[Authorizing administrative penalties for littering and specified nuisance violations.]

Ordinance amending Sections 37, 38, and 63 of the Police Code, Sections 41.13, 283.1, 287 and 600 of the Health Code and Sections 170, 173, 174, 174.2, 184.63, and 724.5 of the Public Works Code to authorize the assessment of administrative penalties as an alternative to infractions for littering and specified nuisance violations and authorize specified classes of employees to issue such penalties; amending the Police Code by adding a new Section 39-1 to establish procedures for the imposition, review and collection of administrative penalties.

Note: Additions are single-underline italics Times New Roman; deletions are strikethrough italics Times New Roman.

Board amendment additions are double underlined. Board amendment deletions are strikethrough normal.

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

Section 1. The San Francisco Police Code is hereby amended by amending Sections 37, 38 and 63, and adding a new Section 39-1, to read as follows:

SEC. 37. PENALTY.

(a) Any person who shall violate any of the provisions of Sections 33, 34, 35 or 36 of this Article shall be guilty of an infraction and, upon conviction thereof, shall be punished for the first offense by a fine of not less than $80 nor more than $100; and for a second offense by a fine of not less than $150 nor more than $200; and for each additional offense by a fine of not less than $300 nor more than $500.

(b) Any person who shall violate any of the provisions of Section 35(a) of this Article shall be guilty of an infraction and, upon conviction thereof, shall be punished for the first offense by a fine of not less than $80 nor more than $100; for a second offense by a fine of
not less than $150 nor more than $200; and for each additional offense by a fine of not less than $300 nor more than $500.

(c) Alternatively, any person who violates any of the provisions of Sections 33, 34, or 35(a) of this Article shall be subject to an administrative penalty not to exceed $300 for each violation. Administrative penalties authorized by this section shall be assessed, enforced and collected in accordance with Section 39-1 of this Code.

SEC. 38. ENFORCEMENT OF LITTER LAWS; DESIGNATED OFFICERS AND EMPLOYEES.

The classes of officers or employees of the City and County of San Francisco hereinbelow set forth may have the duty of enforcing those provisions of state law or the San Francisco Municipal Code which relate to abatement of nuisance conditions on public property or the littering of private or public property, including, but not limited to, streets, sidewalks, parks, squares or recreation areas within said City and County, the removal or abatement of any such litter from said private or public property or the unauthorized use of litter receptacles. In addition to any other authority provided by state law or the Municipal Code, each of these classes of officers or employees may also issue citations or notices of violation imposing administrative penalties authorized by Section 39-1.

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<tr>
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<tr>
<td>0941</td>
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<tr>
<td>1312</td>
<td>Public Information Officer (positions assigned to the Department of Public Works only)</td>
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<td>1314</td>
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<td>3130</td>
<td>Arboretum Director</td>
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Supervisors McGoldrick, Peskin, Maxwell
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<td>3422 Park Section Supervisor</td>
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<td>3426 Urban Forester</td>
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<td>3438 Tree Crew Supervisor II</td>
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<td>3440 Landscaping and Street Planting Supervisor</td>
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<td>3464 Area Supervisor, Parks, Squares and Facilities</td>
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<td>5170 Superintendent, Street Cleaning and Tree Planting</td>
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<tr>
<td>5173 Assistant Superintendent, Street Cleaning and Tree Planting</td>
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Supervisors McGoldrick, Peskin, Maxwell

BOARD OF SUPERVISORS

1

Planting

2

5182 Deputy Director of Engineering

3

5190 Director of Public Works

4

5194 Deputy Director for Operations

5

6120 Environmental Health Inspector

6

6122 Senior Environmental Health Inspector

7

6124 Principal Environmental Health Inspector

8

6126 Chief, Bureau of Environmental Health Services

9

6127 Assistant Chief, Bureau of Environmental Health Services

10

6230 Street Inspector

11

6231 Senior Street Inspector

12

6232 Street Inspector Supervisor

13

7215 General Laborer Supervisor I

14

7281 Street Cleaning General Foreman

15

8208 Park Patrol Officer

16

8210 Head Park Patrol Officer

17

8214 Parking Controlman

18

8280 Environmental Control Officer

19

8282 Senior Environmental Control Officer

20

H4** Inspector, Bureau of Fire Prevention and Public Safety

21

H220 Lieutenant, Bureau of Fire Prevention and Public Safety

22

H32 Captain, Bureau of Fire Prevention and Public Safety
SEC. 39-1. PROCEDURE FOR ASSESSMENT AND COLLECTION OF ADMINISTRATIVE PENALTIES FOR SPECIFIED LITTERING AND NUISANCE VIOLATIONS.

(a) This Section shall govern the imposition, assessment and collection of administrative penalties imposed pursuant to Sections 37, 38, and 63 of the Police Code, Sections 41.13, 283.1, 287, and 584600 of the Health Code, and Sections 170, 173, 174, 174.2, 184.63 and 724.4, 724.5 of the Public Works Code.

(b) The Board of Supervisors finds:

(1) That it is in the best interest of the City and its citizens to provide an alternative, administrative penalty mechanism for enforcement of the littering and nuisance violations covered by this section in addition to the existing enforcement mechanisms authorized under the California Penal Code; and

(2) That the administrative penalty scheme established by this section is not intended to be punitive in nature, but is instead intended to compensate the public for the injury and damage caused by the prohibited conduct. The administrative penalties authorized under this section are intended to be reasonable and not disproportionate to the damage or injury to the City and the public caused by the prohibited conduct.

(b)(c) Administrative Citation. Where an officer or employee designated in Section 38 determines that there has been a violation of a local litter or nuisance law that authorizes imposition of an administrative penalty, the officer or employee may issue an administrative citation to the person and/or entity responsible for the violation. For purposes of this Section, an entity is responsible if an officer, employee or agent of the entity commits the violation. The citation shall inform the person or entity responsible of the date, time, place and nature of the violation and the amount of the
proposed penalty, and shall state that the penalty is due and payable to the City Treasurer within 15 City business days from the date of the notice, if not contested within the time period specified. The citation shall also state that the person or entity responsible has the right, pursuant to Subsection (e)(d), to request administrative review of the citing officer or employee’s determination as to the violation and assessment of penalties, and shall set forth the procedure for requesting administrative review. The notice shall inform the owner of the date, time, place and nature of the violation and the amount of the proposed penalty, and shall state that the penalty becomes effective if not contested within the time period specified. In addition, the notice shall set forth the procedures for requesting the hearing. The Director shall serve the administrative citation as follows:

1. Where there is a nexus between the violator and a specific property:
   (A) One copy of the Notice shall be posted in a conspicuous place upon the building or property.
   (B) One copy of the Notice shall be served upon each of the following:
      (i) The person, if any, in real or apparent charge and control of the premises or property involved;
      (ii) The owner of record.
   Service required by subparagraph (B) may be made by personal service or by certified mail.

2. Where the issuing officer or employee is unable to ascertain a nexus between the violation and property within the City, a completed copy of the administrative citation may be served on the individual who has committed the violation by presenting the person with a completed copy of the citation personal service or by certified mail.

3. For purposes of this Section, there is a nexus where activity on the property has caused, contributed to, or been a substantial factor in causing, the violation.
(e)(d) Request for Hearing: Hearing.

(1) A person or entity that has been issued an administrative citation may request administrative review in order to contest the notice of violation citation issued in accordance with this section. Administrative review shall be initiated by filing a request for administrative review with the Director of Public Works within 15 City business days from the date of the notice of violation citation. Failure to request a hearing within the time specified in the notice citation shall be deemed an admission that the cited person or entity committed the violation identified in the administrative citation.

(2) Whenever administrative review is requested pursuant to this Section, the Director of Public Works shall, within five City business days of receipt of the request, notify the requestor of the date, time, and place of the administrative review hearing by certified mail. Such hearing shall be held no later than thirty (30) calendar days after the Director receives the request, unless time is extended by mutual agreement of the affected parties.

(3) The administrative review hearing shall be conducted by a neutral hearing officer from outside the Department of Public Works and the department whose employee issued the citation assigned by the Director of Administrative Services. The Director of Administrative Services may issue rules as needed to implement this requirement. The parties may present evidence and testimony to the hearing officer. All testimony shall be under oath. The hearing officer shall ensure that a record of the proceedings is maintained. The burden of proof to uphold the violation shall be on the City, but the administrative citation shall be prima facie evidence of the violation.

(4) The hearing officer shall issue a decision including a summary of the issues and the evidence presented, and findings and conclusions, within ten (10) calendar days of the conclusion of the hearing. The hearing officer may uphold the penalty imposed by the citation, reduce the penalty, or dismiss the citation. A copy of the decision shall be served by certified mail upon the
person or entity contesting the violation. The decision shall be a final administrative determination. An aggrieved party may seek judicial review of the decision pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6.

(d)(e) Payment and Collection of Penalty

(1) Where a person or entity has not made a timely request for administrative review, the penalty shall be due and payable to the City Treasurer on or before 15 City business days from the date of issuance.

(2) Where a person or entity has made a timely request for administrative review, and the penalty has been upheld in whole or in part upon review, unless a timely notice of appeal of the hearing officer's decision is filed, any administrative penalty imposed by the hearing officer shall be due and payable not later than ten City business days from the date of the notice of decision issued under subparagraph (e)(d)(4).

(3) If all or any portion of the amount a penalty due and payable under paragraphs (1) or (2) remains unpaid after the specified due date, the Director of Public Works shall send the violator written notice that the penalty is overdue. Penalties that remain unpaid 30 days after the due date shall be subject to a late payment penalty of ten percent (10%) plus interest at the rate of one percent (1%) per month on the outstanding balance, which shall be added to the penalty amounts from the date that payment is due. Persons and entities against whom administrative penalties are imposed shall also be liable for the costs and attorney's fees incurred by the City and County in bringing any civil action to enforce the provisions of this section, including obtaining a court order or judgment for the amount requiring payment of the administrative penalty and other costs and charges.

(2)(4) Where there is a nexus between the violation and property in the City owned by the violator, the Director shall further inform the violator that if the amount due is not paid within 30 days from the date of the notice, the Director shall initiate proceedings to make the amount due and all
additional authorized costs and charges, including attorneys fees, a lien on the property. Such liens
shall be imposed in accordance with Chapter 10, Article XX of the Administrative Code.

(e)(f) The revenues generated by penalties from an administrative citation issued pursuant to
this Section may be expended only by the department that is responsible for issuing the administrative
citation, except that each department other than Public Works that issues administrative citations
pursuant to this Section shall reimburse the Department of Public Works for the costs incurred by the
Department of Public Works in administering review of those citations issued by the other department.

The revenues from administrative citations issued by Class 8280 Environmental Control Officers and
8282 Senior Environmental Control Officers may be expended exclusively by the Department of
Public Works for the purpose of funding litter enforcement and abatement except where the use or
expenditure of those revenues is specifically directed by law to another program within the Department
of Public Works.

SEC. 63. OBSTRUCTIONS ON STREETS AND SIDEWALKS.

(a) It shall be unlawful for any person, firm or corporation, occupying or having charge
or control of any premises, to place or cause to be placed, or suffer to remain upon the
sidewalk, or upon the half of the street in front of such premises, any Article or substance
which shall obstruct the passage of such street or sidewalk.

(b) It shall be unlawful for any person, firm or corporation to enter into a lease, rental
agreement or contract of any kind, written or oral, with or without compensation, for the use of
any street or sidewalk.

(c) As an alternative to any other fines or penalties applicable to a violation of this section, any
person, firm or corporation who is in violation of this section shall be subject to an administrative
penalty not to exceed $300 for each violation. The administrative penalty shall be assessed, enforced
and collected in accordance with Section 39-1 of this Code.
Section 2. The San Francisco Health Code is hereby amended by amending Sections 41.13, 283.1 287, and 584-600, to read as follows:

SEC. 41.13. PENALTIES.

Any person violating any of the provisions of Sections 41.1 through 41.12, inclusive, of this Article, except the provisions of Sections 41.5.1, 41.11(c), 41.12(a) and 41.12(d), shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $500 or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment.

Any person violating the provisions of Sections 40, 41.11(c) and 41.12(a) of this Article shall be deemed to be guilty of an infraction and upon conviction thereof shall be punished for the first offense by a fine not to exceed $10; for the second offense by a fine not to exceed $25; for a third and each additional offense by a fine not to exceed $50.

Any person violating the provisions of Section 41.12(d) of this Article shall: (1) upon the first offense in any 12-month period, be deemed to be guilty of an infraction and upon conviction thereof shall be punished by a fine not to exceed $10; (2) upon the second offense in any 12-month period, be deemed to be guilty of an infraction and upon conviction thereof shall be punished by a fine not to exceed $50; (3) upon the third and each additional offense in any 12-month period, be deemed to be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $500 or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment.

Any person violating the provisions of Section 41.5.1 of this Article shall be subject to the penalties provided in said section.

In the alternative to any other penalty imposed under this Section for a violation of Section 40, a person violating Section 40 may be assessed an administrative penalty not to exceed $300 for each
violation. Such penalty shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.

SEC. 283.1. PENALTY.

Any person, firm or corporation violating any of the provisions of Section 283 of this Article shall be guilty of an infraction and, upon conviction thereof, shall be punished for the first offense by a fine of not less than $80 nor more than $100; and for a second offense by a fine of not less than $150 nor more than $200; and for each additional offense by a fine of not less than $250 nor more than $500. In the alternative, any person, firm or corporation violating any of the provisions of Section 283 of this Article may be assessed an administrative penalty not to exceed $300 for each violation. Such penalty shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.

SEC. 287. PENALTIES.

Any person who shall violate any of the provisions of Section 280 or 286 of this Article, shall be guilty of an infraction or a misdemeanor. If charged as an infraction, upon conviction thereof, said person shall be punished for the first offense by a fine of not less than $80 nor more than $100; for a second offense by a fine of not less than $150 nor more than $200; and for each additional offense by a fine of not less than $250 nor more than $500.

If charged as a misdemeanor, upon conviction thereof, said person shall be punished by imprisonment in the County Jail not exceeding one year or a fine not exceeding $1,000.

The complaint charging such violation shall specify whether the violation is a misdemeanor or infraction, which decision shall be solely that of the District Attorney.

As an alternative to any other fines or penalties applicable to a violation of Section 280 of this Article, any person who is in violation of Section 280 may be subject to an administrative penalty not to exceed $300 for each violation. The administrative penalty shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.
SEC. 581. NUISANCE PROHIBITED.

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) Any violation of Section 37 of this Code;

(13) Any violation of Section 92 of this Code;

(14) Any violation of Section 590 of this Article;

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

(e) As an alternative to any other fines or penalties applicable to a violation of
subparagraphs (b)(1), (b)(2) or (b)(3) of this section, any Person who is in violation of one or
more of those subparagraphs shall be subject to an administrative penalty not to exceed
$300. The administrative penalty shall be assessed, enforced and collected in accordance
with Section 39.1 of the Police Code.
SEC. 600. PENALTY.

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

As an alternative to any other fines or penalties applicable to a violation of subparagraphs (b)(1), (b)(2) or (b)(3) of Section 581, any person or their agents who are in violation of one or more of those subparagraphs shall be subject to an administrative penalty not to exceed $300 for each violation. The administrative penalty shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.

Section 3. The San Francisco Public Works Code is hereby amended by amending Sections 170, 173, 174.2, 184.63, and 724.4724.5 to read as follows:

SEC. 170. GARBAGE RECEPTACLES.

(a) Garbage Receptacles Prohibited on Sidewalk, Street, or Any Public Right-of-Way. Except as otherwise provided in Sections 170.1 and 173, Chapter X, Part II, San Francisco Municipal Code (Public Works Code), no person, firm or corporation occupying or having charge or control of any premises shall place or cause to be placed, or suffer to remain, upon the sidewalk, street or any other dedicated public right-of-way, any can, container or receptacle used for the collection of garbage, refuse, ashes, cinder, sludge, offal, broken glass, crockery, tins, boxes, animal or vegetable matter, rubbish or other like matter, except on the day the contents of said receptacle are to be collected by the licensed collector thereof or after the hour of 6:00 p.m. of the day immediately prior to the day of said collection; provided further, that any person, firm or corporation occupying or having charge of any...
commercial premises shall remove any such receptacle from the sidewalk, street or other dedicated public right-of-way immediately after the contents of said receptacle have been collected or immediately upon opening said premises for business on the day of said collection.

(b) The Director of Public Works, in issuing any written notice to abolish, abate and remove a nuisance under Section 174.1 of this Article, may direct any person, firm or corporation occupying or having charge of any commercial premises, to securely lock every can, container or receptacle placed for collection pursuant to Section 170(a) on any area open to the public, to prevent access to the contents thereof by any person other than the licensed refuse collector. Any such written notice shall be issued as set forth in Section 174.1.

(c) Each violation of Subsection (a) shall constitute an infraction and shall be punishable by a fine of not less than $80 nor more than $100; for a second offense by a fine not less than $150 nor more than $200; and for each additional offense by a fine not less than $250 nor more than $500. In the alternative, an administrative penalty not to exceed $250 may be assessed for each violation. Such penalty shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.

SEC. 173. PLACEMENT AND MAINTENANCE OF LITTER RECEPTACLES.

(a) It is the intent of this Section to ensure that public areas are kept clean and free from litter.

(b) Any person, firm or corporation operating a grocery store, a liquor store or an establishment selling food or beverages for consumption off the premises shall place and maintain a litter receptacle outside of each exit from said premises for the use of the patrons thereof during business hours.

(c) Any person, firm, corporation, or property owner operating a place of employment shall provide and maintain adjacent to the place of employment sufficient ashtrays or other
receptacles for the disposal of cigarettes, cigars, and other similar combustible products used
by employees and patrons who smoke. The Director of Public Works shall authorize the
placement of such ashtrays or other receptacles in the public right-of-way where necessary.

(d) The design, capacity, location, and number of ashtrays and receptacles shall be
prescribed by the Director of Public Works. Decals may be placed upon said receptacles
subject to the limitations set forth in Section 171 of this Article.

(e) The receptacle shall be emptied when full and at the close of business each day
and the contents thereof shall be stored or set out for collection in the same manner as other
refuse generated in the operation of the business. Each receptacle shall be maintained in a
clean and sanitary condition.

(f) Violation of this Section shall constitute an infraction and shall be punishable by a
fine of not less than $80 nor more than $100; for a second offense by a fine not less than
$150 nor more than $200; and for each additional offense by a fine not less than $250 nor
more than $500. In the alternative, an administrative penalty not to exceed $250 may be assessed for
each violation. Such penalty shall be assessed, enforced and collected in accordance with Section 39-1
of the Police Code.

SEC. 174.2. PENALTIES FOR VIOLATION.

Any owner of property or any business occupying property which abuts a public
sidewalk, stairway or other pedestrian right-of-way for public pedestrian travel, or both such
owner and business jointly and severally, who fail to comply with the Director of Public Works'
notice to abate the nuisance as specified in Section 174.1 of this Code shall be subject to an
environmental administrative penalty of not more than $250, assessed, enforced and collected in
accordance with Section 39-1 of the Police Code. Further, a violation of any of the provisions of
this Article shall constitute an infraction. Upon conviction thereof, said owner of the abutting
property and/or the business occupying the abutting property shall be punished for the first
offense by a fine of not less than $30 or more than $100 and for a second and each additional
offense by a fine of not less than $100 or more than $500. The provisions of this Section shall
not apply to any department, board or commission of the City and County.

SEC. 184.63. CIVIL PENALTY.

(a) Any Person in violation of any provision of this Article and of failing to pay the
amount billed such Person for such violation shall be liable for payment of a civil penalty in an
amount equal to (1) the costs incurred by the City occasioned by the failure to remove Signs
and by damaged property occasioned by their posting or removal, and (2) the costs to the City
incurred in obtaining imposition of such civil penalties through litigation, including the cost of
paying City employees or other persons to engage in the litigation, and (3) an additional
amount equal to 50 percent of the total of (1) and (2) of this Subsection. Alternatively, the civil
penalty authorized by this Section may be assessed as an administrative penalty, and by an administrative citation issued by Department of Public Works officials
designated in Section 38 of the Police Code. Such administrative penalties shall be assessed,
enforced and collected in accordance with Section 39-1 of the Police Code, and shall include the
costs to the City incurred in obtaining the imposition of the penalty, including the cost of
paying City employees to engage in the administrative process.

(b) All monies received by the City in payment to civil penalties for violation of this
Article shall be deposited to the credit of the Bureau of Street Environmental Services of the
Department of Public Works in a special fund, to be entitled "Sign Removal Fund." Revenue
from such fund shall be used exclusively for the costs related to the removal of illegally posted
Signs and repair of City property damaged by such posting. Balances remaining in the fund at
the close of any fiscal year shall have been deemed to have been provided for a specific
purpose within the meaning of Section 9.113 of the Charter, and shall be carried forward and
accumulated in said fund for the purposes recited herein. The monies received into this fund are hereby appropriated exclusively for the purposes set forth herein.

SEC. 724.5. EXCEEDING PERMISSIBLE USE OR OCCUPATION WITHOUT PERMISSION - PENALTY FEE AND CRIMINAL PENALTY.

(a) If the Director of Public Works determines that the permittee has exceeded the scope of the temporary street occupancy permit, either in terms of duration or area, or determines any other violation of the permit terms or conditions has occurred, the Director of Public Works shall order the permittee to correct the violation within a specified time period. If any person has occupied public right-of-way without permission for purposes of building construction operation or for any other purpose, the Director shall immediately order the violator to vacate the occupied area. Should the violation not be corrected as ordered or in the case of occupation without a permit, the permittee or person shall pay a penalty fee of up to $1,000 per day for each day of violation. Failure to pay any fee assessed under these provisions shall constitute good cause for immediate revocation of the temporary street occupancy permit or removal of unpermitted obstructions, and the project property shall be subject to a lien in the same amount, in accordance with the requirements of Article XX of Chapter 10 of the San Francisco Administrative Code, commencing with Section 10.230.

(b) Criminal Penalty.

(1) Any person who shall violate any of the provisions of this Section shall be guilty of an infraction at each location where such violation occurs. Every violation determined to be an infraction is punishable by (1) a fine not exceeding $100 for the first violation within one year; (2) a fine not exceeding $200 for a second violation within one year from the date of the first violation; (3) a fine not exceeding $500 for the third and each additional violation within one year from the date of the first violation.
(2) When a government official authorized to enforce this Section has reasonable
cause to believe that any person has committed an infraction in the official's presence that is a
violation of this Section, the official may issue a citation to that person pursuant to California
Penal Code, Part II, Title 3, Chapters 5, 5C, and 5D.

(c) Administrative Penalty.

In the alternative to the criminal penalty authorized by Subsection (b), an of this Section for
violations of Section 724.4(a), Department of Public Works officials designated in Section 38
of the Police Code may issue administrative penalty citations for violations of Section 724(a).
The administrative penalty shall not exceed $300 may be assessed for each violation. Such
penalty shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.

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

By: DAVID A. GREENBURG
Deputy City Attorney
Ordinance amending Sections 37, 38, and 63 of the Police Code, Sections 41.13, 283.1, 287 and 600 of the Health Code and Sections 170, 173, 174, 174.2, 184.63, and 724.5 of the Public Works Code to authorize the assessment of administrative penalties as an alternative to infractions for littering and specified nuisance violations; amending the Police Code by adding a new Section 39-1 to establish procedures for the imposition, review and collection of administrative penalties.

April 22, 2003  Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE
Ayes: 11 - Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Newsom, Peskin, Sandoval

April 22, 2003  Board of Supervisors — PASSED ON FIRST READING AS AMENDED
Ayes: 10 - Ammiano, Daly, Dufty, Gonzalez, Ma, Maxwell, McGoldrick, Newsom, Peskin, Sandoval
Noes: 1 - Hall

April 29, 2003  Board of Supervisors — FINALLY PASSED
Ayes: 11 - Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Newsom, Peskin, Sandoval
I hereby certify that the foregoing Ordinance was FINALLY PASSED on April 29, 2003 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Date Approved

Mayor Willie L. Brown Jr.