

1 [Anti-Blight Ordinance.]

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3 **Ordinance amending the San Francisco Administrative Code by adding Chapter 81,**
4 **Sections 81.1 through 81.10, to establish a uniform procedure for enforcement of**
5 **blight-related provisions of existing municipal code sections and to provide for:**
6 **additional definition of blight conditions subject to enforcement, administrative**
7 **penalties for failure to abate blight, summary abatement for certain blighted conditions,**
8 **an administrative process for contesting the Director's declaration of blight, and civil**
9 **penalties and injunctive remedies for continuing violations; and making environmental**
10 **findings.**

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

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

16 Section 1. **Environmental Findings.** The Planning Department has determined that
17 the actions contemplated in this Ordinance are in compliance with the California
18 Environmental Quality Act (California Public Resources Code sections 21000 et seq.). Said
19 determination is on file with the Clerk of the Board of Supervisors in File No.
20 _____ and is incorporated herein by reference.

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22 Section 2. The San Francisco Administrative Code is hereby amended by adding
23 Sections 81.1 through 81.10, to read as follows:

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1 **CHAPTER 81: ANTI-BLIGHT ENFORCEMENT PROCEDURE**

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3 **SEC. 81.1. COMMON TITLE.**

4 *This Chapter may be referred to as the Community Preservation and Blight Reduction Act.*

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6 **SEC. 81.2. LEGISLATIVE FINDINGS.**

7 *The San Francisco Board of Supervisors finds and declares that:*

8 *(a) Properties that are in a condition of significant deterioration or disrepair or otherwise*
9 *violate municipal code requirements attract vagrants, gang members and other criminal elements as*
10 *prime locations to conduct their illegal criminal activities.*

11 *(b) Properties that are in a condition of significant deterioration or disrepair or otherwise*
12 *violate municipal code requirements are a blight and cause general deterioration and instability in*
13 *surrounding neighborhoods.*

14 *(c) Properties that are in a condition of significant deterioration or disrepair or otherwise*
15 *violate municipal code requirements substantially endanger the health and safety of residents of the*
16 *blighted properties and of the surrounding neighborhoods.*

17 *(d) Properties that are in a condition of significant deterioration or disrepair or otherwise*
18 *violate municipal code requirements pose serious threats to the public's health and safety and therefore*
19 *are declared to be public nuisances.*

20 *(f) Immediate abatement and rehabilitation of these properties is necessary and can be*
21 *accomplished by using the judicial or administrative procedures found in this Chapter.*

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23 **SEC. 81.3. ADMINISTRATIVE ENFORCEMENT PROCEDURES.**

24 *(a) Purpose. The Board of Supervisors finds that enforcement of anti-blight provisions of*
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1 the Municipal Code is vital to ensuring quality of life in San Francisco's neighborhoods and in the City
2 and County as a whole. A centralized administrative enforcement program with dedicated enforcement
3 officers will promote coordination of anti-blight efforts across City departments, including, but not
4 limited to, the Department of Public Works, the Department of City Planning, the Department of
5 Building Inspections, and the Department of Public Health. This Chapter is intended to promote the
6 general health, safety and welfare of the people of the City by promoting uniform, fair, and efficient
7 enforcement of anti-blight provisions of the Municipal Code and related departmental regulations.

8 The Director is authorized to administer and enforce the provisions of this Chapter. All
9 Enforcement Officers to whom the Director has delegated enforcement responsibilities are authorized
10 to inspect property and to take any other enforcement actions as may be required or appropriate to
11 administer or enforce the provisions of this Chapter.

12 Nothing in this Chapter shall be construed to limit any right or remedy otherwise available in
13 law or equity to any party harmed by a blighted property, nor shall this Chapter in any way limit the
14 City's right to enforcement under any other provision of the Municipal Code or state law or create a
15 duty or obligation on the part of the City to enforce this Chapter.

16 (b) **Definitions.**

17 "Blight". The presence of any one or more of the following conditions on property constitutes
18 property blight: (i) any condition that is detrimental to the public health, safety or general welfare or
19 that constitutes a public nuisance as defined in California Civil Code Sections 3479- 3480, including
20 but not limited to the conditions defined in San Francisco Public Works Code Section 174; (ii) any
21 condition of deterioration or disrepair that creates a substantial adverse impact on neighboring
22 properties, including but not limited to the conditions defined in San Francisco Public Works Code
23 Section 735; or (iii) any violation of the San Francisco Municipal Code that is visible from the public
24 way. Blight includes, but is not limited to, the following enumerated conditions:

1 (A) Property which is not kept substantially clean and free from accumulations
2 including, but not limited to, overgrown, dead or decayed trees, weeds or other vegetation, rank
3 growth, rubbish, junk, garbage, litter, debris, flyers or circulars.

4 (B) Buildings or structures which are unpainted or the exterior paint is substantially
5 worn off, provided, however, that nothing in this section shall be construed to require an owner to paint
6 a building where the architectural style indicates it was intended to be unpainted, such as a brown
7 shingle building.

8 (C) Buildings or structures or significant sections thereof including, but not limited
9 to, exterior stairs, roof, foundation, walls, fences, signs, retaining walls, driveways, or walkways which
10 are substantially broken, deteriorated, or defaced, or windows which are missing or broken. For the
11 purposes of this section "defaced" includes, but is not limited to, writings, inscriptions, figures,
12 scratches, or other markings commonly referred to as "graffiti."

13 (D) Property used or intended to be used for residential purposes which contains, in
14 the outdoor area, any refrigerator, washing machine, sink, stove, heater, boiler, tank or any other
15 household equipment, machinery, furniture, or item, appliance or appliances, boxes, lumber, dirt or
16 debris, trash, garbage or refuse cans, or any items other than those commonly stored outdoors, or any
17 parts of such items, for a period of time in excess of seventy-two consecutive hours. This subsection
18 does not prohibit machinery installed in the rear setback areas for household or recreational use,
19 furniture designed and used for outdoor activities, trash cans in the front yard during the twenty-four
20 hour period allowed for garbage pick-up and garbage bins when employed in construction for which a
21 valid building permit has been issued by the City.

22 "Director." The Director of Public Works or the Director's designee, including any
23 Enforcement Officer so designated by the Director to carry out responsibilities under this Chapter.

24 "Enforcement Officer". An officer charged with enforcement of anti-blight provisions pursuant
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1 to this Chapter, or an employee of a City department with enforcement jurisdiction over an underlying
2 Municipal Code violation at issue.

3 "Owner." The owner of the property, her agent, and/or any lessee, occupant, or other person
4 having charge or control over the property.

5 (c) **Procedures of this Chapter – Cumulative.** The determination by the City to seek
6 enforcement of its code requirements pursuant to this Chapter is solely at the City's discretion and is
7 only one option available to the City to seek redress for the violation of its ordinances. By adopting this
8 Chapter, the Board does not intend to limit the ability of the City to use any other remedy, civil or
9 criminal, that may be available in a particular case. The City may use the procedures set forth herein
10 as an alternative to, or in conjunction with, any other available remedy and in any order that seems
11 appropriate to the City.

12 All property blight conditions that are required to be abated according to the provisions and
13 permit requirements of this Chapter shall be subject to all provisions of the Municipal Code including,
14 but not limited to, building construction, repair or demolition and to all property improvement, zoning
15 and fire code provisions.

16 The Director's election to utilize the procedures set forth in this Chapter shall not affect the City
17 Attorney's independent authority under the Charter to pursue a civil action against a property owner.

18 (d) **Enforcement Officers.** In consultation with relevant City agencies, the Director shall
19 oversee the training and establishment of Enforcement Officers with direct responsibility for enforcing
20 the blight provisions of this Chapter. Enforcement Officers shall be authorized under the Director's
21 authority to inspect properties for blighted conditions as defined in this Chapter and elsewhere in the
22 Municipal Code. Pursuant to this Chapter, each Enforcement Officer shall have authority to issue
23 notices of violation and/or take other enforcement actions consistent with the requirements of this
24 Chapter, including but not limited to initiation of abatement actions pursuant to Section 81.4, or

1 pursuing administrative penalties pursuant to Administrative Code Chapter 100, the provisions of
2 which are hereby incorporated into this Chapter. Nothing in this Chapter, however, shall be
3 interpreted as restricting or otherwise limiting the inspection and enforcement authority conferred
4 upon other City employees by other provisions of the Municipal Code.

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6 **SEC. 81.4. GENERAL PROVISIONS – ABATEMENT OF NUISANCE ON PRIVATE**
7 **PROPERTY.**

8 (a) **Authority.** Whenever the Director determines that a property is blighted property, the
9 Director may require or take any necessary abatement or other enforcement actions to cause the
10 property blight to be abated in accordance with the provisions of this Chapter, or by any other lawful
11 means, including but not limited to abatement procedures provided for elsewhere in the Municipal
12 Code. The Director may determine that temporary corrective measures are required prior to the time
13 that permanent abatement or other enforcement actions are instituted.

14 (b) **Summary Abatement – Imminent Danger.**

15 (1) Any condition of property blight that is reasonably believed by the Director to be
16 imminently dangerous to the life, limb, health or safety of the occupants of the property or to the public
17 may be summarily abated by the Director in accordance with the procedures of this Chapter.

18 (2) Actions taken to abate imminently dangerous conditions may include, but are not
19 limited to, repair or removal of the condition creating the danger and/or the restriction from use or
20 occupancy of the property on which the dangerous condition exists or any other abatement action
21 determined by the Director to be necessary.

22 (3) Costs for any abatement performed on behalf of the City shall be recovered by
23 the City according to the provisions of this Chapter.

24 (c) **Summary Abatement – Public Visibility of Violation.**

1 (1) Any condition of property blight that is readily visible from the public way and
2 capable of abatement with minimal intrusion onto private property may be summarily abated by the
3 Director in accordance with the procedures of this Chapter.

4 (2) Actions taken to abate publicly visible blight conditions may include, but are not
5 limited to, repair or removal of the condition creating the danger and/or the restriction from use or
6 occupancy of the property on which the dangerous condition exists or any other abatement action
7 determined by the Director to be necessary.

8 (3) Costs for any abatement performed on behalf of the City shall be recovered by
9 the City according to the provisions of this Chapter.

10 (d) **General Abatement Provisions.**

11 (1) **General Provision.** Any thing or condition, including but not limited to
12 violations of the Municipal Code or state law, that threatens injury or damage to the health, safety,
13 welfare or property of members of the public, that obstructs the free use of property of others or of the
14 public way or commons, or otherwise interferes with the comfortable enjoyment of life or property, is a
15 public nuisance. Any thing or condition, including but not limited to violations of the Municipal Code
16 or state law, that fails to provide minimum standards of safety and habitability in housing for any
17 citizen of the City is a public nuisance. Such public nuisances are prohibited within the City and no
18 person shall create or participate in the creation or maintenance of such a public nuisance.

19 (2) **Applicability.** Whenever the City, pursuant to this title, takes any action to abate
20 a blighted condition or requires any person to abate any blighted condition existing on private
21 property, the procedures set forth in this Chapter may be utilized, unless such use is specifically
22 prohibited. For the purpose of this Chapter, property shall include parcels of land, and/or any
23 building, structure or portion thereof.

24 (3) **Inspection.** Property is subject to inspection under this Chapter whenever:
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1 (A) There is reason to believe that a condition exists on such property that
2 violates a provision of the Municipal Code, or that makes a property unsafe, dangerous, hazardous, a
3 public nuisance, or in a blighted condition; or

4 (B) Such inspection is deemed necessary by any enforcement officer to carry
5 out the provisions of the Municipal Code; or

6 (C) There is any abatement action being performed on the property pursuant
7 to a provision of this Chapter or any order issued pursuant thereto requiring such action; or

8 (D) Such inspection is conducted to determine if there has been completion of
9 an abatement action pursuant to any abatement order.

10 (4) **Entry for Inspection Authorized.** Whenever it is necessary to make an
11 inspection of property to investigate or enforce any of the provisions of this Chapter, any official
12 authorized by the City to conduct such inspections may enter such property at all reasonable times to
13 inspect the same provided that:

14 (A) If such property is occupied, the official shall first present proper
15 credentials and request entry;

16 (B) If such property is unoccupied, except in emergency circumstances, the
17 official shall make a reasonable effort to contact the owner or other persons having charge or control
18 of the property and request entry;

19 (C) If such entry is not granted or the owner or other persons having charge
20 or control of said building or structure cannot be contacted, the official seeking entry shall have
21 recourse to every remedy provided by law to secure entry.

22 (5) **Inspections at Discretion of the City.** All inspections authorized for the purpose
23 of investigation or enforcing the provisions of this Chapter shall be at the discretion of the City and
24 nothing in this Chapter shall be construed as requiring the City to conduct any such inspection nor
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1 shall any actual inspection made imply a duty to conduct any other inspection. Furthermore, nothing
2 in this Chapter shall be construed to hold the City responsible for any damage to persons or property
3 by reason of making an inadequate or negligent inspection or by reason of any failure to make an
4 inspection or reinspection.

5 (6) **Obstruction or Interference with Work Prohibited.** No person shall obstruct,
6 impede or interfere or cause another to obstruct, impede or interfere with any person who is engaged
7 in abatement actions performed pursuant to the provisions of this Chapter or who is directing or
8 performing any act necessary or incidental to such abatement.

9 (7) **Time Within Which to Commence and Complete Abatement Work.**

10 (A) Whenever an abatement order is issued, the work shall commence as
11 soon as reasonably possible under the circumstances and be diligently pursued to completion with the
12 time periods specified in the order issued by the Director.

13 (B) When an abatement action is performed due to imminently dangerous
14 conditions, the work shall commence without delay.

15 (C) If no City permits are required for the abatement action and the
16 conditions are not imminently dangerous, unless otherwise specified in the order, the abatement actions
17 shall commence no later than 30 days from the date the order was issued and be completed within 30
18 days from commencement.

19 (D) If City permits are required for the abatement action, unless the period of
20 time is extended by the Director, a complete application for each such permit shall be submitted no
21 later than 15 days from the date of the notice of violation. Work shall begin within 30 days of the
22 issuance of the permit and be completed within 30 days of issuance of the permits, unless either time
23 period is otherwise specified in the order.

1 (8) **Failure to Comply -- Abatement Action by City Authorized.** Whenever there is
2 a failure to comply with an abatement notice or order within the time specified in such notice or order,
3 or within the later time specified by the decision of an administrative hearing officer on appeal from the
4 Director's decision, the Director is authorized to:

5 (A) Cause the property to be restricted from use or occupancy, and/or cause the
6 conditions that require abatement actions to be repaired, demolished or abated to the extent necessary
7 to remedy the conditions causing the nuisance.

8 (B) **Extension of time permitted.** Any person, firm or corporation required to
9 take abatement action pursuant to this Chapter may apply to the Director for an extension of time in
10 order to comply. The Director may grant an extension of time, if the Director, at his or her discretion,
11 determines that such an extension of time is reasonable under the circumstances. The Director may
12 require a written agreement by such person, firm or corporation that the order will be complied with,
13 as a condition for such extension. The extension of time to complete an abatement action will not
14 extend the time for any hearing hereunder unless the Director expressly so states.

15 (e) **Public Property.** Where the property is owned by a public entity other than the City, the
16 Director shall cause removal of the blighted condition only after securing the consent of an authorized
17 representative of the public entity that has jurisdiction over the property. The Director shall use all
18 reasonable efforts to minimize blighted vacant lots on City-owned property, but City-owned property
19 shall not otherwise be subject to the requirements of this Article.

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21 **SEC. 81.5. GENERAL PROVISIONS – NOTICE.**

22 (a) **Notice of Violation.**

23 (1) Where the Director determines that any condition constitutes a blighted property in
24 violation of this Chapter, and that said conditions do not warrant summary abatement procedures, the
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1 Director shall issue a notice of violation to the property owner. At the time the notice of violation is
2 issued, the Director shall take one or more photographs of the property showing the blighted
3 conditions, and shall make copies of the photographs available to the recipient of the notice upon
4 request. The photographs shall be dated and retained as apart of the file for the violation. The notice
5 shall generally describe the violation, give the owner 30 calendar days from the date of the service of
6 the notice to either abate the violation or request a hearing on the notice of violation, and shall set
7 forth the procedure for requesting a hearing on the violation. The notice shall also inform the property
8 owner of his or her right to request an extension of time pursuant to paragraph (a)(2) of this Section in
9 order to abate the violation, and further inform the owner that where the owner fails to either abate the
10 violation or request a hearing within 30 calendar days (plus an extension if applicable) from the date of
11 service of the notice, the Director may initiate proceedings in accordance with Section 81.4 to enter
12 upon the owner's property and abate the violation at the owner's expense, or may impose an
13 administrative penalty under Administrative Code Chapter 100 for failure to abate the violations,
14 and/or may refer the matter to the City Attorney for further enforcement action, as appropriate. In
15 addition, the notice shall inform the owner that the minimum charge for City abatement of the
16 violation is the greater of \$400 or the actual cost to the City, (including overhead and administrative
17 costs, as well as attorneys' fees where the Director has elected to seek recovery of attorneys' fees).

18 (2) **Extension of Time.** A property owner may receive an extension of an additional 15
19 calendar days in which to abate the violation pursuant to Section 81.4. The notice of violation issued
20 under this subsection shall specify the address, telephone and facsimile numbers for requesting such an
21 extension. An extension under this paragraph shall not affect the deadline for a property owner to
22 request a hearing on a notice of violation.

23 (b) **Summary Abatement – Imminent Danger - Contents of Notice.** Whenever it is
24 determined that summary abatement action by the City is necessary due to any condition that is

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1 imminently dangerous, the Director shall issue a notice of summary abatement directed to the record
2 owner(s) of the property that has been determined to need summary abatement action. The notice shall
3 contain:

4 (1) The street address and a legal description sufficient for identification of the
5 location of the property.

6 (2) A statement that the property was found to be imminently dangerous, with a brief
7 and concise description of the conditions found to render the property imminently dangerous in
8 accordance with the provisions of this title.

9 (3) A description of the summary abatement actions that were required and
10 performed by the City to abate the imminent danger.

11 (4) Statements advising that a charge will be assessed for the work that was
12 performed and a description of the cost recovery procedure of Section 81.8 of this Chapter.

13 (5) An order specifying what additional actions, if any, are required to be taken by
14 those persons receiving this notice and the time within which the actions must be commenced and
15 completed. Such order shall include the information required in Section 81.5(a).

16 (6) Statements advising that any person having any record title or legal interest in
17 the property as described in Section 81.5(f) may protest any abatement action taken or ordered by the
18 Director to a hearing officer as designated in Section 81.5(h), at a public hearing on the date certain
19 specified in the notice; and,

20 (7) Statements advising that failure to file a written protest or to appear at such
21 hearing will constitute a failure to exhaust administrative remedies.

22 (c) **Summary Abatement – Public Visibility - Contents of Notice.** Whenever it is
23 determined that summary abatement action by the City is necessary due to any condition that is readily
24 visible from the public way and capable of abatement with minimal intrusion onto private property, the

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1 Director shall issue a notice of summary abatement directed to the record owner(s) of the property that
2 has been determined to need summary abatement action. The notice shall contain:

3 (1) The street address and a legal description sufficient for identification of the
4 location of the property.

5 (2) A statement that the property was found to have a blighted condition that is
6 visible from the public way, with a brief and concise description of the conditions found to render the
7 property blighted and publicly visible, in accordance with the provisions of this title.

8 (3) A description of the summary abatement actions that are required and to be
9 performed by the City to abate the imminent danger, together with the dates on which such abatement
10 work shall be performed.

11 (4) Statements advising that a charge will be assessed for the work that will be
12 performed and a description of the cost recovery procedure of Section 81.8 of this Chapter.

13 (5) An order specifying what additional actions, if any, are required to be taken by
14 those persons receiving this notice and the time within which the actions must be commenced and
15 completed. Such order shall include the information required in Section 81.5(a).

16 (6) Statements advising that any person having any record title or legal interest in
17 the property as described in Section 81.5(f) may protest the Director's determination of the existence of
18 the blighted condition and of any abatement action ordered by the Director to a hearing officer as
19 designated in Section 81.5(h), at a public hearing; and,

20 (7) Statements advising that failure to file a written protest or to appear at such
21 hearing will constitute a failure to exhaust administrative remedies.

22 (d) **General Abatement - Proposed Abatement Order – Contents of Notice.** Upon the
23 determination that any condition exists on the property that requires abatement action, the Director
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1 may issue a proposed abatement order directed to the owner(s) of the property. The order shall
2 contain:

3 (1) The street address and a legal description sufficient for identification of the
4 location of the property;

5 (2) A statement advising that the property has been found to require abatement
6 actions, with a brief and concise description of the conditions found to require such abatement actions;

7 (3) A statement advising that: (A) the property needs abatement actions but does not
8 have to be restricted from use or occupancy; (B) the property needs abatement actions but does not
9 have to be restricted from use or occupancy if specified temporary or interim corrective measures are
10 completed within a specified time; or, (C) the property needs abatement actions and must be restricted
11 from use or occupancy. The order shall specify what, if any, temporary or interim corrective measures
12 are required prior to the commencement of either permanent repairs or demolition.

13 (4) Specification of any abatement actions to be taken and the time within which the
14 actions must be commenced.

15 (5) A statement advising that if any ordered abatement action is not completed
16 within the time specified by this Chapter or in the decision of the administrative hearing office on
17 appeal from a decision of the Director, the Director may: (A) order the property, building or structure
18 restricted from further use or occupancy and posted to prevent such further occupancy until the
19 abatement work is completed; and/or (B) proceed to cause the abatement work to be done and charge
20 the costs thereof against the property or its owner.

21 (6) A statement advising that: (A) any person having any record title or legal
22 interest in the building as described in Section 81.5(f) may appear and protest the notice or order of
23 any action taken or required to be taken by the Director to the hearing officer designated in Section

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1 81.5(h), at a public hearing at the time and place specified in the order; and(B) failure to file a written
2 protest or to appear at such hearing will constitute a failure to exhaust the administrative remedies.

3 (e) **Recording of Abatement Order Certificates.**

4 (1) When a notice of abatement or proposed abatement order is issued, the Director
5 may file in the office of the county recorder a certificate describing the property and certifying that: (A)
6 the property, building or structure is a nuisance pursuant to the provisions of this Chapter; (B) the
7 actions proposed by the Director to abate the conditions or defects causing the property to be a
8 nuisance; (C) if the abatement actions required by the Director are not performed, the City may do so;
9 (D) if the City performs the required abatement actions, the costs incurred for such performance may
10 become a lien against the property; and (E) those persons entitled to service pursuant to Section 81.5(f)
11 have been so notified.

12 (2) Whenever an abatement order certificate has been filed and the corrections
13 ordered by the Director shall thereafter have been completed or the building or structure demolished
14 so that it no longer exists as a nuisance pursuant to the provisions of this Chapter, the Director shall
15 file a compliance certificate with the county recorder certifying that all the required corrections have
16 been made or that the building or structure has been demolished so that the property is no longer in
17 violation of the notice or order of abatement, whichever is appropriate.

18 (f) **Service to Certain Persons Required.** Any notice or order, and any amended or
19 supplemental notice or order, that is required shall be served upon the record owner(s) of the subject
20 property. A copy of each notice or order, and any amended or supplemental notice and order, shall
21 also be served on each of the following as disclosed by official public records in the county recorder's
22 office:

23 (1) The holder of any mortgage or deed of trust or other lien or encumbrance of
24 record;

1 (2) The owner or holder of any lease of record; and

2 (3) The holder of any other estate of legal interest of record in or to the property on
3 which the nuisance is located.

4 The lack of service to any person required to be served shall not invalidate any proceedings as
5 to any other person duly served or relieve any such person from any duty or obligation imposed by the
6 provisions of this Chapter.

7 (g) **Notice or Order - Method of Service.** Service of any required notice or order shall be
8 made either personally or by mailing a copy of such notice or order by certified mail, postage prepaid,
9 to each person entitled to service at the address that appears on the last equalized assessment roll of
10 the county or as known to the Director. If no such address appears or is known to the Director then a
11 copy of the notice or order shall be mailed, addressed to such person, at the address of the property
12 involved in the proceedings. The failure of any such person to receive such notice or order shall not
13 affect the validity of any proceedings taken pursuant to this Chapter. Service by certified mail shall be
14 effective from the date of mailing.

15 (h) **Hearing.**

16 (1) **Request for Hearing.** A property owner may request a hearing in order to
17 contest the decision of the Director by filing with the Director within 15 calendar days from the date of
18 the notice of violation, a request for hearing that specifies in detail the basis for contesting the notice of
19 violation or summary abatement.

20 (2) **Notice of Hearing.** Whenever a hearing is requested pursuant to this Section,
21 the Director shall, within seven calendar days of receipt of the request, notify the property owner of the
22 date, time, and place of the administrative review hearing by certified mail. Such hearing shall be held
23 no later than 45 calendar days after the Director receives the request, unless time is extended by the
24 Director upon request of the owner.

1 (3) **Hearing Procedure.** *The hearing shall be conducted by a neutral hearing officer*
2 *from a City office or department outside the Department of Public Works, appointed by the Director of*
3 *Administrative Services. The burden of proof to establish that the property is blighted shall be on the*
4 *City. The owner shall be entitled to present evidence and demonstrate that his or her property is not*
5 *blighted. The property owner shall also be entitled to present evidence and demonstrate that requiring*
6 *the owner to abate the violations at her own expense would result in an unfair hardship. All testimony*
7 *shall be under oath, and witnesses may be cross-examined. The hearing officer may consider any*
8 *relevant evidence submitted by the parties, including evidence that might be excluded from a court*
9 *hearing because it may constitute hearsay. The hearing officer shall ensure that a record of the*
10 *proceedings is maintained. The determination of the hearing officer after the hearing shall be final and*
11 *not appealable.*

12 (4) **Submittals for the Hearing.** *At least five City business days prior to the hearing,*
13 *the property owner and the City shall submit to the hearing officer and exchange with one another,*
14 *written information including, but not limited to, the following: a statement of the issues to be*
15 *determined by the hearing officer, a statement of the evidence to be offered at the hearing and the*
16 *identity of any witnesses to appear at the hearing. The Director shall provide to the hearing officer a*
17 *copy of the Department's case file, which shall include at a minimum the notice of violation or*
18 *summary abatement, any other written communications between the Department and the responsible*
19 *party, and communications submitted by interested members of the public concerning the case. The*
20 *Director may also submit, but is not required to do so, written arguments on why the Director's order*
21 *should be upheld. Anything submitted to the hearing officer by either party to the appeal shall be*
22 *served upon the other party at the same time and in the same manner as it is submitted to the hearing*
23 *officer.*

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1 (5) **Decision.** The hearing officer shall issue a decision upholding or overturning
2 the Director's decision, including a summary of the issues and the evidence presented, and findings and
3 conclusions, within ten calendar days of the conclusion of the hearing. A copy of the decision shall be
4 served upon the property owner by certified mail. The decision shall be the City's final administrative
5 determination. An aggrieved party may seek judicial review of the decision pursuant to California Code
6 of Civil Procedure Sections 1094.5 and 1094.6.

7 (i) **Effect of Failure to Request Hearing.** Unless and until any property owner issued a
8 notice or order under this Chapter shall timely request a hearing as provided in this section, the notice
9 or order shall have the full force and effect of a final order to abate.

10 (j) **Presumption of Noncompliance with Order.** Notwithstanding any other provision of
11 this Chapter, any person or entity served, in any manner permitted for service of process under the
12 provisions of the Code of Civil Procedure, with a notice or order by the Director setting forth the
13 nature of the violation of this Chapter, demanding correction of such violation, and specifying the time
14 within which such violation must be corrected, shall be presumed, in subsequent civil proceedings, to
15 have failed to comply with said notice or order at and after the time given in said notice or order for
16 correction of such violation has expired without correction of said violation.

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18 **SEC. 81.6. ABATEMENT ACTIONS PERFORMED BY CITY.**

19 (a) **Supervision of Work.** Any abatement action performed by the City pursuant to this
20 Chapter shall be accomplished under the supervision of the Director either:

21 (1) by City personnel; or

22 (2) by contract awarded by the Director or by the city department with direct
23 jurisdiction over the code violations to be abated.

1 **(b) Contract and Bid Procedures.** *Any contract for work pursuant to this Chapter shall be*
2 *contracted for and awarded pursuant to applicable Municipal Code procedures.*

3 **(c) Work Standard.** *Whenever the City performs any abatement action pursuant to this*
4 *Chapter, the City shall not be required to perform such abatement actions to the standard that the*
5 *property, building or structure complies with all applicable provisions of this Code. The City shall*
6 *perform such actions as are determined by the Director to be necessary to abate or remedy the*
7 *nuisance caused by such property, building or structure. Such limited abatement action by the City*
8 *does not relieve the property owner from any requirement to bring the property into compliance with*
9 *any applicable provisions of this Code.*

10
11 **SEC. 81.7. GENERAL PROVISIONS - INJUNCTIVE RELIEF, CIVIL PENALTIES,**

12 **ATTORNEYS' FEES AND COSTS.**

13 **(a)** *Any use of, maintenance of, or action taken with regard to any property that is contrary*
14 *to the provisions of this Chapter or any condition of any permit required by this Chapter shall be, and*
15 *is hereby declared to be, unlawful and a public nuisance. As an alternative to any other remedy, the*
16 *City Attorney may apply to any court having jurisdiction for any relief as will abate or remove such*
17 *nuisance and restrain any person, firm or corporation from using, maintaining or taking any action*
18 *regarding any property contrary to the provisions of this title.*

19 **(b)** *This Chapter may be enforced by an injunction issued by any court having jurisdiction*
20 *upon any suit by the City or by the owner or occupant of any property affected by any such violation or*
21 *threatened violation or by any neighbor of any property affected by any such violation or threatened*
22 *violation.*

1 (c) In any court action to enforce this Chapter by the City Attorney, unless the specific code
2 provision violated otherwise provides for civil penalties in another amount, the City shall be entitled to
3 recover civil penalties in the amount specified by this Section:

4 (1) Up to \$100 per day for each day of violation following issuance of Notice of
5 Violation to the Owner, for the period beginning 30 days following issuance of said Notice until 90
6 days following issuance of such Notice;

7 (2) From \$100 per day to \$500 per day for each day following issuance of Notice of
8 Violation to the Owner, for the period beginning 91 days following issuance of said Notice until 120
9 days following issuance of such Notice;

10 (3) From \$500 per day to \$1,000 per day for each day following issuance of Notice
11 of Violation to the Owner, for the period beginning 121 days following issuance of such Notice;

12 (d) In deciding the amount of civil penalty to be imposed, the Court shall consider the
13 following factors:

14 (1) Whether the responsible party was properly identified;

15 (2) The nature and seriousness of the violation;

16 (3) The duration of the violation;

17 (4) The number of violations;

18 (5) The willfulness of the responsible party's misconduct;

19 (6) Efforts made by the responsible party to correct the violation;

20 (7) The impact of the violation upon the community;

21 (8) Any instance in which the responsible party has been in violation of the same or
22 similar laws at the same or other locations in the City and County of San Francisco;

23 (9) The responsible party's good faith efforts to comply;

24 (10) Whether the violation is easy to correct;

1 (11) The assets, liabilities and net worth of the responsible party; and,

2 (12) Such other factors as the Court may consider relevant to whether the responsible
3 party is likely to commit similar violations in the future.

4 (e) In any action under this section in which the City succeeds in obtaining any order from
5 the Court enforcing this Chapter, the City shall be entitled to recover from defendant its costs of
6 investigation, enforcement, and litigation, including but not limited to attorneys' fees and expert witness
7 fees. This provision is designed to support and encourage actions to abate blighted conditions in the
8 City and therefore is not a prevailing party attorneys' fee provision and in no way allows recovery by
9 any defendant of his or her costs or attorneys' fees against the City.

10 (e) Upon entry of a second or subsequent civil or criminal judgment within a two-year
11 period that finds that the owner of property is responsible for a condition that may be abated in
12 accordance with this Chapter, the court may order the owner to pay trebled costs of the abatement.

13
14 **SEC. 81.8. COST RECOVERY.**

15 (a) **Blight Abatement Fund.** The City shall maintain a special revolving fund designated as
16 the "Blight Abatement Fund." Payments shall be made out of said fund upon the demand of the
17 Director to defray the costs and expenses that may be incurred by the City in doing or causing to be
18 done the necessary work of repair, demolition or other abatement work performed pursuant to this title.
19 This fund may also be used to defray the costs of the City performing any blight abatement where it is
20 determined that requiring private abatement of a blighted condition by a property owner would impose
21 an unfair financial burden on that property owner.

22 The Board of Supervisors may at any time transfer to the repair and demolition fund money
23 from the general fund of the City necessary to expedite the performance of work relating to abatement.
24 Any sum so transferred shall be deemed a loan to the Blight Abatement Fund and shall be repaid out of

1 the proceeds of the collections provided for this Chapter. All funds collected pursuant to this Chapter
2 shall be paid to the Controller who shall credit the same to Blight Abatement Fund.

3 (b) **Expenses - Accounting and Report Required.** The Director shall keep an itemized
4 account of the expense incurred by the City for abatement actions performed pursuant to the provisions
5 of this Chapter. Upon the completion of any abatement action, the Director shall prepare an invoice
6 specifying the actions taken, the itemized and total cost of the actions, and any allowable inspection
7 fees, a description of the property where the abatement action was performed, and the names and
8 addresses of the persons entitled to notice pursuant to Section 81.5(f). This invoice shall be served on
9 such persons in accordance with the provisions of Section 81.5(g). Such invoices may be served upon
10 the completion of each abatement action or may be served upon the completion of all necessary
11 abatement actions.

12 (c) **Payment Required.** This invoice shall be paid within 30 days of the date it is served or
13 within the time and in the manner specified by the Controller or Bureau of Delinquent Revenue
14 Collection. Such payment shall be made to the Controller.

15 (d) **Failure to Pay.** If the responsible party fails to pay the invoice within thirty days of
16 service, the Director may take such action to collect the fees as he or she deems appropriate, including
17 (i) referral of the matter to the Bureau of Delinquent Revenue Collection under Article V, Section 10.39
18 of the Administrative Code, (ii) initiation of lien proceedings under Article XX, Section 10.230 et seq. of
19 the Administrative Code, and/or (iii) requesting that the City Attorney pursue collection of the penalties
20 imposed against the responsible party in a civil action. The City Attorney may request its attorneys'
21 fees in any action that he or she pursues to collect the administrative penalties or to enforce collection
22 of the penalties.

23
24 **SEC. 81.9. JOINT OR COMMON OWNERSHIP.**
25

1 Whenever property that is the subject of blight abatement pursuant to this Chapter is jointly
2 owned, owned as common property or is otherwise subject to multiple ownership whether in fee or as
3 an easement, the owners of the property shall be jointly and severally liable for the nuisance. The City
4 may apportion each owner's liability in reasonable proportion to each individual's ownership interest
5 in the subject property.

6
7 **SEC. 81.10. SEVERABILITY.**

8 In the event that a court or agency of competent jurisdiction holds that federal or state law, rule
9 or regulation invalidates any clause, sentence, paragraph or section of this Chapter or the application
10 thereof to any person or circumstances, it is the intent of the Board of Supervisors that the court or
11 agency sever such clause, sentence, paragraph or section so that the remainder of this Chapter shall
12 remain in effect.

13
14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By: _____
18 JERRY THREEET
19 Deputy City Attorney