

1 [Administrative Code Revision, Chapter 74, Rent Escrow Account Program (REAP).]

2  
3 Ordinance amending Administrative Code Chapter 74 "Rent Escrow Account Program,"  
4 by amending Sections 74.3, 74.4, 74.5, 74.6, 74.7, 74.9, 74.10, 74.11, 74.12, 74.13, 74.14,  
5 and 74.15, to more specifically describe the relationship of this lead abatement  
6 program to provisions in San Francisco Health Code Article 11 regarding abatement of  
7 public nuisances, to clarify implementation procedures, and non-substantive technical  
8 changes.

9 Note: Additions are *italic, Times New Roman*; deletions  
10 are ~~*strikethrough italic, Times New Roman*~~.  
11 Board amendment additions are double underlined normal; Board  
12 amendment deletions are ~~strikethrough normal~~.

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

14 Section 1. Chapter 74 of the San Francisco Administrative Code is hereby amended by  
15 amending Sections 74.3, 74.4, 74.5, 74.6, 74.7, 74.9, 74.10, 74.11, 74.12, 74.13, 74.14, and  
16 74.15, to read as follows:

17  
18 **SEC. 74.3. ~~REAP TRUST RENT ESCROW ACCOUNT PROGRAM (REAP) FUNDS.~~**

19 The Director-DPH shall establish and maintain ~~the REAP Fund~~ *rent escrow accounts* in  
20 accordance with the ~~provisions of Rent Escrow Account Program (REAP)~~ *established by this*  
21 Chapter, and in accordance with commonly accepted fiduciary practice. ~~Funds to be used for the~~  
22 ~~purposes established by REAP shall consist of Monthly rental~~ *payments made into the fund REAP*  
23 *accounts pursuant to the provisions of this Chapter in the form of monthly rental payments of* by  
24 tenants lawfully occupying unsafe residential units ~~received by DPH pursuant to the provisions of,~~  
25 *shall be used for the purposes established by this Chapter.*

1 **SEC. 74.4. USE OF REAP FUNDS, AND USE OF HEALTH CODE SECTION 599 ARTICLE**  
2 **11 FUNDS FOR REAP PURPOSES.**

3 ~~The~~ Funds which ~~derive from Health Code Section 599 or~~ are paid into ~~the escrow~~ REAP  
4 accounts pursuant to this Chapter shall only be expended on ~~the~~ abatement of lead hazards, as  
5 ~~defined~~ determined by the Director-DPH. Alternatively, or in addition, funds made available from the  
6 Health Code Article 11 abatement fund ("Payment of Property Owner's Delinquencies for Abatement  
7 and Removal of Nuisances") may also be used by the Director-DPH for abatement of lead hazards  
8 pursuant to this Chapter. The use of ~~these~~ funds from either funding source shall be limited to the  
9 reasonable cost of materials and labor in performing the abatement work, plus administrative  
10 costs as provided in Section 74.11.

11  
12 **SEC. 74.5. PRECERTIFICATION PROCEDURES.**

13 (a) Consideration by Director-DPH for Placement in REAP. The Director-DPH may  
14 use the REAP process to abate lead hazards found in any building ~~through the REAP process.~~  
15 Consideration of ~~placement of a building containing an unsafe residential unit for placement in the~~  
16 REAP must take place no more than 10 days from the expiration of the period allowed for  
17 compliance with an order or citation issued by the citing department where the unsafe  
18 conditions listed on such order remain, or 90 days after the date such order or citation was  
19 issued, whichever ~~first~~ occurs ~~first~~. Funds available ~~to DPH~~ to abate lead hazards ~~in a building~~  
20 ~~in~~ through the REAP process shall consist of all ~~monies that have accumulated in the fund~~  
21 ~~established by Health Code Section 599 and~~ monthly rental deposits made into the REAP Trust  
22 ~~Fund~~ accounts by the eligible tenants ~~of the building in which the unsafe residential unit is situated,~~  
23 and may also include monies made available for this purpose from the Health Code Article 11  
24 abatement fund ("Payment of Property Owner's Delinquencies for Abatement and Removal of  
25 Nuisances").

1 Before any funds can be expended by the City, the Director shall review a description  
2 of the unsafe conditions, including their location within the premises, and any other  
3 information as required by such regulations as the Director-DPH may promulgate. In any  
4 actions or proceedings pursuant to this Chapter, a recommendation to use REAP shall not be  
5 invalidated solely because required information is not reviewed, is inaccurate or is incomplete.

6 (b) Notice of Decision to Use *the* REAP Process to Abate Lead Hazards. Within  
7 three days of ~~making the decision~~ *deciding* to use the REAP process to abate ~~the~~ lead hazards,  
8 the Director-DPH shall provide, ~~in writing,~~ his/her decision *in writing to utilize REAP to abate lead*  
9 *hazards in the unsafe residential unit,* to: the landlord, tenants, any interested parties, and any  
10 other person who has requested such notification *in writing.*

11 (c) Manner of Giving Notice. Notice of the decision to utilize *the* REAP ~~fund~~ *process*  
12 may be given either by personal delivery to the landlord, or ~~be deposited by~~ *deposit* in the United  
13 States mail in a sealed envelope, postage prepaid, ~~and delivered~~ to the address known to the  
14 citing division or department, or if not known, *to* the address as shown on the last equalized  
15 assessment roll. Service by mail shall be deemed complete at the time of deposit in the  
16 United States mail. The failure of any landlord or other person to receive such notice shall not  
17 affect in any manner the validity of any of the proceedings or action taken hereunder. Proof of  
18 giving any such notice may be made by a declaration signed under penalty of perjury by any  
19 employee of the City.

20  
21 **SEC. 74.6. CERTIFICATION BY THE DIRECTOR-DPH, ESCROW ACCOUNTS.**

22 Tenants may deposit their rental payments into ~~the~~ *a* REAP ~~fund~~ *account* only after the  
23 Director-DPH has certified that the work necessary to abate ~~the~~ lead hazards in the unsafe  
24 residential unit has not been performed by the owner. Such certification shall be based on a  
25 written report by a citing department containing the following information: the estimate for the

1 abatement work; the amount of monies ~~currently available in the~~ made available from the Health  
2 Code ~~Section 599 fund~~ Article 11 abatement fund ("*Payment of Property Owner's Delinquencies for*  
3 *Abatement and Removal of Nuisances*"); those monies which are likely to be made available ~~in the~~  
4 ~~from the~~ Health Code ~~Section 599 fund~~ Article 11 abatement fund within the next month; and, the  
5 amount of money likely to be collected from ~~a~~ rental deposits by tenants into REAP accounts ~~the~~  
6 ~~unsafe residential unit for the duration of the pending completion of the~~ anticipated abatement work.  
7 The Director-DPH shall make his or her decision to utilize REAP at a particular building based  
8 on the information contained in this report and on any other factors which are reasonable  
9 under the circumstances.

10 The Director-DPH shall notify all affected tenants by mail of the ~~existence~~ utilization of  
11 ~~the account~~ REAP, including an explanation of how rental payments ~~shall~~ may be deposited into  
12 ~~the a~~ REAP account. A record of all deposits made by tenants shall be maintained by the  
13 Director-DPH. The Director-DPH shall provide, at least once a month for the ~~expected~~ duration  
14 of ~~the rent~~ deposits ~~of rent~~ into REAP accounts, a report to the landlord and the tenants  
15 concerning the activity in the REAP accounts, including but not limited to, ~~the~~ provision for  
16 payment of reasonable administrative costs *pursuant to Section 74.11*. The records of such  
17 account(s) shall be reasonably available for public inspection.

#### 18 19 **SEC. 74.7. EXPENDITURE OF ~~REAP~~ FUNDS FOR REAP PURPOSES.**

20 Once the Director-DPH determines that the abatement of lead hazards can be  
21 performed with REAP funds and/or with funds from the Health Code ~~Section 599 funds~~ Article 11  
22 *abatement fund ("*Payment of Property Owner's Delinquencies for Abatement and Removal of**  
23 *Nuisances*"), the landlord and all tenants shall be notified in writing that lead hazard abatement  
24 work will be performed on the unsafe residential unit(s). Only the City or its duly hired  
25 independent contractor may utilize REAP funds and/or Health Code ~~Section 599 funds~~ Article 11

1 abatement funds ("Payment of Property Owner's Delinquencies for Abatement and Removal of  
2 Nuisances") to perform the lead hazard abatement work.

3  
4 **SEC. 74.9. RECORDING OF LIEN FOR ~~EXPENDITURE OF REAP FUNDS~~ ABATEMENT**  
5 **COSTS.**

6 Upon completion of ~~abatement of the~~ lead hazards ~~abatement through the use of REAP~~  
7 pursuant to this Chapter, the Director-DPH shall ~~file and record a lien, on a form to be prescribed by~~  
8 ~~the Director, legally describing the real property subject to REAP, stating that the lead hazards that~~  
9 ~~were observed within the building in violation of local law were abated by the expenditure of REAP~~  
10 ~~and Health Code Section 599 funds and the amount of funds so expended that are subject to the lien.~~  
11 ~~Collection of said lien shall be in accord determine whether monies accumulated through the REAP~~  
12 ~~process are sufficient to cover the costs of the abatement, including administrative costs as provided by~~  
13 ~~Section 74.11. If the monies accumulated by the REAP process are not sufficient to completely cover~~  
14 ~~these costs of abatement, the Director-DPH may recover the remainder of the costs in accordance with~~  
15 the lien procedures ~~set forth~~ provided in Chapter 10, Article XX, San Francisco Administrative  
16 Code.

17  
18 **SEC. 74.10. REFUND OF REAP FUNDS.**

19 ~~The unexpended portion of~~ REAP funds ~~derived~~ accumulated from the tenants' monthly  
20 rental deposits that are in excess of the lead hazard abatement costs (including the administrative  
21 costs as provided by Section 74.11) shall be refunded to the landlord within a reasonable time of  
22 completion of the abatement work, as evidenced by a ~~certificate~~ notice of final completion or  
23 ~~abatement notice~~ other equivalent document indicating the completion of abatement, issued by the  
24 citing department.

1 **SEC. 74.11. PAYMENT OF ADMINISTRATIVE COSTS.**

2 The owner of a property ~~for which~~ where REAP ~~funds are utilized~~ is implemented shall pay  
3 administrative costs of \$85 per hour for the time spent by ~~staff of the~~ Department of Public  
4 Health ~~staff in~~ evaluating, reviewing and monitoring the abatement of lead hazards on ~~the~~  
5 ~~landlord's~~ that property.

6  
7 **SEC. 74.12. DUTIES OF THE DIRECTOR-DPH.**

8 The Director-DPH shall, in addition to performing the duties as prescribed herein,  
9 perform the following duties pertaining to the sound and efficient administration of this  
10 Chapter. Such duties may be delegated ~~by him/her~~:

11 (a) Determination of Interested Parties. A title report ~~shall be obtained, listing that~~  
12 ~~shows~~ all persons ~~or entities~~ on the records of the County Recorder ~~as having~~ with an ownership  
13 interest or liens, encumbrances or other interests in the real property on which the building is  
14 situated, ~~shall be obtained~~. In addition, the names and addresses ~~shall be obtained~~ of any other  
15 interested party known to the Director-DPH or ~~known to~~ any member of the ~~City Agency~~ Task  
16 Force, ~~as defined by~~ (as convened pursuant to Health Code Section 1606), ~~shall be obtained~~.

17 (b) Contact with Tenants. Tenants of any ~~affected~~ building may be contacted after  
18 the decision ~~that the~~ to abate lead hazards ~~should be abated~~ by using the REAP process. Such  
19 contact may be in person or by mail, or ~~by~~ both. ~~Whatever~~ Any reasonable means ~~are necessary~~  
20 ~~may be used~~ to carry out this activity, including but not limited to, ~~contacting~~ with neighborhood  
21 organizations, ~~may be used~~.

22 Any specific responses furnished by tenants or their representatives or agents, whether  
23 or not identifiable as attributable to any individual tenant, shall be confidential.

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1     **SEC. 74.13. EFFECTS ON TENANTS' RIGHTS.**

2           (a)     Escrow Payment as Rent. The gross amount paid into ~~the a~~ REAP ~~Trust Fund~~  
3     *account* by or on behalf of a tenant shall be deemed a rent payment made in that same  
4     amount to the landlord. In any action by a landlord to recover possession of a residential unit  
5     for nonpayment of rent, the tenant may raise the fact of payments into the REAP ~~Trust Fund~~  
6     *account* as an affirmative defense in the same manner as if such payments had been made to  
7     and accepted by the landlord.

8           (b)     Recovery of Unit. A landlord may bring an action to recover possession of a  
9     rental unit that has been ~~accepted placed into the~~ REAP ~~program~~ based upon any grounds  
10    permitted by State or local law, provided that nothing in this Chapter may be construed to  
11    affect the applicability of Chapter 37 (*Residential Rent Stabilization and Arbitration Ordinance*) to  
12    those units that are subject to its provisions.

13          (c)     Retaliatory Eviction. If the landlord is seeking to recover possession of a  
14    residential unit in retaliation against the tenant for exercising his or her rights under this  
15    Chapter or because of his or her complaint to an appropriate agency as to the habitability of a  
16    residential unit, or because of any other actions or proceedings by the City under this Chapter,  
17    then the landlord may not recover possession of a residential unit in any action or proceeding  
18    or cause the tenant to quit involuntarily.

19  
20    **SEC. 74.14. ~~OTHER~~ SUPPLEMENTAL SOURCES OF FUNDS.**

21           *In addition to the sources of funds specifically identified in this Chapter (i.e., REAP accounts,*  
22    *and the Health Code Article 11 abatement fund),* ~~The~~ Director-DPH shall endeavor to identify and  
23    obtain supplemental funds from other sources, ~~of funds other than those identified in this Section that~~  
24    ~~may supplement the moneys available through REAP and Health Code Section 599 as may be needed~~  
25    to successfully abate ~~the~~ unsafe conditions pursuant to this Chapter. *If obtained, such*

1 *supplemental funds may be utilized by the Director-DPH, consistent with the purposes of this Chapter.*  
2 The Director-DPH shall make ~~this~~ information *on any supplemental funding sources* reasonably  
3 available on a regular basis.  
4

5 **SEC. 74.15. APPLICABILITY OF CHAPTER 37, SAN FRANCISCO ADMINISTRATIVE**  
6 **CODE.**

7 Rent increases for those units subject to Chapter 37 (*Residential Rent Stabilization and*  
8 *Arbitration Ordinance*) continue to be governed by the provisions of that ~~Chapter~~. Units not  
9 within the scope of that Chapter shall be governed by the terms and conditions of a written  
10 lease, if any, and applicable *federal, State, and local laws and regulations* other than Chapter  
11 37.  
12  
13  
14

15 APPROVED AS TO FORM:  
16 LOUISE H. RENNE, City Attorney  
17

18 By:   
19 MARIE CORLETT BLITS  
20 Deputy City Attorney  
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# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 001923

**Date Passed:**

Ordinance amending Administrative Code Chapter 74 "Rent Escrow Account Program," by amending Sections 74.3, 74.4, 74.5, 74.6, 74.7, 74.9, 74.10, 74.11, 74.12, 74.13, 74.14, and 74.15, to more specifically describe the relationship of this lead abatement program to provisions in San Francisco Health Code Article 11 regarding abatement of public nuisance, to clarify implementation procedures, and non-substantive technical changes.

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December 11, 2000 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

December 18, 2000 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Yaki, Yee

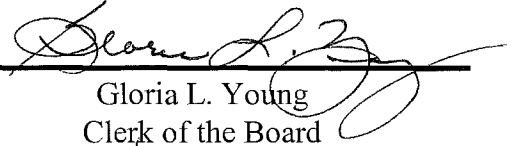
Absent: 2 - Katz, Teng

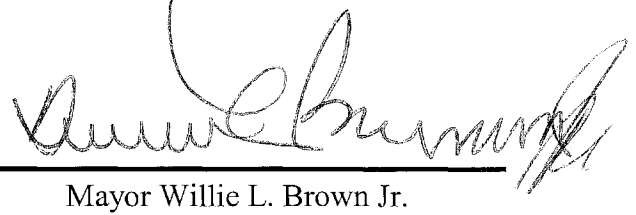
File No. 001923

I hereby certify that the foregoing Ordinance was FINALLY PASSED on December 18, 2000 by the Board of Supervisors of the City and County of San Francisco.

DEC 28 2000

Date Approved

  
Gloria L. Young  
Clerk of the Board

  
Mayor Willie L. Brown Jr.