

File No. 211151

Committee Item No. 3

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Comm: Public Safety & Neighborhood Services

Date: March 10, 2022

Board of Supervisors Meeting:

Date: \_\_\_\_\_

#### Cmte Board

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Public Correspondence                        |

#### OTHER

- |                                     |                          |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | CEQA Referral, dtd 11/15/21                     |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | FYI Referral, dtd 6/2/2021                      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | CEQA Determination, dtd 2/16/22                 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Small Business Commission Response, dtd 1/19/22 |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____   |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____   |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____   |

Prepared by: Alisa Somera

Date: March 4, 2022

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Public Works Code - Graffiti Abatement - Lifting Suspension of Issuance of Certain  
2 Violations; Reinstating Collection of Certain Fees and Fines]

3 **Ordinance lifting the suspension of certain provisions of the Graffiti Removal and**  
4 **Abatement Ordinance regarding issuance of certain violations, and reinstating the**  
5 **collection of certain assessed fees and fines; and affirming the Planning Department's**  
6 **determination under the California Environmental Quality Act.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
9 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.  
10 **Board amendment additions** are in double-underlined Arial font.  
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
12 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
13 subsections or parts of tables.

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

15 Section 1. Background and Findings.

16 (a) The Planning Department has determined that the actions contemplated in this  
17 ordinance comply with the California Environmental Quality Act (California Public Resources  
18 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
19 Supervisors in File No. 211151 and is incorporated herein by reference. The Board affirms  
20 this determination.

21 (b) The City's Graffiti Removal and Abatement Ordinance ("Ordinance") is in Article 23  
22 of the Public Works Code. Pursuant to Ordinance No. 64-21, Public Works Code Section  
23 2304(a) has been suspended, with the result that Public Works may not issue any violations  
24 under Section 2304(a). This suspension does not affect Public Works actions under the  
25 authority of Sections 2304(b) or 2304(c), which include, but are not limited to, abatement of

1 graffiti on public property and performance of immediate abatement on private property if the  
2 amount, frequency, level, type, or scope of graffiti warrants such action.

3 (c) Pursuant to Ordinance No. 64-21, Public Works Code Sections 2305 and 2306  
4 have been suspended, but only as those sections apply to graffiti on private property. These  
5 suspensions do not affect other Public Works actions under the authority of Sections 2305  
6 and 2306.

7 (d) The suspensions mandated in Ordinance No. 64-21, referenced in subsections (b)  
8 and (c) above, are set to remain in place until 90 days after the expiration of the Mayor's  
9 Emergency Proclamation regarding the COVID-19 pandemic, issued on February 25, 2020,  
10 and amended or supplemented thereafter from time to time (the "Mayor's Emergency  
11 Proclamation").

12 (e) Ordinance No. 64-21 also waived the collection of certain unpaid fees and fines, as  
13 of January 1, 2021, assessed under Public Works Code Sections 2304(a), 2306, and  
14 2307.5(b). In addition, it waived fees and fines under Section 2307.6 to the extent they relate  
15 to private property.

16 (f) Ordinance No. 64-21 authorizes Public Works to resume the enforcement,  
17 issuance, and collection of fees and fines, referenced in subsection (e) above, except for  
18 those that were waived by Ordinance No. 64-21, upon the expiration of the Mayor's  
19 Emergency Proclamation.

20 (g) The date that the Mayor's Emergency Proclamation will expire is uncertain. There  
21 are public health and safety benefits to reinstating in full enforcement of Public Works Code  
22 Sections 2304(a), 2305, and 2306, and collection of fees and fines under the Graffiti Removal  
23 and Abatement Ordinance, including promoting the uniform enforcement of laws, the  
24 abatement of public nuisances, and the reduction of visual pollution.

1 Section 2. Terminating Suspension of Certain Provisions of the Graffiti Removal and  
2 Abatement Ordinance.

3 The suspension of Public Works Code Sections 2304(a), 2305, and 2306 as set forth in  
4 Ordinance 64-21 is hereby lifted. As a result of the suspension being lifted, those provisions  
5 are fully operative.

6  
7 Section 3. Reinstating the Collection of Certain Fees and Fines Assessed under the  
8 Graffiti Removal and Abatement Ordinance.

9 The prohibition imposed by Ordinance No. 64-21 on Public Works collecting certain  
10 fees and fines under Public Works Code Sections 2304(a), 2306, and 2307.5(b), and Section  
11 2307.6, as it applies to private property, is hereby ended. As a result of the prohibition  
12 ending, those provisions are fully operative. However, any fines or fees that were waived by  
13 Ordinance No. 64-21 shall remain waived.

14  
15 Section 4. Notice of Ordinance.

16 (a) Public Works shall provide information on its website summarizing the provisions of  
17 this ordinance.

18 (b) The Clerk of the Board of Supervisors shall include a copy of this ordinance in  
19 Board File No. 210258, the file for Ordinance No. 64-21. In addition, the Clerk shall include  
20 on the Board's website notice for Ordinance No. 64-21 a cross-reference to this ordinance.

21  
22 Section 5. Effective Date; Effect of Ordinance.

23 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs  
24 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not  
25

1 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the  
2 Mayor's veto of the ordinance.

3 (b) The effect of this ordinance is to repeal Ordinance No. 64-21 in its entirety.  
4 Accordingly, on the effective date of this ordinance, Ordinance No. 64-21 has no further force  
5 and effect, except, as stated in Section 3, that any fines or fees that were waived by  
6 Ordinance No. 64-21 shall remain waived.

7

8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By:  /s/ Austin M. Yang  
11 AUSTIN M. YANG  
12 Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Public Works Code - Graffiti Abatement - Lifting Suspension of Issuance of Certain Violations; Reinstating Collection of Certain Fees and Fines]

**Ordinance lifting the suspension of certain provisions of the Graffiti Removal and Abatement Ordinance regarding issuance of certain violations, and reinstating the collection of certain assessed fees and fines; and affirming the Planning Department's determination under the California Environmental Quality Act.**

Existing Law

The Graffiti Removal and Abatement Ordinance, Public Works Code Article 23, establishes a program for Public Works regulation and enforcement of the removal of graffiti on both private and public property. Enforcement involves the issuance of violations and in some cases imposition of fees and fines for the graffiti and/or failure to abate.

Ordinance No. 64-21, suspended Public Works Code Section 2304(a), with the result that Public Works may not issue any violations under Section 2304(a). Ordinance No. 64-21 also suspended Public Works Code Sections 2305 and 2306, but only as those sections apply to graffiti on private property. Ordinance No. 64-21 also waived the collection of certain unpaid fees and fines, as of January 1, 2021, assessed under Public Works Code Sections 2304(a), 2306, and 2307.5(b). In addition, it waived fees and fines under Section 2307.6 to the extent they relate to private property. Ordinance No. 64-21 is effective until the expiration of the Mayor's Emergency Proclamation.

Amendments to Current Law

This ordinance repeals Ordinance No 64-21.

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BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

November 15, 2021

**File No. 211151**

Lisa Gibson  
Environmental Review Officer  
Planning Department  
49 South Van Ness Ave, Suite 1400  
San Francisco, CA 94103

Dear Ms. Gibson:

On November 2, 2021, Supervisor Peskin introduced the following legislation:

**File No. 211151 [Public Works Code - Graffiti Abatement - Lifting Suspension of Issuance of Certain Violations; Reinstating Collection of Certain Fees and Fines]**

Ordinance lifting the suspension of certain provisions of the Graffiti Removal and Abatement Ordinance regarding issuance of certain violations, and reinstating the collection of certain assessed fees and fines; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

A handwritten signature in cursive script that reads "Alisa Somera".

Angela Calvillo, Clerk of the Board

By: Alisa Somera, Clerk

Public Safety and Neighborhood Services Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer  
Joy Navarrete, Environmental Planner  
Don Lewis, Environmental Planner

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

02/16/2022

A handwritten signature in cursive script that reads "Joy Navarrete".



CITY AND COUNTY OF SAN FRANCISCO  
LONDON BREED, MAYOR  
OFFICE OF SMALL BUSINESS  
DIRECTOR KATY TANG

January 19, 2022

Ms. Angela Calvillo, Clerk of the Board  
City Hall Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**RE: BOS File No. 211151 - Public Works Code - Graffiti Abatement - Lifting Suspension of Issuance of Certain Violations; Reinstating Collection of Certain Fees and Fines**

Dear Ms. Calvillo,

On January 10, 2022 the Small Business Commission (SBC) heard BOS File No. 211151 - Public Works Code - Graffiti Abatement - Lifting Suspension of Issuance of Certain Violations; Reinstating Collection of Certain Fees and Fines. Lee Hepner, Legislative Aide to Supervisor Peskin and Jimmer Cassiol, Department of Public Works (DPW), presented the legislation.

**After extensive discussion, the SBC unanimously voted (5-0) to support this legislation contingent upon the addition of the following recommendations:**

For the duration of the local emergency:

- DPW reinstate Notices of Violation to notify property owners of their responsibilities, but make clear that no financial penalties will be issued.

For the program in perpetuity:

- If small business tenants (businesses with 100 or fewer employees) who occupy a property receive a graffiti abatement notice, DPW should grant automatic hardship exemptions and offer to:
  - Abate the graffiti free of charge, or
  - Provide a grant to the small business to cover the cost of abatement once completed.

If the above recommendation is not feasible, at the very minimum:

- DPW develop alternative remedies whereby property owners (and/or business tenants) can collaborate with the City on graffiti abatement, prioritizing strategies (2) and (3) currently listed in Public Works Code (Article 23, Section 2306), which allows the DPW to:
  - Provide property owners with paint to abate graffiti within 10 days
  - Remove the graffiti at no cost to the property owner if hardship exists
- In conjunction with prioritizing collaborative remedies for graffiti abatement, reassess the abatement notice language to lead with the above-stated alternative remedies.



## Discussion

The SBC supports graffiti abatement and recognizes the negative impacts of graffiti on neighborhoods and commercial corridors. At the same time, the SBC recognizes that small businesses who experience graffiti are themselves victims of vandalism. As such, the SBC recommends a supportive abatement strategy over a punitive one.

A review of graffiti abatement strategies in other cities shows that comparable municipalities have adopted a supportive abatement policy of covering the cost of graffiti abatement at no charge to property owners. Those cities include: Boston, Chicago, Dallas, Los Angeles, Montreal, and New York City.<sup>1</sup>

While property owners may be the intended target of these fees and penalties, most commercial leases require the small business tenant to cover these costs. Given the current surge in COVID cases, the high number of small business closures over the past two years, and the fact that San Francisco's small businesses continue to lag far behind the rest of the country in economic recovery, the SBC feels that now is not the right time to reinstate fines and fees.

Members of the SBC note that instances of graffiti are not uniform across the City; communities of color often experience greater rates of vandalism as well as enforcement. A reinstatement of fees and fines for graffiti abatement will disproportionately impact small businesses in communities of color who also felt the greatest negative impacts of COVID-19.<sup>2</sup>

The current suspension of certain provisions of the Graffiti Removal and Abatement Ordinance came as a direct result of a [Small Business Commission Resolution](#) in February 2021 which included a recommendation that a moratorium on such fees and fines be implemented for the duration of the local emergency:

RESOLVED, that the Notice of Violation and Abatement Order form utilized by the Department of Public Works be updated to include more customer friendly language that emphasizes compliance and include information regarding language services; and therefore be it,

RESOLVED, that the Notice of Violation and Abatement Order form utilized by the Department of Public Works be updated to include resources that may be available to the small business that would assist with compliance; and be it

RESOLVED, that the Department of Public Works be urged to work with the Office of Economic and Workforce Development and the Office of Small Business to collect and better understand what those resources are; and be it,

RESOLVED, that the Notice of Violation and Abatement Order form utilized by the Department of Public Works be updated to include a notice regarding the local emergency and resources to help assist businesses during this time; and be it,

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<sup>1</sup> <https://sfosb.org/sites/default/files/documents/SBC/Legislative%20Review%20211151.pdf>

<sup>2</sup>

[https://sfosb.org/sites/default/files/documents/SBC/Covid%20Impact%20Final%20Report%20with%20Survey\\_May%2028%202021.pdf](https://sfosb.org/sites/default/files/documents/SBC/Covid%20Impact%20Final%20Report%20with%20Survey_May%2028%202021.pdf) Chart 39, "Business Closures by Business Owner Ethnicity."

RESOLVED, that for the duration of the local emergency, a moratorium be placed on the issuance of fees and fines related to the abatement of certain conditions outlined in the Notice of Violation and Abatement Order.<sup>3</sup>

The SBC thanks Supervisor Peskin and his staff, as well as the Department of Public Works for their ongoing engagement on this important issue. Thank you for considering the Commission's recommendations. Please feel free to contact me should you have any questions.

Sincerely,



Katy Tang  
Director, Office of Small Business

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<sup>3</sup> [https://sfosb.org/sites/default/files/documents/SBC/SBC%20RESO%202021-002-%20DPW%20and%20Small%20Business\\_1.pdf](https://sfosb.org/sites/default/files/documents/SBC/SBC%20RESO%202021-002-%20DPW%20and%20Small%20Business_1.pdf)


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## MEMORANDUM

TO: Carla Short, Interim Director, Public Works

FROM:  Alisa Somera, Clerk, Public Safety and Neighborhood Services Committee  
Board of Supervisors

DATE: November 15, 2021

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Peskin on November 2, 2021:

**File No. 211151    Public Works Code - Graffiti Abatement - Lifting  
Suspension of Issuance of Certain Violations; Reinstating  
Collection of Certain Fees and Fines**

Ordinance lifting the suspension of certain provisions of the Graffiti Removal and Abatement Ordinance regarding issuance of certain violations, and reinstating the collection of certain assessed fees and fines; and affirming the Planning Department's determination under the California Environmental Quality Act.

You are being provided this informational referral since the legislation may affect your department.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: David Steinberg, Public Works  
Bryan Dahl, Public Works

BOARD of SUPERVISORS



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Environmental Review Officer  
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By: Alisa Somera, Clerk

Public Safety and Neighborhood Services Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer  
Joy Navarrete, Environmental Planner  
Don Lewis, Environmental Planner