

1 [Building Code - Use of Repair and Demolition Fund for Telegraph Hill Stabilization]

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3 **Ordinance amending the Building Code to authorize use of the Repair and Demolition**
4 **Fund specified in Building Code, Section 102A.13, to address costs associated with**
5 **private property owner responsibility to stabilize Telegraph Hill, as part of the Rock**
6 **Slope Improvement Project, and affirming the Planning Department's determination**
7 **under the California Environmental Quality Act.**

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

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

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17 Section 1. Findings. (a) The Planning Department has determined that the actions
18 contemplated in this ordinance comply with the California Environmental Quality Act
19 (California Public Resources Code Sections 21000 et seq.). The Board of Supervisors hereby
20 affirms this determination. Said determination is on file with the Clerk of the Board of
21 Supervisors in File No. 140627 and is incorporated herein by reference.

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23 (b) On June 18, 2014, the Building Inspection Commission held a duly noticed hearing
24 on this ordinance and recommended its approval. The Building Inspection Commission
25 Secretary submitted a letter to the Clerk of the Board of Supervisors that reported this
26 decision. A copy of said letter is on file with the Clerk of the Board in File No. 140627.

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1 (c) For many years the steeply sloped and unimproved portion of Lombard Street
2 below Coit Tower and between Telegraph Hill Boulevard and Montgomery Street and
3 adjacent properties has witnessed severe erosion and rock slides. Some of these rockslides
4 have led to significant property damage below the slide area. In one instance a large boulder
5 narrowly missed striking a residential condominium at the base of Telegraph Hill and instead
6 crushed a vehicle parked on Lombard Street. The City and adjacent property owners have
7 undertaken various efforts to stabilize portions of Telegraph Hill in this area, including
8 installation of a rock catchment fence, debris removal, and slope protection. Despite these
9 efforts, the steeply sloped area continues to be problematic with occasional slides consisting
10 of small rocks and debris. In recent years, this portion of Telegraph Hill has begun to pose a
11 significant risk to persons and property. Fortunately, the past winters' drought conditions have
12 contributed only minor saturation to Telegraph Hill, which has made a catastrophic event less
13 likely. However, the Departments of Public Works and Building Inspection and their
14 professional experts agree that work to stabilize this portion of Telegraph Hill must begin
15 immediately to avoid significant risk to persons and property in advance of this year's rainy
16 season.

17 (d) To address this risk to persons and property, the Department of Public Works
18 (DPW), on its behalf and on behalf of the Recreation and Park Department (RPD),
19 Department of Building Inspection (DBI), and affected private property owners, is proposing to
20 implement the Telegraph Hill Rock Slope Improvement Project. This Project involves property
21 under the regulatory jurisdiction of the RPD on the south side of unimproved Lombard Street
22 below Coit Tower, DPW on the Lombard Street right-of-way, and DBI on the north side of
23 Lombard Street. DPW has allocated the cost of the Project among RPD, DPW, and the
24 privately-owned property on the north side of the Street at Assessor's Block 0060, Lot 005,
25 based on the extent of slope stabilization responsibility associated with each property. Copies

1 of documents related to this Project and the public safety concerns of this portion of Telegraph
2 Hill are on file with the Clerk of the Board of Supervisors in File No. 140627.

3 (e) Building Code Sections 102A.11 et seq. address the process under which DBI can
4 address unsafe conditions and impose penalties when a private property does not comply
5 with a DBI Order to abate a Building Code violation. Building Code Section 102A.13
6 establishes the DBI Repair and Demolition Fund. DBI can use this Fund to remedy unsafe
7 conditions when a responsible property owner fails or is unable to do so. Building Code
8 Section 102A.16 governs the procedures that DBI shall follow to address serious and
9 imminent hazards and other emergency situations, including those that may involve use of the
10 Repair and Demolition Fund. However, this Section imposes a limit on use of such funds for
11 emergency purposes when the cost of the work to abate the unsafe condition exceeds 50% of
12 the value of the property of the responsible owner, as defined by the Assessor. The cost of
13 the Project allocated to the privately-owned property on the north side of the Street at
14 Assessor's Block 0060, Lot 005 is approximately \$1.8 million. The Assessor's property
15 valuation for this site is only \$12,000.00, which is far below 50% of the cost of the Project
16 allocated to this property.

17 (f) Under the circumstances, and based on the information that City agencies have
18 presented at the hearing on this ordinance, the Board of Supervisors recognizes the imminent
19 risk to persons and property presented at this site and finds that the limitations set forth in
20 Building Code Section 102A.16 unduly constrain the City's ability to properly and expeditiously
21 abate the unsafe condition on Telegraph Hill. Consequently, this Board finds that use of DBI's
22 Repair and Demolition Fund is appropriate to address the abatement costs associated with
23 the property at Assessor's Block 0060, Lot 005, subject to the City recouping whatever costs
24 may be available from this property owner.

1 Section 2. Waiver of Property Value-Based Limitation on Use of Repair and Demolition
2 Fund. Notwithstanding the property value limitation of Building Code Section 102A.16 on
3 DBI's ability to use the Repair and Demolition Fund to abate unsafe conditions associated
4 with private property, the Board of Supervisors authorizes DBI to use this Fund for those costs
5 of the Telegraph Hill Rock Slope Improvement Project that are the responsibility of the
6 property owner whose property is located at Assessor's Block 0060, Lot 005. This
7 authorization is subject to the City recouping whatever costs may be available from this
8 property owner. In regard to recoverable costs, the Board of Supervisors directs the DPW and
9 DBI Directors to take any and all actions which they in consultation with the City Attorney may
10 deem necessary or advisable in order to effectuate the purpose and intent of this ordinance
11 and Building Code Sections 102A.11 et seq. In addition, based on the findings in this
12 ordinance, the Board approves the transfer into this Fund of any DBI surplus that may be
13 necessary to cover the aforementioned costs and replenish this Fund with the equivalent of
14 the allocated costs or other amount the Board subsequently deems appropriate.

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16 Section 3. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor's veto of the ordinance.

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21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 John D. Malamut
25 Deputy City Attorney

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