

[Cigarette Litter Abatement Fee - Timing and Standards for Controller's Review and Adjustment]

Ordinance amending Section 105.3 of the San Francisco Administrative Code to change the timelines and standards under which the Controller is directed to review and adjust the Cigarette Litter Abatement Fee.

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

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

Section 1. Findings.

(a) Further review and analysis of the results of the 2009 audit of the composition of street and sidewalk litter conducted by MGM Management and HDR/BVA Inc. reveals that the audit found that cigarette butts and related packaging litter constitute 22% of all such litter on San Francisco sidewalks and street gutters.

Section 42. The San Francisco Administrative Code is hereby amended by amending Section 105.3, to read as follows:

SEC. 105.3. IMPOSITION OF CIGARETTE LITTER ABATEMENT FEE.

(a) The City hereby imposes a Cigarette Litter Abatement Fee at the rate of \$0.20 per Pack of Cigarettes on the Purchaser for all Cigarette Sales within the geographic limits of the City, subject to adjustment from time to time under subsection (~~f~~g) below. The Fee shall be imposed on a per-Pack of Cigarettes basis for Cigarette Sales in larger quantities. The Fee is payable at the time of the Cigarette Sale transaction.

(b) Each Cigarette Retailer shall collect the Fee from the Purchaser at the time of the Cigarette Sale and remit the collected revenue to the City as provided in Subsection (c).

1 (c) The Cigarette Retailer shall hold the collected Fee revenue in trust for the City and
2 remit such revenue to the Tax Collector each calendar quarter on or before the last day of the
3 month immediately following each respective quarterly period, and in accordance with the Tax
4 Collector's Rules, except that all such amounts shall be due immediately upon the City's
5 suspension of a Cigarette Retailer's Health Code Article 19H tobacco sales permit, or upon a
6 Cigarette Retailer's voluntary surrender of such tobacco sales permit, or upon the transfer of
7 ownership or cessation of a Cigarette Retailer's business for any reason.

8 (d) If the Cigarette Retailer fails to collect and remit the Fee as Subsections (a), (b)
9 and (c) require, the Cigarette Retailer is liable to the City for the full Fee amount.

10 (e) The Tax Collector shall deposit all monies collected pursuant to this Cigarette Litter
11 Abatement Fee Ordinance to the credit of the Environment Cigarette Litter Abatement Fund
12 authorized by San Francisco Administrative Code Section 10.100-70. Said fund shall be used
13 exclusively for the following purposes:

14 (1) Refunds of any overpayments of the Fee imposed hereunder;

15 (2) Costs of the Department of Public Works incurred in abating cigarette litter
16 from sidewalks, street gutters, and similar outdoor public spaces consistent with the categories of
17 expense items included in the report that the Department of Public Works has submitted to the Board of
18 Supervisors in support of this ordinance and that appears in file no. 101140; ~~administration, collection~~
19 ~~and enforcement of this Cigarette Litter Abatement Fee Ordinance, including but not limited to, the Tax~~
20 ~~Collector's personnel, training, space, equipment, material and supplies, and systems programming~~
21 ~~expenses specific to collecting the Fee;~~

22 (3) Costs of the Tax Collector incurred in the collection and enforcement of the
23 Cigarette Litter Abatement Fee consistent with the categories of expense items included in the report
24 that the Tax Collector has submitted to the Board of Supervisors in support of this ordinance and that
25 appears in file no. 101140;

1 (43) Costs of public outreach and education to curb improper cigarette
2 litter disposal; and

3 ~~(4) Costs to collect and remove cigarette litter from City sidewalks, gutters and~~
4 ~~public spaces.~~

5 (fg) **Fee Adjustment.** No later than December 1, 2010, and every year thereafter, the
6 Controller shall ~~Beginning with fiscal year 2011-2012, the City may~~ adjust the Fee each year,
7 without further action by the Board of Supervisors, as set forth in this subsection.

8 ~~(1) Not later than April 1, the Director of the Department of the Environment, or his or~~
9 ~~her designee, shall report to the Controller the Fees collected from the prior fiscal year and the City's~~
10 ~~prior fiscal year costs to support the services and activities described in Section 105.3(e) herein, as~~
11 ~~well as many other information that the Controller deems necessary to carry the duties set forth herein.~~

12 (21) ~~Not later than May 15, t~~The Controller shall determine whether the current
13 Fee has produced or is projected to produce revenues sufficient to support the services and
14 activities described in Section 105.3(e) herein and that the current Fee has not produced or is
15 not projected to produce revenue which is significantly more than necessary to support those
16 services and activities. In making such determinations, the Controller shall use the most
17 recent available data concerning the percentage of litter on City sidewalks, street gutters, and
18 similar outdoor public spaces that is cigarette butts and related packaging litter. At the time of
19 the enactment of this Ordinance, such data indicates that 22% of litter on City sidewalks,
20 street gutters, and similar outdoor public spaces consists of cigarette butts and related
21 packaging litter. The Controller shall periodically procure updated data concerning the
22 percentage of litter in such areas that is cigarette butts and related packaging litter.

23 (32) The Controller shall, if necessary, adjust the Fee upward or downward for
24 the upcoming fiscal year as appropriate to ensure that, over time, the Fee program recovers
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1 no more than the costs of the services and activities described in Section 105.3(e) herein. The
2 adjusted Fee shall become operative on January ~~July~~ 1.

3 (43) The Tax Collector shall post the adjusted Fee on its website. Failure to
4 make the posting that this subsection requires shall not affect the rights of the City to collect
5 the adjusted Fee.
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7 APPROVED AS TO FORM:
8 DENNIS J. HERRERA, City Attorney

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10 By: BURK E. DELVENTHAL
11 Deputy City Attorney
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