

[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; requiring notice to certain Community Benefits Districts, Business Improvement Districts, or Green Benefits Districts as those districts are defined in Article 15 and 15A of the Business and Tax Regulation Code; requiring Public Works to report to the Board of Supervisors within 60 days the forms necessary to implement the Graffiti Abatement Ordinance; and affirming the Planning Department’s determination under the California Environmental Quality Act.

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

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

Section 1. Background and Findings.

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

(b) The City’s Graffiti Removal and Abatement Ordinance (“Ordinance”) is in Article 23 of the Public Works Code. Pursuant to Ordinance No. 64-21, Public Works Code Section

1 2304(a) has been suspended, with the result that Public Works may not issue any violations
2 under Section 2304(a). This suspension does not affect Public Works actions under the
3 authority of Sections 2304(b) or 2304(c), which include, but are not limited to, abatement of
4 graffiti on public property and performance of immediate abatement on private property if the
5 amount, frequency, level, type, or scope of graffiti warrants such action.

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

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

15 (e) Ordinance No. 64-21 also waived the collection of certain unpaid fees and fines, as
16 of January 1, 2021, assessed under Public Works Code Sections 2304(a), 2306, and
17 2307.5(b). In addition, it waived fees and fines under Section 2307.6 to the extent they relate
18 to private property.

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

23 (g) The date that the Mayor's Emergency Proclamation will expire is uncertain. There
24 are public health and safety benefits to reinstating in full enforcement of Public Works Code
25 Sections 2304(a), 2305, and 2306, and collection of fees and fines under the Graffiti Removal

1 and Abatement Ordinance, including promoting the uniform enforcement of laws, the
2 abatement of public nuisances, and the reduction of visual pollution.

3
4 Section 2. Article 23 of the Public Works Code is hereby amended by revising Section
5 2304, to read as follows:

6 **SEC. 2304. VIOLATIONS.**

7 (a) **Notice of Violation.** Where the Director determines that any property contains
8 graffiti in violation of Section 2303, the Director may issue a notice of violation to the property
9 owner and/or any Offending Party. At the time the notice of violation is issued, the Director
10 shall take one or more photographs of the alleged graffiti, and shall make copies of the
11 photographs available to the property owner and/or any Offending Party upon request. The
12 photographs shall be dated and retained as a part of the file for the violation. The notice shall
13 give the owner and/or any Offending Party 30 calendar days from the date of the notice to
14 either remove the graffiti or request a hearing on the notice of violation, and shall set forth the
15 procedure for requesting the hearing. The notice shall also inform the owner and/or any
16 Offending Party that where the owner and/or any Offending Party fail to either remove the
17 graffiti or request a hearing within 30 calendar days from the date of the notice, the Director
18 may initiate proceedings in accordance with this Article 23 to enter upon the property and
19 abate the graffiti. The notice shall inform the owner and/or any Offending Party that should the
20 Director need to abate the graffiti, ~~that~~ the owner and/or any Offending Party shall be liable for
21 all costs of enforcement and abatement. The notice shall further inform the owner and/or any
22 Offending Party that the minimum charge for removing graffiti is the greater of either \$500 or
23 the actual cost to the City, including overhead and administrative costs, as well as attorneys'
24 fees where the Director has elected to seek recovery of attorneys' fees. The Director shall
25 serve the notice of violation as follows:

1 (1) One copy of the Notice shall be posted in a conspicuous place upon the
2 building or property.

3 (2) One copy of the Notice shall be served upon each of the following:

4 (A) The person, if known, in real or apparent charge and control of the
5 premises or property involved;

6 (B) The owner of record; and

7 (C) Any Offending Party.

8 (3) The Director shall serve one copy of the notice upon any Community
9 Benefits District, Business Improvement District, or Green Benefits District. as those districts
10 are defined in Article 15 and 15A of the Business and Tax Regulation Code. in the
11 neighborhood where the Notice is posted. The Director may also serve one copy of the notice
12 upon any other parties with a recorded interest.

13 Service, as referenced in ~~required by~~ subsections (a)(2) and (3), may be made by
14 personal service or by certified mail.

15 * * * *

16
17 Section 3. Terminating Suspension of Certain Provisions of the Graffiti Removal and
18 Abatement Ordinance.

19 The suspension of Public Works Code Sections 2304(a), 2305, and 2306 as set forth in
20 Ordinance No. 64-21 is hereby lifted. As a result of the suspension being lifted, those
21 provisions are fully operative.

22
23 Section 34. Reinstating the Collection of Certain Fees and Fines Assessed under the
24 Graffiti Removal and Abatement Ordinance.

1 The prohibition imposed by Ordinance No. 64-21 on Public Works collecting certain
2 fees and fines under Public Works Code Sections 2304(a), 2306, and 2307.5(b), and Section
3 2307.6, as it applies to private property, is hereby ended. As a result of the prohibition
4 ending, those provisions are fully operative. However, any fines or fees that were waived by
5 Ordinance No. 64-21 shall remain waived.

6
7 Section 45. Notice of Ordinance.

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

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

13
14 Section 6. Report to the Board of Supervisors.

15 Within 60 days of the effective date of this ordinance, Public Works shall provide in a
16 report to the Board of Supervisors any forms necessary for the administration of the Graffiti
17 Abatement Ordinance.

18
19 Section 57. Effective Date; Effect of Ordinance.

20 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
21 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
22 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
23 Mayor's veto of the ordinance.

24 (b) The primary effect of this ordinance is to repeal Ordinance No. 64-21 in its entirety.
25 Accordingly, on the effective date of this ordinance, Ordinance No. 64-21 has no further force

1 and effect, except, as stated in Section 3 of this ordinance, that any fines or fees that were
2 waived by Ordinance No. 64-21 shall remain waived.

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4 APPROVED AS TO FORM:
5 DAVID CHIU, City Attorney

6 By: /s/ Austin M. Yang
7 AUSTIN M. YANG
8 Deputy City Attorney

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