

1 [Planning Code Enforcement Penalties, Fees, and Costs.]

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3 **Ordinance amending the San Francisco Planning Code by amending Section 176 to**
4 **provide for penalties for violation of the Planning Code of not less than \$200 per day, to**
5 **specify that the City Attorney may seek attorneys' fees and costs for all enforcement**
6 **actions, and to provide that all such fees and costs collected shall be deposited in the**
7 **Planning Code Enforcement Fund; and making findings, including environmental**
8 **findings and findings of consistency with the priority policies of Planning Code Section**
9 **101.1 and the General Plan.**

10 Note: Additions are single-underline italics Times New Roman;
11 deletions are ~~strikethrough italics Times New Roman~~.
12 Board amendment additions are double underlined.
13 Board amendment deletions are ~~strikethrough normal~~.

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

14 Section 1. Findings. The Board of Supervisors of the City and County of San
15 Francisco hereby finds and determines that:

16 (a) General Plan and Planning Code Findings.

17 (1) On _____ at a duly noticed public hearing, the Planning Commission in
18 Resolution No. _____ found that the proposed Planning Code amendments
19 contained in this ordinance were consistent with the City's General Plan and with Planning
20 Code Section 101.1(b). In addition, the Planning Commission recommended that the Board
21 of Supervisors adopt the proposed Planning Code amendments. A copy of said Resolution is
22 on file with the Clerk of the Board of Supervisors in File No. _____ and is
23 incorporated herein by reference. The Board finds that the proposed Planning Code
24 amendments contained in this ordinance are consistent with the City's General Plan and with
25 Planning Code Section 101.1(b) for the reasons set forth in said Resolution.

1 (2) Pursuant to Planning Code Section 302, the Board finds that the proposed
2 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
3 Planning Commission Resolution No. _____, which reasons are incorporated
4 herein by reference as though fully set forth.

5 (b) Environmental Findings. The Planning Department has determined that the
6 actions contemplated in this Ordinance are in compliance with the California Environmental
7 Quality Act (California Public Resources Code section 21000 et seq.). Said determination is
8 on file with the Clerk of the Board of Supervisors in File No. _____ and is
9 incorporated herein by reference.

10 Section 2. The San Francisco Planning Code is hereby amended by amending Section
11 176, to read as follows:

12 SEC. 176. ENFORCEMENT AGAINST VIOLATIONS.

13 (a) Violations Unlawful. Any use, structure, lot, feature or condition in violation of
14 this Code is hereby found and declared to be unlawful and a public nuisance. Should any
15 permit or license have been issued that was not then in conformity with the provisions of this
16 Code, such permit or license shall be null and void.

17 (b) Methods of Enforcement. The Zoning Administrator shall have authority to
18 enforce this Code against violations thereof by any of the following actions:

19 (1) Serving notice requiring the cessation, removal or correction of any violation of
20 this Code upon the owner, agent or tenant of the property that is the subject of the violation, or
21 upon the architect, builder, contractor or other person who commits or assists in such
22 violation;

23 (2) Calling upon the City Attorney to maintain an action for injunction to restrain or
24 abatement to cause the correction or removal of any such violation, and for assessment and
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1 recovery of a civil penalty for such violation as well as any attorneys' fees or costs, including but
2 not limited to expert witness fees, incurred in maintaining such an action;

3 (3) Calling upon the District Attorney to institute criminal proceedings in
4 enforcement of this Code against any such violation; and

5 (4) Calling upon the Chief of Police and authorized agents to assist in the
6 enforcement of this Code.

7 (c) Penalties.

8 (1) Any individual, firm, partnership, corporation, company, association, society,
9 group or other person or legal entity that violates any provision of this Code shall be liable for
10 a civil penalty, of not to exceed \$500 less than \$200 for each day such violation is committed or
11 permitted to continue, which penalty shall be assessed and recovered in a civil action brought
12 in the name of the people of the City and County of San Francisco by the City Attorney in any
13 court of competent jurisdiction. The City Attorney may seek recovery of any attorneys' fees and
14 costs, including but not limited to expert witness fees, incurred by the City in bringing such civil action.
15 For civil actions to enforce Municipal Code provisions related to general advertising signs, the
16 penalties, attorneys' fees and costs set forth in this Section 176 shall be in addition to those authorized
17 by Section 610 of this Code. Any penalty assessed and recovered in an action brought pursuant to this
18 Paragraph shall be paid to the Treasurer of the City and County of San Francisco.

19 (2) Any individual, firm, partnership, corporation, company, association, society,
20 group or other person or legal entity that violates any provision of this Code shall be deemed
21 guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not *exceeding*
22 \$500 less than \$200 or be imprisoned for a period not exceeding six months or be both so fined
23 and imprisoned. Each day such violation is committed or permitted to continue shall constitute
24 a separate offense and shall be punishable as such hereunder.

1 (3) Planning Code Enforcement Fund. Any fees and penalties collected pursuant to this
2 Section 176 shall be deposited in the Planning Code Enforcement Fund established by Administrative
3 Code Section 10.100-166. The Planning Department, through the Planning Code Enforcement Fund,
4 shall reimburse City departments and agencies, including the City Attorney's Office, for all costs and
5 fees incurred in the enforcement of this Section 176.

6 (d) Additional methods of Enforcement and Penalties for Violation of Sign
7 Regulations. Violation of the general advertising sign regulations set forth in Article 6 are
8 subject to the administrative penalties and enforcement procedures set forth in Section 610 of
9 this Code, in addition to those set forth in this Section 176.

10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 Marlena G. Byrne
14 Deputy City Attorney