a fine of not less than \$80 nor  
22 more than \$100; for a second offense by a fine of not less than \$150 nor more than \$200; and  
23 for each additional offense by a fine of not less than \$250 nor more than \$500.

24 If charged as a misdemeanor, upon conviction thereof, said person shall be punished  
25 by imprisonment in the County Jail not exceeding one year or a fine not exceeding \$1,000.

1 The complaint charging such violation shall specify whether the violation is a misdemeanor or  
2 infraction, which decision shall be solely that of the District Attorney.

3 As an alternative to any other fines or penalties applicable to a violation of Section 280 of this  
4 Article, any person who is in violation of Section 280 may be subject to an administrative penalty not  
5 to exceed \$300 for each violation. The administrative penalty shall be assessed, enforced and  
6 collected in accordance with Section 39-1 of the Police Code.

7 **SEC. 581. NUISANCE PROHIBITED.**

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

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

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

14 (2) Any accumulation of hay, grass, straw, weeds, or vegetation overgrowth;

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

17 (4) Any buildings, structures, or portion thereof found to be unsanitary

18 (5) Any matter or material which constitutes, or is contaminated by, animal or  
19 human excrement, urine or other biological fluids;

20 (6) Any visible or otherwise demonstrable growth of mold or mildew in the  
21 interiors of any buildings or facilities;

22 (7) Any pest harborage or infestation including but not limited to pigeons,  
23 skunks, raccoons, opossums, and snakes, except for pigeon harborages that comply with  
24 Section 37(e) of this Code;

25

1           (8) Any noxious insect harborage or infestation including, but not limited to  
2 cockroaches, fleas, scabies, lice, spiders or other arachnids, houseflies, wasps and  
3 mosquitoes, except for harborages for honey-producing bees of the genus *Apis* regulated by  
4 the California Food and Agriculture Code Sections 29000 et seq. which are not otherwise  
5 determined to be a nuisance under State law.

6           (9) Any article of food or drink in the possession or under the control of any  
7 person which is tainted, decayed, spoiled or otherwise unwholesome or unfit to be eaten or  
8 drunk. The term "food" as used in this subparagraph includes all articles used for food and  
9 drink by humans, whether simple, mixed or compound.

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

19           (11) Any vacant lots, open spaces, and other properties in the City and County  
20 of San Francisco, which become infested with poison oak (*Toxicodendron diversilobum*) or  
21 poison ivy shrub (*Rhus toxicodendron*) hereafter referred to as poisonous growth;

22           (12) Any violation of Section 37 of this Code;

23           (13) Any violation of Section 92 of this Code;

24           (14) Any violation of Section 590 of this Article;

25

1 (15) Anything else that the Director deems to be a threat to public health and  
2 safety.

3 (c) ~~As an alternative to any other fines or penalties applicable to a violation of~~  
4 ~~subparagraphs (b)(1), (b)(2) or (b)(3) of this section, any Person who is in violation of one or~~  
5 ~~more of those subparagraphs shall be subject to an administrative penalty not to exceed~~  
6 ~~\$300. The administrative penalty shall be assessed, enforced and collected in accordance~~  
7 ~~with Section 39-1 of the Police Code.~~

8 **600. PENALTY.**

9 In addition to any other penalties provided in this Article, any person, or their  
10 agents, violating any of the provisions of this Article, or failing to comply with any direction or  
11 order of the Director given pursuant to the provisions of this Article, shall be guilty of a  
12 misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100  
13 and not more than \$1000, or by imprisonment in the County Jail for a period of not less than  
14 10 days nor more than three months, or by both such fine and imprisonment.

15 As an alternative to any other fines or penalties applicable to a violation of  
16 subparagraphs (b)(1), (b)(2) or (b)(3) of Section 581, any person or their agents who are in  
17 violation of one or more of those subparagraphs shall be subject to an administrative penalty  
18 not to exceed \$300 for each violation. The administrative penalty shall be assessed, enforced  
19 and collected in accordance with Section 39-1 of the Police Code.

20 Section 3. The San Francisco Public Works Code is hereby amended by amending  
21 Sections 170, 173, 174.2, 184.63, and ~~724.4~~724.5 to read as follows:

22 **SEC. 170. GARBAGE RECEPTACLES.**

23 (a) **Garbage Receptacles Prohibited on Sidewalk, Street, or Any Public Right-of-**  
24 **Way.** Except as otherwise provided in Sections 170.1 and 173, Chapter X, Part II, San  
25 Francisco Municipal Code (Public Works Code), no person, firm or corporation occupying or

1 having charge or control of any premises shall place or cause to be placed, or suffer to  
2 remain, upon the sidewalk, street or any other dedicated public right-of-way, any can,  
3 container or receptacle used for the collection of garbage, refuse, ashes, cinder, sludge, offal,  
4 broken glass, crockery, tins, boxes, animal or vegetable matter, rubbish or other like matter,  
5 except on the day the contents of said receptacle are to be collected by the licensed collector  
6 thereof or after the hour of 6:00 p.m. of the day immediately prior to the day of said collection;  
7 provided further, that any person, firm or corporation occupying or having charge of any  
8 commercial premises shall remove any such receptacle from the sidewalk, street or other  
9 dedicated public right-of-way immediately after the contents of said receptacle have been  
10 collected or immediately upon opening said premises for business on the day of said  
11 collection.

12 (b) The Director of Public Works, in issuing any written notice to abolish, abate and  
13 remove a nuisance under Section 174.1 of this Article, may direct any person, firm or  
14 corporation occupying or having charge of any commercial premises, to securely lock every  
15 can, container or receptacle placed for collection pursuant to Section 170(a) on any area open  
16 to the public, to prevent access to the contents thereof by any person other than the licensed  
17 refuse collector. Any such written notice shall be issued as set forth in Section 174.1.

18 (c) Each violation of Subsection (a) shall constitute an infraction and shall be  
19 punishable by a fine of not less than \$80 nor more than \$100; for a second offense by a fine  
20 not less than \$150 nor more than \$200; and for each additional offense by a fine not less than  
21 \$250 nor more than \$500. In the alternative, an administrative penalty not to exceed \$250 may be  
22 assessed for each violation. Such penalty shall be assessed, enforced and collected in accordance with  
23 Section 39-1 of the Police Code.

## 24 **SEC. 173. PLACEMENT AND MAINTENANCE OF LITTER RECEPTACLES.**

25

1 (a) It is the intent of this Section to ensure that public areas are kept clean and free  
2 from litter.

3 (b) Any person, firm or corporation operating a grocery store, a liquor store or an  
4 establishment selling food or beverages for consumption off the premises shall place and  
5 maintain a litter receptacle outside of each exit from said premises for the use of the patrons  
6 thereof during business hours.

7 (c) Any person, firm, corporation, or property owner operating a place of employment  
8 shall provide and maintain adjacent to the place of employment sufficient ashtrays or other  
9 receptacles for the disposal of cigarettes, cigars, and other similar combustible products used  
10 by employees and patrons who smoke. The Director of Public Works shall authorize the  
11 placement of such ashtrays or other receptacles in the public right-of-way where necessary.

12 (d) The design, capacity, location, and number of ashtrays and receptacles shall be  
13 prescribed by the Director of Public Works. Decals may be placed upon said receptacles  
14 subject to the limitations set forth in Section 171 of this Article.

15 (e) The receptacle shall be emptied when full and at the close of business each day  
16 and the contents thereof shall be stored or set out for collection in the same manner as other  
17 refuse generated in the operation of the business. Each receptacle shall be maintained in a  
18 clean and sanitary condition.

19 (f) Violation of this Section shall constitute an infraction and shall be punishable by a  
20 fine of not less than \$80 nor more than \$100; for a second offense by a fine not less than  
21 \$150 nor more than \$200; and for each additional offense by a fine not less than \$250 nor  
22 more than \$500. In the alternative, an administrative penalty not to exceed \$250 may be assessed for  
23 each violation. Such penalty shall be assessed, enforced and collected in accordance with Section 39-1  
24 of the Police Code.

25 **SEC. 174.2. PENALTIES FOR VIOLATION.**

1 Any owner of property or any business occupying property which abuts a public  
2 sidewalk, stairway or other pedestrian right-of-way for public pedestrian travel, or both such  
3 owner and business jointly and severally, who fail to comply with the Director of Public Works'  
4 notice to abate the nuisance as specified in Section 174.1 of this Code shall be subject to an  
5 ~~civil~~ administrative penalty of not more than \$200 300, assessed, enforced and collected in  
6 accordance with Section 39-1 of the Police Code. Further, a violation of any of the provisions of  
7 this Article shall constitute an infraction. Upon conviction thereof, said owner of the abutting  
8 property and/or the business occupying the abutting property shall be punished for the first  
9 offense by a fine of not less than \$30 or more than \$100 and for a second and each additional  
10 offense by a fine of not less than \$100 or more than \$500. The provisions of this Section shall  
11 not apply to any department, board or commission of the City and County.

12 **SEC. 184.63. CIVIL PENALTY.**

13 (a) Any Person in violation of any provision of this Article and of failing to pay the  
14 amount billed such Person for such violation shall be liable for payment of a civil penalty in an  
15 amount equal to (1) the costs incurred by the City occasioned by the failure to remove Signs  
16 and by damaged property occasioned by their posting or removal, and (2) the costs to the City  
17 incurred in obtaining imposition of such civil penalties through litigation, including the cost of  
18 paying City employees or other persons to engage in the litigation, and (3) an additional  
19 amount equal to 50 percent of the total of (1) and (2) of this Subsection. ~~Alternatively, this As~~  
20 an alternative, the civil penalty authorized by this Section may be assessed as an administrative  
21 penalty, and by an administrative citation issued by Department of Public Works officials  
22 designated in Section 38 of the Police Code. Such administrative penalties shall be assessed,  
23 enforced and collected in accordance with Section 39-1 of the Police Code, and shall include the  
24 costs to the City incurred in obtaining the imposition of the penalty, including the cost of  
25 paying City employees to engage in the administrative process.



1 (b) All monies received by the City in payment to civil penalties for violation of this  
2 Article shall be deposited to the credit of the Bureau of Street Environmental Services of the  
3 Department of Public Works in a special fund, to be entitled "Sign Removal Fund." Revenue  
4 from such fund shall be used exclusively for the costs related to the removal of illegally posted  
5 Signs and repair of City property damaged by such posting. Balances remaining in the fund at  
6 the close of any fiscal year shall have been deemed to have been provided for a specific  
7 purpose within the meaning of Section 9.113 of the Charter, and shall be carried forward and  
8 accumulated in said fund for the purposes recited herein. The monies received into this fund  
9 are hereby appropriated exclusively for the purposes set forth herein.

10 **SEC. 724.5. EXCEEDING PERMISSIBLE USE OR OCCUPATION WITHOUT**  
11 **PERMISSION - PENALTY FEE AND CRIMINAL PENALTY.**

12 (a) If the Director of Public Works determines that the permittee has exceeded the  
13 scope of the temporary street occupancy permit, either in terms of duration or area, or  
14 determines any other violation of the permit terms or conditions has occurred, the Director of  
15 Public Works shall order the permittee to correct the violation within a specified time period. If  
16 any person has occupied public right-of-way without permission for purposes of building  
17 construction operation or for any other purpose, the Director shall immediately order the  
18 violator to vacate the occupied area. Should the violation not be corrected as ordered or in  
19 the case of occupation without a permit, the permittee or person shall pay a penalty fee of up  
20 to \$1,000 per day for each day of violation. Failure to pay any fee assessed under these  
21 provisions shall constitute good cause for immediate revocation of the temporary street  
22 occupancy permit or removal of unpermitted obstructions, and the project property shall be  
23 subject to a lien in the same amount, in accordance with the requirements of Article XX of  
24 Chapter 10 of the San Francisco Administrative Code, commencing with Section 10.230.

25 (b) **Criminal Penalty.**

1 (1) Any person who shall violate any of the provisions of this Section shall be guilty of  
2 an infraction at each location where such violation occurs. Every violation determined to be an  
3 infraction is punishable by (1) a fine not exceeding \$100 for the first violation within one year;  
4 (2) a fine not exceeding \$200 for a second violation within one year from the date of the first  
5 violation; (3) a fine not exceeding \$500 for the third and each additional violation within one  
6 year from the date of the first violation.

7 (2) When a government official authorized to enforce this Section has reasonable  
8 cause to believe that any person has committed an infraction in the official's presence that is a  
9 violation of this Section, the official may issue a citation to that person pursuant to California  
10 Penal Code, Part II, Title 3, Chapters 5, 5C, and 5D.

11 (c) Administrative Penalty.

12 In the alternative to the criminal penalty authorized by Subsection (b), an of this Section for  
13 violations of Section 724.4(a), Department of Public Works officials designated in Section 38  
14 of the Police Code may issue administrative penalty citations for violations of Section 724(a).  
15 The administrative penalty shall not to exceed \$300 may be assessed for each violation. Such  
16 penalty shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.

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

20 By: \_\_\_\_\_  
21 DAVID A. GREENBURG  
22 Deputy City Attorney  
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