

1 [Neighborhood Sanitation and Housing Habitability Ordinance]

2 **Ordinance amending Article 11 of the San Francisco Health Code to change the title**  
3 **from "Nuisance" to "Neighborhood Sanitation and Housing Habitability," amending the**  
4 **definition of nuisance in Section 581 of the San Francisco Health Code to include**  
5 **asbestos hazards and violations of Section 583, adding Section 583 to the San**  
6 **Francisco Health Code to prevent vermin and insect disease vector harborage and**  
7 **infestation in residential units and to improve the health, safety and general welfare of**  
8 **occupants, adding potential attorneys' fees recovery for those cases in which the City**  
9 **elects to recover attorneys' fees to Sections 596 and 609, adding lien recovery for**  
10 **attorneys' fees for Section 599 and 609, adding civil penalties to Section 600,**  
11 **authorizing recovery of all costs and fees, including attorneys' fees, incurred in**  
12 **enforcement under Section 609, extending the notice and hearing provisions for lien**  
13 **collections under Sections 609.1 and 609.2 to include the additional costs and fees that**  
14 **may be recovered under the amended Section 609, and increasing reinspection fees to**  
15 **\$75 per half-hour under Section 609.**

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17 Note: Additions are *single-underline italics Times New Roman*;  
18 deletions are ~~*strikethrough italics Times New Roman*~~.  
19 Board amendment additions are double underlined.  
20 Board amendment deletions are ~~strikethrough normal~~.

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

22 Section 1. The San Francisco Health Code is hereby amended by amending the title of  
23 Article 11 to read as follows:

24 Article 11: ~~*Nuisances*~~*Neighborhood Sanitation and Housing Habitability*

25 Section 2. The San Francisco Health Code is hereby amended by adding Section 583  
and amending Sections 581, 596, 599, 600, 609, 609.1, and 609.2 to read as follows:

1           SEC. 581. NUISANCE PROHIBITED.

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

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

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

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

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

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

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

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

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

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

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

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

14           (11) Any asbestos hazards that are within the control of the Owner or Manager of the  
15 building, structure or property. The term "asbestos hazards" shall mean damaged or deteriorated  
16 asbestos-containing construction materials and asbestos-containing construction material debris to  
17 which building occupants may be exposed. The terms "asbestos" and "asbestos-containing  
18 construction materials" shall have the same meanings as those set forth in Sections 6501.7 and 6501.8  
19 of the California Labor Code. For purposes of this subparagraph, the following materials shall be  
20 presumed to be asbestos-containing construction materials: a) pipe, boiler, and tank insulation;  
21 b) furnace duct covering; c) acoustic ("popcorn") ceilings; 4) asphalt and vinyl flooring material; and  
22 5) wall surface texturing.

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

4            ~~(13)~~~~(12)~~ Any violation of Section 37 of this Code;

5            ~~(14)~~~~(13)~~ Any violation of Section 92 of this Code;

6            ~~(15)~~~~(14)~~ Any violation of Section 590 of this Article;

7            (16) Any violation of Section 583 of this Article;

8            ~~(15)~~~~(17)~~ Anything else that the Director deems to be a threat to public health  
9 and safety.

10            Section 583. Neighborhood Sanitation and Housing Habitability Requirements

11            This section shall apply to residential properties, including but not limited to, dwellings,  
12 dwelling units, and multiple dwellings.

13            (a) Definitions. For the purposes of this section, the following terms shall have the following  
14 meanings:

15            (1) "Accessory structure" shall mean a structure that is attached to or adjacent to dwellings or  
16 dwelling units, including but not limited to, garages, carports, cabanas, storage buildings and garden  
17 structures as well as fences, garden walls and similar enclosures.

18            (2) "Arthropod" shall mean invertebrate animals that have a segmented body and jointed  
19 appendages, such as insects, arachnids, and crustaceans.

20            (3) "Department" shall mean the San Francisco Department of Public Health.

21            (4) "Director" shall mean the Director of the Department or the Director's designee.

22            (5) "Dwelling" and "dwelling unit" shall have the meanings set forth in Section 401 of the San  
23 Francisco Housing Code.

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1           (6) "Insect disease vectors" shall mean insects such as flies, mosquitoes, bed bugs, mites, and  
2 lice that are capable of introducing human disease organisms by contaminating food or piercing  
3 human skin.

4           (7) "Multiple dwelling" shall mean any dwelling with two or more dwelling units.

5           (8) "Noxious arthropods" are arthropods, such as wasps, that inject a poison/toxin by biting or  
6 stinging human skin and cause discomfort or illness.

7           (9) "Person" shall mean an individual, trust, firm, joint stock company, corporation including a  
8 government corporation, partnership, association, city, county, city and county, district, the State of  
9 California and/or any agency, department, office, board, commission, bureau and political subdivision  
10 thereof.

11           (10) "Rodent" shall mean any of an order of small gnawing mammals, such as a mouse, rat, or  
12 squirrel, that have in both jaws a single pair of incisors with a chisel-shaped edge.

13           (11) "Vermin" shall mean various small animals or insects, such as rats, mice, cockroaches,  
14 mites and lice, that are destructive, annoying or injurious to health.

15           (b) The responsible party or parties shall store and dispose of garbage and other organic waste  
16 sources of food in a sanitary and safe manner. Each dwelling and dwelling unit shall use at least one  
17 rigid plastic or metal container of sufficient volume to provide storage for all rubbish and garbage  
18 generated within the dwelling or dwelling unit. Such containers shall be vermin-proof, insect disease  
19 vector-proof and watertight. Plastic bags may be used as garbage and refuse container liners, but  
20 shall not be used without the container for on-site storage of garbage or refuse.

21           (c) The responsible party or parties shall store accumulated materials such as crates, pallets,  
22 lumber, tires, or scrap metal so as to prevent harborage of insect disease vectors, rodents and other  
23 vermin. Any such materials shall:

1           (1) be stacked neatly in piles and elevated so that there will be at least a 12-inch opening  
2 between the material and the ground or floor level, and a 12-inch space between the piles and the  
3 exterior walls of any adjacent structure, fence, or property line;

4           (2) not serve as food or shelter for vermin in a site accessible to them; and

5           (3) not collect water in such a manner that would permit breeding of insect disease vectors,  
6 such as mosquitoes.

7           (d) The responsible party or parties shall ensure that every window, exterior door and  
8 hatchway or similar device shall be constructed and maintained to exclude insect disease vectors and  
9 noxious arthropods. In particular, every doorway, window or other device with openings to outdoor  
10 space and used for ventilation shall have screens of at least 16-mesh per one inch or per 25.4 mm set in  
11 tight-fitting frames, or such other devices as will effectively prevent the entrance of insect disease  
12 vectors and noxious arthropods into the structure.

13           (e) The responsible party or parties shall maintain every dwelling, dwelling unit, multiple  
14 dwelling or accessory structure vermin-free and vermin-proof. Vermin-proofing includes, but is not  
15 limited to, the following:

16           (1) exterior doors shall have a gap no wider than ¼ inch between the door and the floor;

17           (2) all sewers, pipes, drains or conduits and the openings surrounding such shall be constructed  
18 and maintained to prevent vermin ingress or egress;

19           (3) large gaps, cracks, or crevices around pipes or conduits shall be covered with sheet metal  
20 patches or filled with concrete or mortar;

21           (4) exterior openings into attic spaces must be covered with corrosion-resistant wire cloth  
22 screening, perforated vinyl, or other similar material to prevent the entry of birds, bats, rodents and  
23 other animals;

1           (5) ventilation openings for under-floor ventilation must be covered with material such as  
2 perforated sheet metal plates, corrosion-resistant wire mesh, or other material to keep animals out;  
3 and

4           (6) clothes dryer exhaust ducts must terminate outside the building and shall be equipped with  
5 back-draft dampers, not screens, to prevent vermin entry.

6           (f) The responsible party or parties shall ensure that roof surfaces are watertight and designed  
7 and constructed such that water is not permitted to pool or stand in any roof area. Where pooling or  
8 standing water is evident, the responsible party or parties shall take proper remedial measures to  
9 correct the defect to prevent the breeding of insect disease vectors, such as mosquitoes. In addition, the  
10 responsible party or parties shall maintain gutters and downspouts in good repair so as to properly  
11 collect, conduct, and discharge water from the roof so that there will be no standing or pooling water  
12 for insect disease vectors to breed.

13 SEC. 596. ENFORCEMENT.

14           (a) Complaints. Whenever a written or oral complaint is made to the Department  
15 that a nuisance as defined by Section 581 exists in a building or structure or on a property, the  
16 Director shall inspect the building, structure or property to verify the existence of a nuisance  
17 thereon.

18           (b) Notice of Violation~~to Abate~~. Whenever the Director determines that a nuisance,  
19 as defined by Section 581 of this Article, exists in a building or structure or on a property, the  
20 Director shall cause a Notice of Violation~~to Abate~~ to be served either personally or by first class  
21 mailing to the Responsible Parties. If the Notice of Violation~~to Abate~~ is served on the Owner by  
22 mail, it shall be mailed to the address that appears on the last assessment rolls of the City and  
23 County of San Francisco. If the Notice of Violation~~to Abate~~ is served on the Manager by mail, it  
24 shall be mailed to the Manager's principal place of business or to the address of the building,  
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1 structure or property. If the Notice ~~of Violation to Abate~~ is served on any other Person who  
2 created a condition that constitutes a nuisance, it shall be mailed to the Person's last known  
3 address at which such Person receives mail if ascertainable. Thereafter, the Director may  
4 cause a copy thereof to be posted in a conspicuous place on the building, structure or  
5 property. The failure of the Responsible Parties to receive such notice when sent in the  
6 manner set forth in this Subsection shall not affect in any manner the validity of any  
7 proceeding against that party under this Article.

8 (c) Order to Vacate. The Director may order a premises vacated if she or her  
9 determines that relocation is warranted upon discovery of a nuisance, as defined by Section  
10 581(b)(10) of the Health Code, or at the discretion of the Director, to protect the health of  
11 occupants. The order shall be to the affected tenant(s) and owner. A copy of the order shall  
12 be served upon the Owner and the affected tenant(s) and posted in conspicuous places at the  
13 affected premises. The order shall specify the time within which the premises is to be vacated  
14 and advise the tenants that they may be eligible for assistance pursuant to Chapter 72 of the  
15 San Francisco Administrative Code. The order shall further advise that the premise vacated  
16 hereunder shall not be reoccupied without written permission of the Director. Such  
17 permission shall be granted when the nuisance, as defined by Section 581(b)(10) of the  
18 Health Code, is abated.

19 (d) Notice to Pay Relocation Benefits. Whenever the Director determines that a  
20 nuisance, as defined by Section 581(b)(10) of this Article, exists in a building or structure or  
21 on a property, and issues a Notice ~~of Violation to Abate~~, pursuant to subsection (b) of this  
22 section, and an Order to Vacate, pursuant to subsection (c) of this Section, the Director shall  
23 issue to the Responsible Party a Notice to Pay Relocation Benefits to the affected tenant(s)  
24 pursuant to Chapter 72 of the San Francisco Administrative Code. The Director shall cause a  
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1 Notice to Pay Relocation Benefits to be served either on the Responsible Party or sent by first  
2 class mailing to the Responsible Parties. If the Notice to Pay Relocation Benefits is served on  
3 the Owner by mail, it shall be mailed to the address that appears on the last assessment rolls  
4 of the City and County of San Francisco. If the Notice to Pay Relocation Benefits is served on  
5 the Manager by mail, it shall be mailed to the Manager's principal place of business or to the  
6 address of the building, structure or property. Thereafter, the Director may cause a copy  
7 thereof to be posted in a conspicuous place on the building, structure or property. The failure  
8 of Responsible Parties to receive such notice when sent in the manner set forth in this  
9 Subsection shall not affect in any manner the validity of any proceeding against that party  
10 under this Article.

11 (e) Contents of Notice *of Violation to Abate* or Notice to Pay Relocation Benefits.

12 (1) The Notice *of Violation to Abate* shall state with reasonable specificity a  
13 description of the nuisance such that the Responsible Parties can reasonably understand the  
14 nature of the nuisance to be abated. The Notice *of Violation to Abate* shall direct the  
15 Responsible Parties to abolish, abate, and remove the nuisance within a reasonable period of  
16 time set by the Director given the nature and severity of the nuisance and any other  
17 circumstances of which the Director is aware. Such time period shall not exceed 30 days.

18 (2) The Notice to Pay Relocation Benefits shall state the Director has determined  
19 that the affected tenant(s) are eligible for relocation benefits as described in San Francisco  
20 Administrative Code Chapter 72 such that the Responsible Parties can reasonably  
21 understand the nature of their obligations under Chapter 72. The Notice to Pay Relocation  
22 Benefits shall direct the Responsible Parties to commence making the required relocation  
23 payments to the affected tenant(s) at least 12 hours prior to the date that the affected  
24 tenant(s) must vacate the unit.

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1           (3)     The notices shall further advise the Responsible Parties that if they fail to  
2     comply with the notice, the Director may: (A) hold a Director's Hearing to be held to consider  
3     whether it would be appropriate to issue a Director's Order to abate the nuisance and other  
4     appropriate orders as provided for in this Article or (B) cause the abatement and removal of  
5     the nuisance and the Owner shall be indebted to the City and County of San Francisco for the  
6     costs, charges, and fees incurred by the City and County of San Francisco by reason of the  
7     abatement and removal of such nuisance or (C) offer relocation services to the affected  
8     tenant(s) and the Owner shall be indebted to the City and County of San Francisco for the  
9     costs, charges, and fees incurred by the City and County of San Francisco by reason of the  
10    provision of the relocation services.

11           (4)     The notices shall inform the Responsible Party that they may be liable for other  
12    charges, costs, including administrative costs, expenses incurred by the Department, fines,  
13    attorneys' fees and penalties as provided for in this Article.

14           (5)     The notices shall state the name, business address and telephone number of  
15    the Department staff who may be contacted regarding the building, structure or property in  
16    question.

17           (6)     At the discretion of the Director and to assure lawful disposal of any items  
18    constituting a nuisance in whole or in part, the notice may contain a requirement that the  
19    Responsible Party abating the nuisance or making the relocation payments provide to the  
20    Director proof of lawful disposal of such items or the payment of such relocations benefits,  
21    and the form of such proof acceptable to the Director.

22           (f)     Action by the Director. If the nuisance is not abated and removed within the  
23    time period set forth in the notice, or the relocation benefits are not made within the time  
24    period set forth in the notice, the Director shall either: (1) hold a Director's Hearing in  
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1 accordance with this Section or (2) abate and remove the nuisance as soon as practicable or  
2 (3) offer relocation services to the affected tenant(s). The Owner shall be assessed a re-  
3 inspection fee and costs as provided in Section 609 of this Code to cover the Department's fees  
4 and costs incurred to verify the abatement of the nuisance. Said violations shall not be deemed  
5 legally abated until the property owner makes full payment of the assessment of reinspection fees and  
6 costs to the Department.

7 (g) Notice of Hearing.

8 (1) If the Responsible Parties failed to comply with the Notice of Violation to Abate or  
9 the Notice to Pay Relocation Benefits, the Director may hold a hearing by serving a copy of  
10 the Notice of Violation to Abate or the Notice to Pay Relocation Benefits, together with a notice  
11 of the time and place set for the hearing thereof, by personal service or by certified mail upon  
12 the Responsible Parties. The Director shall post a copy of the Notice of Violation to Abate or  
13 the Notice to Pay Relocation Benefits, together with the Notice of Hearing in conspicuous  
14 places throughout the building, structure or property. The time fixed for the hearing shall not  
15 be less than 30 days after service and posting of the copy of the Notice of Hearing; except in  
16 those circumstances where the Director has issued a written determination that the nuisance  
17 constitutes a severe and immediate hazard to life, health or safety, in which case the time  
18 fixed for the hearing shall not be less than 12 hours after personal service and posting the  
19 Notice of Hearing. The Notice of Hearing shall inform all persons interested to appear at the  
20 hearing to show cause, if any, why the building, structure, or property should not be declared  
21 a nuisance or in the case where the Department has abated and removed the nuisance, why  
22 a lien should not be placed against the property for the costs incurred by the Department. The  
23 Notice of Hearing shall also state whether the Department will seek recovery of attorneys' fees for the  
24 hearing. In the case of unsanitary buildings, said notice shall also state that the hearing may  
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1 result in the revocation of the certificate of sanitation, if any, and the mandatory vacation of  
2 occupants from the building.

3 (2) If the Notice of Hearing is served by certified mail on the Owner, the Director  
4 shall mail the Notice of Hearing to the address as it appears on the last assessment rolls of  
5 the City and County of San Francisco. If the Notice is served by certified mail on the  
6 Manager, the Director shall mail the Notice of Hearing to the Manager's principal place of  
7 business, if any, or to the address of the building, structure or property in question. If the  
8 Notice of Hearing is served by certified mail on any Person who created the condition that  
9 constitutes a nuisance, the Director shall mail the Notice of Hearing to the last known address  
10 of such Person at which it receives mail, if ascertainable. The failure of the Responsible  
11 Parties to receive such notice when sent in the manner set forth in this Subsection shall not  
12 affect in any manner the validity of any proceeding under this Article.

13 (h) Director's Hearing. A public hearing shall be held at the time and place  
14 designated in the Notice of Hearing. Subject to the procedures prescribed by the Director for  
15 the orderly conduct of the hearing, all persons having an interest in the building, structure or  
16 property in question or having knowledge of facts material to the Notice *of Violation to Abate* or  
17 the Notice to Pay Relocation Benefits may present evidence for consideration by the Director.  
18 Any hearing conducted pursuant to this Section shall be electronically recorded. At the time the  
19 abatement action is initiated, the Director may elect to seek recovery of attorneys' fees. In a case  
20 where the Director makes this election, the prevailing party shall be entitled to recover attorneys' fees.  
21 In no event shall the award of attorneys' fees to a prevailing party exceed the amount of reasonable  
22 attorneys' fees incurred by the City in the action.

23 (i) Director's Order.  
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1           (1)     Within 30 days after the conclusion of the hearing, the Director shall issue a  
2 written order setting forth finding of facts and a determination based upon the facts found in  
3 the record whether or not a nuisance, as defined by Section 581, exists or had existed in the  
4 building or structure or on the property and if the Department abated and removed the  
5 nuisance, the costs of abatement and removal of the nuisance by the Department, or a written  
6 order setting forth finding of facts and determination based upon the facts found in the record  
7 whether or not the relocation benefits have been paid and if the Department arranged for the  
8 relocation of the affected tenant(s), the costs of that relocation to the Department. The order  
9 shall be served on the Responsible Parties in the same manner as set forth in Subsection (e)  
10 of this Section and shall be served on all other parties who provided testimony at the hearing  
11 by first class mail if such parties request at or before the hearing that the order be sent to  
12 them.

13           (2)     Upon a finding that a nuisance exists in the building or structure or on the  
14 property, or a finding that appropriate relocation benefits have not been paid, the Director  
15 shall require in the order the abatement of the nuisance or the payment of the benefits within  
16 a specified time period not to exceed 30 days. The time period shall be determined based on  
17 the nature and severity of the nuisance and any other circumstances of which the Director is  
18 aware. The order shall state either that, failure to abate and remove the nuisance will result in  
19 the abatement of the nuisance by the Department and that the Owner shall become indebted  
20 to the City and County of San Francisco for the costs, charges, and fees incurred by reason of  
21 the abatement and removal of such nuisance upon demand, or that failure to make the  
22 relocation benefit payments will result in the offering of relocation services to the affected  
23 tenant(s) by the Department and that the Owner shall become indebted to the City and  
24 County of San Francisco for the costs, charges, and fees incurred by reason of the making  
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1 such relocation services available upon demand. The order shall inform the Responsible  
2 Parties that it shall be indebted to the City and County of San Francisco for all administrative  
3 costs incurred by the Department in the prosecution of the abatement action or the  
4 prosecution of the relocation benefit payment action and that such costs are due upon  
5 demand. The order shall further state that failure to pay such costs, charges, and fees may  
6 result in a lien against the property. The order shall require the Responsible Parties to abate  
7 and remove the nuisance in compliance with all applicable federal, State, and local laws and  
8 regulations or shall require the Responsible Parties to make the relocation benefit payments  
9 in compliance with all applicable local laws.

10 (3) In the case where Director determines that a nuisance had existed and that the  
11 Department had abated and removed the nuisance, or where the Director determines that the  
12 relocation benefits were owed to the affected tenant(s) and the Director provided relocation  
13 services to the affected tenant(s), the order shall itemize the costs of abatement and removal  
14 or provision of relocation services and all administrative costs incurred by the Department.  
15 The order shall notify the Owner that a lien will be assessed against the property for any  
16 outstanding costs if the Owner fails to reimburse the Department for the costs incurred by the  
17 Department as a result of the abatement and removal of the nuisance or the provision of  
18 relocation services within ten (10) days of the service of the order and that the lien shall also  
19 include additional charges for administrative expenses of \$1,000 or 10 percent of the costs of  
20 abatement and removal, whichever is higher, and interest at a rate of 1-1/2 percent per full  
21 month compounded monthly from the date of recordation of the lien on all fees and charges  
22 due as aforesaid.

23 (4) The order shall advise the Responsible Parties that the order issued is final and  
24 of the Owner's right to petition the Superior Court of San Francisco for appropriate relief  
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1 pursuant to Section 1094.6 of the California Code of Civil Procedures. The order shall notify  
2 the Owner that the filing of a petition with the Superior Court shall not automatically stay the  
3 effectiveness of the order or extend the time period in which the Responsible Parties have to  
4 abate the nuisance.

5 (5) The order shall provide for the recovery of attorneys' fees for the prevailing party for  
6 those actions in which the Director has sought recovery of attorneys' fees. In no event shall the award  
7 of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the  
8 City in the action.

9 ~~(5)(6)~~ In case of an unsanitary building, the Director shall revoke the certification of  
10 sanitation, if the building is a hotel and may order the vacation of any unsanitary building for  
11 all purposes, and shall cause a copy of said order to be posted in conspicuous places  
12 throughout the aforesaid structure, building or part thereof determined by the Director to be a  
13 nuisance, and a copy thereof is to be personally served upon the Owner thereof or his agent,  
14 or the lessee or the occupant thereof. The order shall specify the time within which said  
15 structure, building or part thereof determined by the Director to be a nuisance shall be  
16 vacated. The order shall further advise that structure, building or part thereof vacated  
17 hereunder shall not be reoccupied without the written permission of the Director. Such  
18 permission shall be granted when the nuisance cited is abated within the time set forth in the  
19 order.

20 (j) Regulations. The Director is hereby empowered to promulgate administrative  
21 regulations to implement the provisions of this Article and applicable provisions of State law.  
22 SEC. 599. COLLECTION.

23 (a) Notice of Cost and Claim of Lien.  
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1           (1)     Upon satisfactory compliance of the Director's order, the Director shall ascertain  
2 the administrative costs incurred by the Department and the Owner of such real property shall  
3 thereupon be obligated to the City and County of San Francisco in the amount of such  
4 administrative costs. The City and County of San Francisco shall thereupon have a lien for  
5 such costs, and any attorneys' fees awarded to the City in the Director's Order, upon such real  
6 property until payment thereof, which lien shall also include additional charges for  
7 administrative expenses of \$1,000, or 10 percent of the costs of abatement and removal,  
8 whichever is higher, and interest at a rate of 1-1/2 percent per full month compounded  
9 monthly from the date of recordation of the lien on all fees and charges due as aforesaid. The  
10 Director shall cause a notice itemizing the administrative costs and attorneys' fees, if any, to be  
11 mailed in the manner herein provided for mailing Notice of Hearing, which notice shall  
12 demand payment thereof to the Department, and shall give notice of claim of such lien and of  
13 the recording of the same, in the event such amount is not paid, as hereinafter set forth.

14           (2)     Upon the Responsible Parties' failure to comply with the Director's order and the  
15 completion of the abatement and removal of the nuisance by the Department, the Director  
16 shall, in addition to ascertaining the administrative costs and attorneys' fees, if any, as set forth  
17 in subparagraph (1) of this Section, ascertain the costs of abatement and removal incurred by  
18 the City and the Owner of such real property shall thereupon be obligated to the City and  
19 County of San Francisco in the amount of such costs of abatement and removal. In addition  
20 to the lien provided for in subparagraph (1) of this Section, the City and County of San  
21 Francisco shall have a lien for such costs of abatement and removal upon such real property  
22 until payment thereof, which lien shall also include additional charges for administrative  
23 expenses of \$1,000, or 10 percent of the costs of abatement and removal, whichever is  
24 higher, and interest at a rate of 1-1/2 percent per full month compounded monthly from the  
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1 date of recordation of the lien on all fees and charges due as aforesaid. The Director shall  
2 cause a notice itemizing the cost of abatement and removal to be mailed in the manner herein  
3 provided for mailing Notice of Hearing, which notice shall demand payment thereof to the  
4 Department, and shall give notice of claim of such lien and of the recording of the same, in the  
5 event such amount is not paid, as hereinafter set forth.

6 (b) Recording of Lien. If the costs and fees as provided for in subsection (a) of this  
7 Section are not paid to the Department within 45 days after mailing of notice thereof, the  
8 Director shall file in the Office of the Recorder of the City and County a verified claim  
9 containing a particular description of the property subject to such lien, the place and general  
10 nature of the administrative costs and of the abatement and removal for which the lien is  
11 claimed, the date of posting of said property, the date of the service of Notice of Violation  
12 ~~Abate~~ and the Director's order, and the date of the removal of the nuisance, the name of the  
13 Owner of the property as aforesaid and the amount of the lien claimed, which shall include the  
14 cost of verification and filing thereof.

15 (c) Collection by Bureau of Delinquent Revenue. The Director shall also transmit to  
16 the Bureau of Delinquent Revenue, on the expiration of such 45-day period, a statement of  
17 each such unpaid costs and fees, together with the cost of verification and filing and claim  
18 therefor. The bureau shall endeavor diligently to collect the same on behalf of the City and  
19 County by foreclosure of the lien therefor or otherwise. Any and all amounts paid or collected  
20 shall replenish the revolving fund hereinafter provided.

21 (d) Release of Lien. On payment of any such claim of lien, the Director shall give a  
22 release thereof.

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1 (e) Continuing Appropriation Account. There is hereby created a Special Revenue  
2 Fund for a continuing appropriation account entitled "Payment of Property Owner's  
3 Delinquencies for Abatement and Removal of Nuisances."

4 The account shall be credited with such sums as may be appropriate by the Board of  
5 Supervisors, amounts collected by the Department and sums received in consideration of  
6 release of liens and payment of special assessments. Expenditures from said sums shall be  
7 made to pay for the abatement and removal of nuisances as provided in this Article. In the  
8 event that the unexpended balance in said account shall exceed \$200,000 such excess shall  
9 be transferred to the unappropriated balance of the general fund.

10 (f) Collection of Expenses as a Special Assessment. The Director may initiate  
11 proceedings to make unpaid expenses, including but not limited to administrative costs and  
12 attorneys' fees, for the administration of the abatement action and for the abatement and  
13 removal of nuisances a special assessment against the parcels of property from which the  
14 nuisance was abated and removed by the Department.

15 (g) Report of Delinquencies Transmitted to Board of Supervisors. A report of  
16 delinquent charges shall be transmitted to the Board of Supervisors by the Director as  
17 necessary, but in no event less often than once each year, commencing with the first  
18 anniversary of the date of enactment of this ordinance. Upon receipt by the Board of  
19 Supervisors of the report, it shall fix a time, date and place for hearing the report and any  
20 protests or objections thereto.

21 (h) Notice of Hearing. The Board of Supervisors shall cause notice of the hearing to  
22 be mailed to the Owner of the real property and any person or entity with a recorded interest  
23 in the property to which the service was rendered not less than 10 days prior to the date of  
24 hearing.

1           (i)       Hearing. At the time for consideration of the report, the Board of Supervisors  
2 shall hear it with any objections of the Owners liable to be assessed for all administrative  
3 costs and attorneys' fees incurred and the costs of abatement and removal by the Director, if  
4 any. The Board of Supervisors may make such revisions, corrections or modifications of the  
5 report as it may deem just and, in the event that the Board of Supervisors is satisfied with the  
6 correctness of the report (as submitted or as revised, corrected or modified), it shall be  
7 confirmed or rejected by resolution. The decision of the Board of Supervisors on the report  
8 and on all protests or objections thereto shall be final and conclusive.

9           (j)       Collection of Assessment. Upon confirmation of the report by the Board of  
10 Supervisors, the delinquent charges contained therein shall constitute a special assessment  
11 against the property to which the services were rendered. At the time the special assessment  
12 is imposed, the Director shall give notice to the Owner and other parties with an interest in the  
13 property by certified mail, and shall inform them that the property may be sold by the Tax  
14 Collector for unpaid delinquent assessments after three-years. Thereafter, said assessment  
15 may be collected at the same time and in the same manner as ordinary municipal taxes are  
16 collected and shall be subject to the same penalties and same procedure of sale as provided  
17 for delinquent, ordinary municipal taxes.

18           The assessments shall be subordinate to all existing special assessment liens  
19 previously imposed upon the property and paramount to all other liens except those for State,  
20 county and municipal taxes with which it shall be on parity. Such assessment lien shall  
21 continue until the assessment and all interest and penalties due and payable thereon are  
22 paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be  
23 applicable to said special assessments. However, if any real property to which the costs of  
24 abatement and removal relates has been transferred or conveyed to a bona fide purchaser for  
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1 value or if a lien of a bona fide encumbrance for value has been created and attaches  
2 thereon, prior to the date on which the first installment of taxes would become delinquent,  
3 then the costs of abatement and removal shall not result in a lien against the real property but  
4 instead shall be transferred to the unsecured roll for collection.

5 (k) Severability. If any part or provision of this Article or application thereof, to any  
6 person or circumstance is held invalid, the remainder of the ordinance, including the  
7 application of such part or provision to other persons or circumstances shall not be affected  
8 thereby and shall continue in full force and effect. To this end the provisions of this ordinance  
9 are severable.

10 SEC. 600. PENALTIES.

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

17 (b) Civil Penalty.

18 (1) In addition to any other penalties provided in this Article, any person or entity  
19 served, in any manner permitted for service of process under the provisions of the California Code of  
20 Civil Procedure, with a notice or order by the Director of the Department of Public Health setting forth  
21 the nature of the violation of this Code, demanding correction of such violation, and specifying the time  
22 within which such violation must be corrected, shall be presumed, in civil proceedings, to have failed to  
23 comply with said notice or order at and after the time given in said notice or order for correction of  
24 such violation has expired without correction of said violation.

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1                   (2) Any person or entity violating this Code shall be liable for a civil penalty of up to  
2                   \$500 for each day such violation is committed or permitted to continue, which penalty shall be assessed  
3                   and recovered in a civil action brought in the name of the people of the City and County of San  
4                   Francisco by the City Attorney in any court of competent jurisdiction. In assessing the amount of the  
5                   civil penalty, the court shall consider any one or more of the relevant circumstances presented by any  
6                   of the parties to the case, including but not limited to the following: the nature and seriousness of the  
7                   misconduct, the number of violations, the persistence of the misconduct, the length of time over which  
8                   the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets,  
9                   liabilities, and net worth. Any penalty assessed and recovered in an action brought pursuant to this  
10                   paragraph shall be paid to the City Treasurer. In addition, such violations will not be deemed legally  
11                   abated until the property owner makes full payment of the assessment of costs and fees pursuant to  
12                   Section 609 of this Article.

13                   (c) Administrative Penalty. As an alternative to any other fines and penalties applicable  
14 to a violation of subparagraphs (b)(1), (b)(2) or (b)(3) of Section 581, any person or their  
15 agents who are in violation of one or more of those subparagraphs shall be subject to an  
16 administrative penalty not to exceed \$1,000 for each violation. The administrative penalty  
17 shall be assessed, enforced and collected in accordance with Section 39-1 of the Police  
18 Code.

19 **SEC. 609. REINSPECTION FEE, COSTS, AND ATTORNEYS' FEES AUTHORIZED.**

20                   (a) Reinspection Fee and Costs. If an inspection by a representative of the Department of  
21 Public Health discloses a violation of any provision of this Code or of any State law for which  
22 the Department is responsible for enforcement, the responsible party or parties shall be liable to  
23 the City for all costs and fees incurred in enforcement, including but not limited to, costs and fees for  
24 reinspection and monitoring, administration, preparation for and attendance at hearings, trials, and  
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1 conferences, and incidental expenses and costs for abating the nuisance. With respect to reinspection  
2 fees, the Department shall determine a period of time that is reasonable to correct the violation  
3 and shall thereafter reinspect the property to verify such correction. The Department shall  
4 collect a fee from the legal owner of the property in the amount of \$75 per half hour<sup>63</sup> to  
5 compensate the Department for its costs in performing the reinspection. *Reinspections which*  
6 *require more than one hour to complete shall be subject to an additional fee at the rate of \$15 for each*  
7 *quarter hour or part thereof beyond the first 60 minutes.* If more than one reinspection is  
8 necessary to secure correction of the violation, the Department shall collect a fee in the  
9 amount set forth herein for each reinspection.

10 (b) Attorneys' Fees. The prevailing party in any action, administrative proceeding, or special  
11 proceeding to abate a nuisance shall recover attorneys' fees if the Director elects, at the initiation of  
12 the action, to seek recovery of attorneys' fees. In no action, administrative proceeding, or special  
13 proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable  
14 attorneys' fees incurred by the City in the action or proceeding.

15 SEC. 609.1. NOTICE UPON NONPAYMENT.

16 The Department shall send a written notice to the legal owner of the property  
17 requesting payment of the ~~reinspection~~ fees and costs levied pursuant to Section 609. The  
18 notice shall request that the fees be paid within 30 days of the date of notice and shall warn  
19 the owner of possible penalties and interest fees if payment is not made within that time. If  
20 payment is not received, the Department shall send a second request stating that the legal  
21 owner is liable for payment of the fees and costs indicated on the notice and that if the  
22 Department does not receive payment within 30 days of the date of the second request, a  
23 penalty of \$40 or 10 percent of the amount due, whichever is greater, plus interest at the rate  
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1 of one and 1/2 percent per month on the outstanding balance, shall be added to the amount  
2 otherwise due.

3 Interest fees, if imposed, shall accrue beginning on the date of the second notice. The  
4 second request shall also notify the owner of the property that the City is authorized by the  
5 provisions of this Section to enforce payment of ~~reinspection~~ fees and costs and penalty and  
6 interest payments by the imposition of a lien on the property.

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9 SEC. 609.2. HEARING UPON NONPAYMENT.

10 If the Department does not receive payment of the amount due within 30 days of the  
11 date of the second request for payment, the Department shall conduct a hearing to consider  
12 any protests or objections to the imposition of the fees authorized by Section 609. The  
13 Department shall fix a time, date and place for the hearing and shall mail notice of the hearing  
14 to each owner of the property not less than 10 days prior to the date of the hearing. The notice  
15 shall state the name of each legal owner of the property, the amount due, and a description of  
16 each parcel of property which is the subject of the ~~reinspection~~ fees and costs. The descriptions  
17 of parcels shall be those used for the same parcels on the Assessor's map books for the  
18 current year. Following the hearing, the Director of Public Health or a designee shall  
19 determine whether the ~~reinspection~~ fees and costs and any penalty and interest payments  
20 imposed pursuant to Section 609 should be affirmed, modified or vacated. The Director shall  
21 send written notice of the decision to the owner of the property. The notice shall state that the  
22 owner has 10 days in which to pay any amount determined due and that failure to pay within  
23 the time set forth will result in the imposition of a lien upon the property. The Director of Health  
24 may adopt rules and regulations regarding the amount of fees and costs, the hearing procedure

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1 and other matters relating to imposition and collection of reinspection fees, including penalty  
2 and interest payments.

3  
4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By: \_\_\_\_\_  
7 Cecilia T. Mangoba  
8 Deputy City Attorney

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