

1 [Administrative Code --Community Preservation and Blight Reduction Act]

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3 **Ordinance amending the San Francisco Administrative Code by adding Chapter 80,**  
4 **Sections 80.1 through 80.10, 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 80.1 through 80.10, to read as follows:

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1                    **CHAPTER 80: ANTI-BLIGHT ENFORCEMENT PROCEDURE**

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3                    **SEC. 80.1. COMMON TITLE.**

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

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6                    **SEC. 80.2. 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. 80.3. 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 constitutes a public nuisance as defined in California Civil Code  
19 Sections 3479- 3480, including but not limited to the conditions defined in San Francisco Public Works  
20 Code Section 174; (ii) any condition of deterioration or disrepair that creates a substantial adverse  
21 impact on neighboring properties, including but not limited to the conditions defined in San Francisco  
22 Public Works Code Section 735; or (iii) any violation of the San Francisco Municipal Code that is  
23 visible from the public way and creates a substantial adverse impact on neighboring properties.  
24 Notwithstanding the above definition, public nuisances pertaining to unsafe buildings, structures, or

1 property conditions, as defined by Section 102A of the Building Code, shall not constitute blight for  
2 purposes of this Chapter and shall remain within the exclusive enforcement authority of the  
3 Department of Building Inspection to the extent required by state and local law. Blight includes, but is  
4 not limited to, the following enumerated conditions:

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

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

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

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

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1 valid building permit has been issued by the City.

2 Notwithstanding the foregoing, this Chapter shall not apply to building, structural, or property  
3 conditions that present public safety risks under the San Francisco Building Code and construction  
4 codes. The Department of Building Inspection and the Fire Department retain their respective  
5 jurisdiction over such conditions pursuant to applicable state and local law.

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

8 "Enforcement Officer." An officer charged with enforcement of anti-blight provisions pursuant  
9 to this Chapter.

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

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

20 All property blight conditions that are required to be abated according to the provisions and  
21 permit requirements of this Chapter shall be subject to all provisions of the Municipal Code including,  
22 but not limited to, all property improvement, zoning and fire code provisions.

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

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1           (d) **Enforcement Officers.** In consultation with relevant City agencies, the Director shall  
2 oversee the training and establishment of Enforcement Officers with direct responsibility for enforcing  
3 the blight provisions of this Chapter. Enforcement Officers shall be authorized under the Director's  
4 authority to inspect properties for blighted conditions as defined in this Chapter and elsewhere in the  
5 Municipal Code. Pursuant to this Chapter, each Enforcement Officer shall have authority to issue  
6 notices of violation and/or take other enforcement actions consistent with the requirements of this  
7 Chapter, including but not limited to initiation of abatement actions pursuant to Section 80.4, or  
8 pursuing administrative penalties pursuant to Administrative Code Chapter 100, the provisions of  
9 which are hereby incorporated into this Chapter. Nothing in this Chapter shall be interpreted as  
10 restricting or otherwise limiting the inspection and enforcement authority conferred upon other City  
11 employees by other provisions of the Municipal Code.

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13 **SEC. 80.4. GENERAL PROVISIONS – ABATEMENT OF NUISANCE.**

14           (a) **Authority.** Whenever the Director determines that a property is blighted property, the  
15 Director may require or take any necessary abatement or other enforcement actions to cause the  
16 property blight to be abated in accordance with the provisions of this Chapter, or by any other lawful  
17 means, including but not limited to abatement procedures provided for elsewhere in the Municipal  
18 Code.

19           (b) **Fees for Enforcement of Violation Applicable Irrespective of Abatement.** Whenever  
20 the Director issues a Notice of Violation pursuant to this Chapter, the Director may impose a fee to  
21 recover costs associated with inspection and related enforcement costs. These fees shall be established  
22 by the department. The Director shall provide notice of such fees under Section 80.5 and may collect  
23 such fees according to the procedures in Section 80.8, below.

24           (b) **Summary Abatement of Conditions in the Public Right-of-Way – Imminent Danger.**

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

4           (2) Actions taken to abate imminently dangerous 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 may be recovered by the  
9 City according to the provisions of this Chapter.

10           (b) **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. Such public nuisances are prohibited within the City and no person shall create or  
16 participate in the creation or maintenance of such a public nuisance.

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

22           (3) **Inspections of Private Property.** Private property is subject to inspection under  
23 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 a public nuisance, or in a blighted  
3 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 onto Private Property for Inspection Authorized.** Whenever it is  
11 necessary to make an inspection of property to investigate or enforce any of the provisions of this  
12 Chapter, any official authorized by the City to conduct such inspections may enter such property at all  
13 reasonable times to 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) If no City permits are required for the abatement action and the  
14 conditions are not imminently dangerous, unless otherwise specified in the order, the abatement actions  
15 shall commence no later than 15 days from the date the order was issued and be completed within 30  
16 days from commencement.

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

22 (8) **Failure to Comply -- Abatement Action by City Authorized.** Whenever there is  
23 a failure to comply with an abatement notice or order within the time specified in such notice or order,

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1 or within the later time specified by the decision of an administrative law judge on appeal from the  
2 Director's decision, the Director is authorized to:

3 (A) Cause the conditions that require abatement actions to be repaired or  
4 abated to the extent necessary to remedy the conditions causing the nuisance.

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

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

17 (d) **Public Rights-of-Way.** The Director may choose to abate public nuisances upon the  
18 public right-of-way in accordance with the notice, hearing, and abatement procedures set forth in this  
19 Chapter. The owner and/or occupant of the premises or unit adjacent to a public sidewalk, public  
20 stairway or other public right-of-way shall be held liable for such conditions, including the cost of  
21 enforcement actions under this Chapter.

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23 **SEC. 80.5. GENERAL PROVISIONS – NOTICE.**

24 (a) **Notice of Violation.**  
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1           (1) Where the Director determines that any condition constitutes a blighted property in  
2 violation of this Chapter, and that said conditions do not warrant summary abatement procedures, the  
3 Director shall issue a notice of violation to the property owner. At the time the notice of violation is  
4 issued, the Director shall take one or more photographs of the property showing the blighted  
5 conditions, and shall make copies of the photographs available to the recipient of the notice upon  
6 request. The photographs shall be dated and retained as apart of the file for the violation. The notice  
7 shall generally describe the violation, give the owner 15 calendar days from the date of the service of  
8 the notice to either abate the violation or request a hearing on the notice of violation, and shall set  
9 forth the procedure for requesting a hearing on the violation. The notice shall also inform the property  
10 owner of his or her right to request an extension of time pursuant to paragraph (a)(2) of this Section in  
11 order to abate the violation, and further inform the owner that where the owner fails to either abate the  
12 violation or request a hearing within 15 calendar days (plus an extension if applicable) from the date of  
13 service of the notice, the Director may initiate proceedings in accordance with Section 80.4 to enter  
14 upon the owner's property and abate the violation at the owner's expense, or may impose an  
15 administrative penalty under Administrative Code Chapter 100 for failure to abate the violations,  
16 and/or may refer the matter to the City Attorney for further enforcement action, as appropriate. In  
17 addition, the notice shall inform the owner that the minimum charge for City abatement of the  
18 violation is the greater of \$400 or the actual cost to the City, (including overhead and administrative  
19 costs, as well as attorneys' fees where the Director has elected to seek recovery of attorneys' fees), and  
20 that the Department's cost of preparation for and appearance at the hearing required by Section 80.5  
21 and all prior and subsequent attendant costs (including enforcement fees and costs incurred and  
22 penalties assessed in ascertaining violations) shall be assessed upon the property owner. Said  
23 violations will not be deemed legally abated until the property owner makes full payment of the  
24 assessment of costs to the Department.

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1           (2) **Extension of Time.** A property owner may receive an extension of an additional 15  
2 calendar days in which to abate the violation pursuant to Section 80.4. The notice of violation issued  
3 under this subsection shall specify the address, telephone and facsimile numbers for requesting such an  
4 extension. An extension under this paragraph shall not affect the deadline for a property owner to  
5 request a hearing on a notice of violation.

6           (b) **Summary Abatement – Imminent Danger - Contents of Notice.** Whenever it is  
7 determined that summary abatement action by the City is necessary due to any condition in the public  
8 right-of-way that is imminently dangerous, the Director shall issue a notice of summary abatement  
9 directed to the record owner(s) of the adjacent property that has been determined to be responsible for  
10 the condition to be abated. The notice shall contain:

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

13           (2) A statement that the public right-of-way adjacent to the property was found to be  
14 imminently dangerous, with a brief and concise description of the conditions found to render the  
15 property imminently dangerous in accordance with the provisions of this Chapter.

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

18           (4) Statements advising that a charge will be assessed for the work that was  
19 performed and a description of the cost recovery procedure of Section 80.8 of this Chapter.

20           (5) An order specifying what additional actions, if any, are required to be taken by  
21 those persons receiving this notice and the time within which the actions must be commenced and  
22 completed. Such order shall include the information required in Section 80.5(a).

23           (6) Statements advising that any person having any record title or legal interest in  
24 the property as described in Section 80.5(e) may protest any abatement action taken or ordered by the  
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1 Director to a hearing officer as designated in Section 80.5(g), at a public hearing on the date certain  
2 specified in the notice; and,

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

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

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

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

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

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

21 (5) A statement advising that if any ordered abatement action is not completed  
22 within the time specified by this Chapter or in the decision of the administrative hearing officer on  
23 appeal from a decision of the Director, the Director may proceed to cause the abatement work to be

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1 done and charge the costs thereof against the property or its owner, including the costs of ascertaining  
2 violations.

3 (6) A statement advising that: (A) any person having any record title or legal  
4 interest in the building as described in Section 80.5(e) may appear and protest the notice or order of  
5 any action taken or required to be taken by the Director to the hearing officer designated in Section  
6 80.5(g), at a public hearing at the time and place specified in the order; and(B) failure to file a written  
7 protest or to appear at such hearing will constitute a failure to exhaust the administrative remedies.

8 (d) **Recording of Abatement Order Certificates.**

9 (1) When a notice of abatement or proposed abatement order is issued, the Director  
10 may file in the office of the county recorder a certificate describing the property and certifying that: (A)  
11 the property, building or structure is a nuisance pursuant to the provisions of this Chapter; (B) the  
12 actions proposed by the Director to abate the conditions or defects causing the property to be a  
13 nuisance; (C) if the abatement actions required by the Director are not performed, the City may do so;  
14 (D) if the City performs the required abatement actions, the costs incurred for such performance may  
15 become a lien against the property; and (E) those persons entitled to service pursuant to Section  
16 80.5(e) have been so notified.

17 (2) Whenever an abatement order certificate has been filed and the corrections  
18 ordered by the Director has thereafter have been completed, and any costs assessment owed to the  
19 Department has been paid, the Director shall file a compliance certificate with the county recorder  
20 certifying that all the required corrections have been made or that the building or structure has been  
21 demolished so that the property is no longer in violation of the notice or order of abatement, whichever  
22 is appropriate.

23 (e) **Service to Certain Persons Required.** Any notice or order, and any amended or  
24 supplemental notice or order, that is required shall be served upon the record owner(s) of the subject

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1 property. A copy of each notice or order, and any amended or supplemental notice and order, shall  
2 also be served on each of the following as disclosed by official public records in the county recorder's  
3 office:

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

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

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

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

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

20 (g) **Hearing.**

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

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

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

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

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

11 (h) **Effect of Failure to Request or Appear at Hearing.** Unless and until any property  
12 owner issued a notice or order under this Chapter shall timely request a hearing as provided in this  
13 section, the notice or order shall have the full force and effect of a final order to abate. The failure of  
14 any property owner issued a notice or order under this Chapter to appear at a hearing scheduled in  
15 accordance with the requirements of this Chapter and contest the validity of the notice of order shall  
16 preclude the owner from raising such issues in any subsequent proceeding.

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

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1            (j) **Parallel Running of Notice Provisions.** The notices required by this Chapter, including  
2 but not limited to notice(s) of inspection, violation, hearing, and abatement, may run concurrently  
3 rather than sequentially in order to facilitate timely resolution and/or abatement of blight conditions.

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5 **SEC. 80.6. ABATEMENT ACTIONS PERFORMED BY CITY.**

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

8                    (1) by City personnel; or

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

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

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

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21 **SEC. 80.7. GENERAL PROVISIONS - INJUNCTIVE RELIEF, CIVIL PENALTIES,**

22 **ATTORNEYS' FEES AND COSTS.**

23            (a) Any use of, maintenance of, or action taken with regard to any property that is contrary  
24 to the provisions of this Chapter or any condition of any permit required by this Chapter shall be, and

1 is hereby declared to be, unlawful and a public nuisance. As an alternative to any other remedy, the  
2 City Attorney may apply to any court having jurisdiction for any relief as will abate or remove such  
3 nuisance and restrain any person, firm or corporation from using, maintaining or taking any action  
4 regarding any property contrary to the provisions of this Chapter.

5 (b) This Chapter may be enforced by an injunction issued by any court having jurisdiction  
6 upon any suit by the City or by the owner or occupant of any property affected by any such violation or  
7 threatened violation or by any neighbor of any property affected by any such violation or threatened  
8 violation.

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

12 (1) Up to \$100 per day for each day of violation following issuance of Notice of  
13 Violation to the Owner, for the period beginning 15 days following issuance of said Notice until 90  
14 days following issuance of such Notice;

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

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

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

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

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

24 (3) The duration of the violation;

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- 1           (4) The number of violations;  
2           (5) The willfulness of the responsible party's misconduct;  
3           (6) Efforts made by the responsible party to correct the violation;  
4           (7) The impact of the violation upon the community;  
5           (8) Any instance in which the responsible party has been in violation of the same or  
6 similar laws at the same or other locations in the City and County of San Francisco;  
7           (9) The responsible party's good faith efforts to comply;  
8           (10) Whether the violation is easy to correct;  
9           (11) The assets, liabilities and net worth of the responsible party; and,  
10           (12) Such other factors as the Court may consider relevant to whether the responsible  
11 party is likely to commit similar violations in the future.

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

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

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## 22 **SEC. 80.8. COST RECOVERY.**

23           (a) **Blight Abatement Fund.** The City shall maintain a special revolving fund designated as  
24 the "Blight Abatement Fund." Payments shall be made out of said fund upon the demand of the

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1 Director to defray the costs and expenses that may be incurred by the City in ascertaining violations  
2 and doing or causing to be done the necessary work of repair or other abatement work performed  
3 pursuant to this Chapter. This fund may also be used to defray the costs of the City performing any  
4 blight abatement where it is determined that requiring private abatement of a blighted condition by a  
5 property owner would impose an unfair financial burden on that property owner.

6 The Board of Supervisors may at any time transfer to the Blight Abatement Fund money from  
7 the general fund of the City necessary to expedite the performance of work relating to abatement. Any  
8 sum so transferred shall be deemed a loan to the Blight Abatement Fund and shall be repaid out of the  
9 proceeds of the collections provided for this Chapter. All funds collected pursuant to this Chapter shall  
10 be paid to the Controller who shall credit the same to Blight Abatement Fund.

11 (b) **Expenses - Accounting and Report Required.** The Director shall keep an itemized  
12 account of the expense incurred by the City for enforcement and abatement actions performed pursuant  
13 to the provisions of this Chapter. Upon the completion of any enforcement or abatement action, the  
14 Director shall prepare an invoice specifying the actions taken, the itemized and total cost of the  
15 actions, and any allowable inspection fees, a description of the property where the action was  
16 performed, and the names and addresses of the persons entitled to notice pursuant to Section 80.5(e).  
17 This invoice shall be served on such persons in accordance with the provisions of Section 80.5(f). Such  
18 invoices may be served upon the completion of each enforcement or abatement action or may be served  
19 upon the completion of all necessary enforcement and abatement actions.

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

23 (d) **Failure to Pay.** If the responsible party fails to pay the invoice within thirty days of  
24 service, the Director may take such action to collect the fees as he or she deems appropriate, including

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1 (i) referral of the matter to the Bureau of Delinquent Revenue Collection under Article V, Section 10.39  
 2 of the Administrative Code, (ii) initiation of lien proceedings under Article XX, Section 10.230 et seq. of  
 3 the Administrative Code, and/or (iii) requesting that the City Attorney pursue collection of the penalties  
 4 imposed against the responsible party in a civil action.. The City Attorney may request its attorneys'  
 5 fees in any action that he or she pursues to collect the administrative penalties or to enforce collection  
 6 of the penalties.

7 **SEC. 80.9. JOINT OR COMMON OWNERSHIP.**

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

13 **SEC. 80.10. SEVERABILITY.**

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

19 APPROVED AS TO FORM:  
 20 DENNIS J. HERRERA, City Attorney

21 By: \_\_\_\_\_  
 22 Jerry Threet  
 23 Deputy City Attorney

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