

FILE NO. 070621

1 [Declaring a public nuisance.]

2
3 **Ordinance amending Article 18 of the San Francisco Public Works Code by adding**
4 **Section 944 to declare a public nuisance any property located in a underground utility**
5 **district in which the property owner has refused to comply with an order from the**
6 **Director of Public Works to install conduits and associated equipment necessary to**
7 **obtain utility service at a building or structure on the property; amending Section 926**
8 **of the Public Works Code to allow the City to recover all costs incurred by the City in**
9 **connection with abating the public nuisance; amending Sections 900, 915, and 919**
10 **through 930 of the Public Works Code consistent with this legislation; and further**
11 **amending Sections 900, 901, 906, 908 through 911, and 938 of the Public Works Code**
12 **to make certain technical changes that are necessary to bring those sections up-to-**
13 **date.**

14 Note: Additions are single-underline italics Times New Roman;
15 deletions are ~~strikethrough italics Times New Roman~~.
16 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough-normal~~.

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

18 Section 1. Findings.

19 (a) Since 1997, the City and County of San Francisco and Pacific Gas & Electric
20 Co. ("PG&E") have engaged in an ambitious program to underground utility poles in over 50
21 miles of public rights-of-way.

22 (b) Under PG&E Electrical Tariff Rule 20A, PG&E may use ratepayer money to
23 underground the electrical facilities on streets that have been legislated by the City that:

24 (i) have an unusual heavy concentration of overhead electric facilities; (ii) are extensively used
25 by the general public and carry a heavy volume of pedestrian or vehicular traffic; (iii) adjoin or

1 pass through a civic area or public recreation area or an area of unusual scenic interest to the
2 general public; or (iv) are part of a public street improvement. PG&E can also use Rule 20A
3 funds to underground legislated underground districts where PG&E is replacing gas pipelines.

4 (c) As the Board of Supervisors determined when it legislated these districts,
5 undergrounding the utility facilities there is in the public interest.

6 (d) As part of the undergrounding program, PG&E, along with other utilities
7 including AT&T and Comcast, must bring the newly undergrounded utility facilities to within
8 one foot of the building on the property. Property owners are responsible for the costs of
9 bringing the newly undergrounded utilities to the building on the property.

10 (e) For the most part, property owners have cooperated with the City. They have
11 hired licensed electrical contractors to install the necessary facilities.

12 (f) However, in undergrounding districts throughout the City certain property
13 owners have ignored orders issued by the Director of Public Works to complete the necessary
14 work. In many cases, this failure is not due to lack of financial resources. The Mayor's Office
15 of Housing has grants available to qualifying low-income households to offset these costs.

16 (g) Of the 8,524 properties in the 74 underground districts that are part of the City's
17 undergrounding program, more than 5,114 property owners have installed these facilities
18 either at their own expense or with funds obtained from the Mayor's Office of Housing Utility
19 Underground Grant Program. The remaining 3,410 property owners have failed to complete
20 the required work as specified by the Director. While most of these property owners have
21 begun the work and will likely complete it, the Department of Public Works ("Department")
22 estimates that 300 property owners have refused even to begin the work and are unlikely to
23 respond to further demands from the Department.

24 (h) Because these properties are not ready to receive utility services from the newly
25 undergrounded facilities, PG&E is unable to complete the undergrounding project in the

1 districts where these properties are located by cutting service over to the underground
2 facilities and removing the existing utility poles. This is a nuisance to other property owners in
3 the districts, who have suffered the inconvenience of the undergrounding work and incurred
4 the expense to ready their properties.

5 (i) Under existing law, the Director has certain remedies against a property owner
6 that fails to comply with a Director's order to perform the required construction including:

7 (i) removing the existing overhead utility facilities; and (ii) completing the required work and
8 assessing the costs on the property.

9 (j) The Director has never ordered the poles to be removed, despite the refusal of
10 one or more property owners in a district, because properties without underground facilities
11 would lose their utility services. The Director has also never completed the required work
12 because the Department had determined that to do so would require the Department to enter
13 the building on the property, which the Department could not do without the property owner's
14 permission or a court order.

15 (k) Recently the Department, working with PG&E and the Department of Building
16 Inspection, has determined that the work could be completed without entering the building on
17 a property.

18 (l) PG&E is willing to do this work for the City, but PG&E cannot use Rule 20A
19 funds for this purpose.

20 (m) The Department has the funds available and is willing to fund this work. The
21 Department intends to enter into an agreement with PG&E to establish the terms and
22 conditions under which PG&E will do this work for the City.

23 (n) Under the legislation, the City would declare these properties a public nuisance.
24 As a result, and in accordance with California Government Code Section 38873.5, the City
25 could impose a special assessment on the properties to obtain reimbursement from the

1 property owner for funds expended by the Department. The assessment would include all of
2 the City's costs for abating the nuisance.

3 (o) The legislation also contains certain other amendments to Article 18 of the
4 Public Works Code. Article 18 was added to the Public Works Code in 1972 and was last
5 amended in 1984. This legislation contains technical amendments to certain sections in
6 Article 18 because these sections are out-of-date due to changes to various City laws.

7 Section 2. Article 18 of the San Francisco Public Works Code is hereby amended by
8 adding Section 944, to read as follows:

9 SEC. 944. DECLARATION OF PUBLIC NUISANCE.

10 Any property in which the property owner has failed to comply with an order issued by
11 the Director under Section 923 is declared to be a public nuisance and the City may take all lawful
12 action to abate the nuisance.

13 Section 3. Article 18 of the San Francisco Public Works Code is hereby amended by
14 amending Sections 900, 901, 906, 908 through 911, 915, and 919 through 930, to read as
15 follows:

16 SEC. 900. DEFINITIONS.

17 Unless the context specifically indicates otherwise, the meaning of terms in this
18 Article shall be as follows:

19 (a) "Board" shall mean the Board of Supervisors of the City and County of
20 San Francisco.

21 (b) "City" shall mean the City and County of San Francisco.

22 (c) "City Administrator" means the City Administrator of the City and County of
23 San Francisco.

24 (ed) "Department" shall mean the Department of Public Works of the City and
25 County of San Francisco.

1 (d~~e~~) "Director" shall mean the Director of the Department of Public Works of
2 the eCity and County of San Francisco.

3 (f) "Director of Transportation" shall mean the Director of the Municipal
4 Transportation Agency of the City and County of San Francisco.

5 (eg) "General Manager" shall mean the General Manager of the Public Utilities
6 Commission of the City and County of San Francisco.

7 (fh) "Municipal Railway" shall mean the Municipal Railway of the City and
8 County of San Francisco including the tracks, overhead lines and power feeder systems.

9 (i) "Municipal Transportation Agency" shall mean the Municipal Transportation
10 Agency of the City and County of San Francisco.

11 (gi) "Owner or Operator" shall mean any person, firm, corporation, or public
12 or private utility, owning, controlling or operating any utility facility upon, in, over or under the
13 streets or places of the City and County of San Francisco.

14 (hk) "Places" shall mean any public park or pleasure ground and common
15 which has been dedicated and accepted according to law.

16 (l) "Property" shall mean any real property in the City and County of San
17 Francisco. Where any building or structure on real property is a condominium, planned development,
18 community apartment, or stock corporation, "property" shall mean each separate unit.

19 (m) "Property owner" shall mean any person, firm, association, limited liability
20 corporation, corporation, or other legal entity owning or controlling real property in the City and
21 County of San Francisco. Where any building or structure on real property is a condominium, planned
22 development, community apartment, or stock corporation, "property owner" shall mean any person,
23 firm, association, limited liability corporation, corporation, or other legal entity owning or controlling
24 any unit.

1 (*in*) "Public Utilities Commission" shall mean the Public Utilities Commission
2 of the City and County of San Francisco.

3 (*jo*) "Serving Company" shall mean the person, firm, corporation or utility
4 supplying the electrical service for electric lighting, heat, power, telephone, telegraph,
5 television signal, or any other type of electrical service.

6 (*kp*) "Shall" is mandatory; "may" is permissive.

7 (*mq*) "Sidewalk" shall mean the area between the curb and the property line,
8 as set forth in Ordinance 1061, entitled "Regulating the widths of Sidewalks" (approved
9 December 18, 1903), ~~and Subsections.~~

10 (*nr*) "Streets" shall mean the public area, between property lines, of any
11 avenues, highways, boulevards, lanes, roads, parkways, freeways, alleys, crossings or
12 intersections, and courts or other public ways.

13 (*os*) "Underground" and "Undergrounding" shall mean the complete and
14 permanent removal of the overhead utility facilities defined in subsection (*ps*) hereof, except
15 such utility facilities as are specifically exempted in Section 914; also, a complete installation
16 beneath the surface of a street, public place, or stated area, of such utility facilities.

17 (*pt*) "Underground District" shall mean a street, or streets, public place, or
18 stated area, within which overhead utility facilities, as defined in subsection (*ps*) hereof, shall
19 be prohibited and existing overhead utility facilities shall be removed or converted to an
20 underground installation. New utility facilities, when installed, shall be a complete installation
21 beneath the surface of the street, or streets, public place, or stated area, except such utility
22 facilities as are specifically exempted in Section 914.

23 (*pu*) "Utility facility" shall mean pipes, wires, tracks, conduits, tunnels, poles or
24 other overhead supporting structures, with any appurtenances, or any other structures of any
25 nature, upon, in, over or under the streets or places of the City and County of San Francisco

1 which are used for the purpose of supplying or conveying any services or substances within
2 the limits of the City and County of San Francisco.

3 SEC. 901. PERMITS - CONSENT.

4 Every owner or operator of any utility facility before installing, locating or
5 relocating any utility facility shall file with the Director of Public Works a written application for
6 a permit to do such work and obtain a written permit ~~therefor~~for the work as provided in Article
7 §2.4. In accepting such permit the permittee expressly consents to regulation by any
8 applicable rules or ordinances. ~~The provisions of this Section shall not prevent any such owner or~~
9 ~~operator from performing work of an emergency nature without a permit, but such owner or operator~~
10 ~~shall, as promptly as possible after the commencement of such work, file an application for a permit.~~

11 SEC. 906. NOTICE TO REMOVE OR RELOCATE UTILITY FACILITIES.

12 (a) Whenever any public work is authorized by the Board to be done under
13 the supervision of the Director upon, in, over or under any of the streets, the Director, before
14 the commencement of the work, shall notify in writing any owner or operator having utility
15 facilities of any nature upon, in, over or under the streets to remove or adjust so much of his
16 or their facilities as will allow the prosecution of the public work. The Notice shall be
17 accompanied by a copy of the plans and specifications for the authorized public work showing
18 the location of the work in the streets and describing the same. The Notice shall specify a time
19 within which all affected utility facilities must be removed or adjusted.

20 (b) The evolution of urban rail, trolley coach and motor bus passenger
21 systems from private operations under franchise operating without tax subsidies to publicly
22 owned and operated systems under federal, state and local policies mandating intra-city
23 passenger service at revenue levels which require a substantial measure of tax support, the
24 paramount right of the people as a whole to use the public street, and the level of service
25 provided being essential to the circulation, health, safety, comfort and welfare of people in an

1 urban setting, and the need for improved transportation systems to meet increasing demand
2 for development and maintenance of an adequate, safe and efficient transportation system
3 requires that this service be recognized and defined as a governmental activity within the
4 eCity's police powers. Accordingly, whenever any public work relating to the Municipal
5 Railway is authorized by the ~~Public Utilities Commission~~Municipal Transportation Agency to be
6 done under the supervision of the ~~General Manager~~Director of Transportation upon, in, over or
7 under any of the streets, the ~~General Manager~~Director of Transportation, before the
8 commencement of the work, shall notify in writing any owner or operator having utility facilities
9 of any nature upon, in, over or under the streets to remove or adjust so much of his or their
10 facilities as will allow the prosecution of the public work. The ~~A~~nnotice shall be accompanied by
11 a copy of the plans and specifications for the authorized public work showing the location of
12 the work in the streets and describing the same. The ~~A~~nnotice shall specify a time within which
13 all affected utility facilities must be removed or adjusted.

14 (c) The Public Utilities Commission owns and operates certain utility facilities in the City
15 and County of San Francisco that provide essential services that are necessary to protect the public
16 health, safety and welfare. Accordingly, whenever any public work upon, in, over or under any of the
17 streets relating to the Public Utilities Commission is authorized to be done under the supervision of the
18 General Manager, the General Manager, before the commencement of the work, shall notify in writing
19 any owner or operator having utility facilities of any nature upon, in, over or under the streets to
20 remove or adjust so much of his or their facilities as will allow the prosecution of the public work. The
21 notice shall be accompanied by a copy of the plans and specifications for the authorized public work
22 showing the location of the work in the streets and describing the same. The notice shall specify a time
23 within which all affected utility facilities must be removed or adjusted.

1 SEC. 908. FAILURE - WORK MAY BE DONE BY DIRECTOR, DIRECTOR OF
2 TRANSPORTATION OR GENERAL MANAGER.

3 (a) If any owner or operator except ~~the Municipal Railway~~ a City agency or
4 department shall fail, neglect or refuse to comply with the requirements set forth in a ~~N~~notice
5 issued pursuant to Section 906(a) then, and in that event, the Director shall cause to be
6 removed or be adjusted so much of the utility facilities as may be required for the prosecution
7 of the said authorized public work according to the plans and specifications ~~therefor~~ for the
8 work; and the incidental expenses incurred in the removal or adjustment shall be chargeable
9 to the owner or operator failing, neglecting or refusing to comply with the requirements of the
10 Notice, and may be recovered in an action at law brought in the name of the City against such
11 owner or operator.

12 (b) If any owner or operator except a City agency or department shall fail,
13 neglect or refuse to comply with the requirements set forth in a ~~N~~notice issued pursuant to
14 Section 906(b) then, and in that event, the ~~General Manager~~ Director of Transportation shall
15 cause to be removed or adjusted so much of the utility facilities as may be required for the
16 prosecution of the said authorized public work according to the plans and specifications
17 ~~therefor~~ for the work; and the incidental expenses incurred in the removal or adjustment shall be
18 chargeable to the owner or operator failing, neglecting or refusing to comply with the
19 requirements of the Notice, and may be recovered in an action at law brought in the name of
20 the City against such owner or operator.

21 (c) If any owner or operator except a City agency or department shall fail, neglect
22 or refuse to comply with the requirements set forth in a notice issued pursuant to Section 906(c) then,
23 and in that event, the General Manager shall cause to be removed or adjusted so much of the utility
24 facilities as may be required for the prosecution of the said authorized public work according to the
25 plans and specifications therefore the work; and the incidental expenses incurred in the removal or

1 adjustment shall be chargeable to the owner or operator failing, neglecting or refusing to comply with
2 the requirements of the notice, and may be recovered in an action at law brought in the name of the
3 City against such owner or operator.

4 SEC. 909. AGREEMENT WITH OWNER OR OPERATOR.

5 (a) The Director, with the approval of the ~~Chief Administrative Officer~~ City
6 Administrator, may enter into an agreement with the owner or operator of any utility facility
7 which may require support, protection and working around in order to successfully prosecute
8 the construction of public work, to have any such support, protection and working around
9 including as a part of a contract for public work. The cost of any such support, protection and
10 working around a utility facility shall be borne by the owner or operator thereof.

11 (b) The ~~Director of Transportation, with the approval of the Public Utilities~~
12 ~~Commission~~, may enter into an agreement with the owner or operator of any utility facility which
13 may require support, protection and working around in order to successfully prosecute the
14 construction of public work, to have any such support, protection and working around included
15 as a part of a contract for public work. The cost of any such support, protection and working
16 around a utility facility shall be borne by the owner or operator thereof.

17 (c) The General Manager, with the approval of the Public Utilities Commission,
18 may enter into an agreement with the owner or operator of any utility facility which may require
19 support, protection and working around in order to successfully prosecute the construction of public
20 work, to have any such support, protection and working around included as a part of a contract for
21 public work. The cost of any such support, protection and working around a utility facility shall be
22 borne by the owner or operator thereof.

23 SEC. 910. PROVISION FOR ADMINISTRATION, ETC. - COST.

24 (a) Pursuant to Section 909(a) the Department will provide administration
25 and other necessary services during the progress of the construction. The estimated cost of

1 administration, preparation and supervision of the contract attributable to the work, shall be
2 included in the agreement.

3 (b) Pursuant to Section 909(b) the Municipal Transportation Agency~~for the~~
4 ~~Municipal Railway~~ will provide administration and other necessary service during the progress
5 of the construction. The estimated cost of administration, preparation and supervision of the
6 contract attributable to the work, shall be included in the agreement.

7 (c) Pursuant to Section 909(c) the Public Utilities Commission will provide
8 administration and other necessary service during the progress of the construction. The estimated cost
9 of administration, preparation and supervision of the contract attributable to the work, shall be
10 included in the agreement.

11 SEC. 911. UNDERGROUND DISTRICTS DESIGNATED.

12 For the purpose of removing poles and placing wires underground, the City shall
13 be divided into districts designated as Underground Districts, which Underground Districts are
14 more particularly described in Order No. 214 (Second Series) and amendments thereto and
15 other ordinances on file in the Office of the Clerk of the Board, in the offices of the Director,
16 and collected in a volume entitled "Legislated Underground Districts" and maintained ~~by~~ⁱⁿ the
17 ~~Utility Liaison and Undergrounding Section of the offices of the City Engineer~~Department. The
18 yearly rate to be accomplished by converting from overhead facilities to underground
19 construction shall be in accordance with the limitation imposed by the funds allocated by the
20 Serving Companies for such conversion, as ordered and required by the California Public
21 Utilities Commission.

22 SEC. 915. PUBLIC HEARING - NOTICES.

23 Public hearings shall be held by the Director before the establishment of an
24 underground district. Notices of the public hearing shall be conspicuously posted along all the
25 streets within the district, and each affected property owner and owner or operator in such

1 district shall be notified by mail of the time and place of the hearing, in accordance with the
2 provisions of Section ~~920 193(a), 193(b) and 241 of Article 6 of the Public Works Code with respect~~
3 ~~to such notifications~~. Written protests, objections or other comments regarding the proposal
4 must be filed with the Director before the date of the hearing, or may be made in person
5 during the hearing or on the day to which action on the proposal may be postponed. If the
6 underground district is approved by the Director at this hearing, legislation will be forwarded to
7 the Board of Supervisors for enactment of an ordinance establishing the district.

8 SEC. 919. FAILURE OF PROPERTY OWNER TO INSTALL CONDUITS ~~AUTHORITY~~
9 ~~TO DISCONNECT.~~

10 In the event of failure on the part of ~~a property~~ *the owner of the building or other*
11 ~~structure~~ to perform the required construction in accordance with the provisions of Section 917
12 within 30 days after receipt of a notice to provide such facilities, in order to permit completion
13 of the service reconnection and the removal of the overhead wires and conductors by the
14 Serving Company or Companies, the Director may order the disconnection and removal of
15 any and all overhead electrical or other service wires or conductors supplying electrical or
16 other service to such building or structure. In the event of such failure by the property owner to
17 act, the Director may, at his discretion, perform the work required of property owners by
18 Section 917, and is authorized to use and employ whatever labor, materials and devices may
19 be necessary to effectually carry out the provisions of this Article. The total cost of the labor,
20 materials and devices necessary for the performance of such work shall be paid by the owner
21 of the building or structure for which such work was required.

22 SEC. 920. NOTICE TO PROPERTY OWNER OF DECLARATION OF PUBLIC
23 NUISANCE FAILURE TO INSTALL SERVICE LATERAL.

24 (a) When the Director has determined that ~~a property~~ *the owner of the building*
25 ~~or other structure~~ has failed to perform the required construction in accordance with the provisions of

1 ~~install the service lateral reconnection required by~~ Section 918917 within the time required by
2 Section 919, ~~a notice shall be given to said owner of a public hearing to be held by~~ the Director ~~to~~
3 ~~confirm the need to~~ shall notify the property owner that the property has been declared a public
4 ~~nuisance and order that such work be done~~ ("Director's Notice"). ~~Said notice shall set forth the~~
5 ~~street address and a legal description, sufficient for identification, of the property upon which the~~
6 ~~building or other structure is located.~~ One copy of the Director's -nNotice shall be posted in a
7 conspicuous place upon the building or structure and one copy of the Director's -nNotice shall
8 be ~~served upon~~ sent to the property owner either personally or by certified or registered mail. ~~Service~~
9 ~~by certified or registered mail shall be effective on the date of mailing if mailed postage prepaid, return~~
10 ~~receipt requested, to such owner~~ at the address of such property owner as it appears on the last
11 equalized assessment roll of the eCounty or at the address to which the most recent real
12 property tax bill for said building or structure was mailed by the Tax Collector. If no such
13 address appears on the assessment roll of the County or of the Tax Collector, then a copy of
14 the Director's -nNotice shall be addressed to the property owner at the address of the building
15 or structure involved. The failure of the property owner to receive ~~such~~ the Director's -nNotice
16 shall not affect in any manner the validity of any proceedings taken hereunder including the
17 sale of the property.

18 (b) The Director's Notice shall contain the following information:

19 (1) The street address of the property sufficient for identification.

20 (2) A statement that the property has been declared a public nuisance pursuant to

21 Public Works Code § 944.

22 (3) The work required to be done at the property to receive utility services at a
23 building or structure on the property, as well as an estimate of the cost of such work if readily
24 ascertainable.

1 (4) The date by which the work required is to be commenced and completed by the
2 property owner.

3 (5) A statement that, in the event that the property owner fails to complete the work
4 by the required date, the Director will take action to abate the public nuisance.

5 (6) A statement of the manner in which the Director will abate the public nuisance
6 by installing the necessary facilities on the property, as well as an estimate of the cost of such work if
7 readily ascertainable.

8 (7) A statement that low-income property owners should contact the Mayor's Office
9 of Housing to determine whether they are eligible for a grant to hire a licensed electrician to perform
10 the work required on their properties.

11 (8) A statement that the City will hold the property owner responsible for all of the
12 City's costs to enforce any of the requirements of this Article and to abate the public nuisance,
13 including the cost of the required work, the Department's administrative and supervisory costs, and
14 any costs incurred by other City departments including the City Attorney's Office.

15 (9) A statement that the City will make the City's costs a special assessment against
16 the property if the property owner fails to pay the City's costs.

17 (10) The time, date and place during which the Director will conduct a hearing to
18 determine whether the Director should abate the public nuisance by ordering that such work be done
19 and assessing costs against the property for abating the nuisance.

20 (11) A statement that the property owner may attend the hearing and provide
21 evidence why the Director should not abate the public nuisance by ordering that such work be done or
22 assess costs against the property for abating the nuisance.

23 (12) Such additional information as the Director deems necessary to notify property
24 owners of their duties and obligations to comply with any of the requirements of this Article.

1 SEC. 921. AFFIDAVIT OF SERVICE PROOF OF DELIVERY OR MAILING.

2 (a) ~~_____~~ The person ~~giving notice~~ mailing the Director's Notice to a property owner as
3 provided ~~herein~~ Section 920 shall file an affidavit or declaration thereof under penalty of
4 perjury with the Director certifying to the time and manner in which such notice was given. He
5 shall also file therewith any receipt card of such notice by certified ~~or registered~~ mail.

6 (b) ~~_____~~ The notice of hearing shall be posted and served at least 10 days prior to
7 the time set for the hearing.

8 SEC. 922. HEARING.

9 (a) ~~_____~~ The ~~Public H~~ hearing shall be held at the time and place designated in the
10 Director's ~~h~~ Notice of hearing to determine whether the Director should abate the public nuisance by
11 ordering that such work be done and assess costs against the property for abating the nuisance. For
12 good cause the hearing may be continued by the Director to a later time. Subject to the
13 procedures prescribed by the Director for the orderly conduct of the hearing, all persons
14 having an interest in the building or structure may present evidence materially bearing on the
15 case for consideration by the Director.

16 (b) ~~_____~~ The Director shall appoint a hearing officer to conduct the hearing by taking
17 testimony and other evidence from the Department, the property owner and any other interested
18 parties. The Director may designate an Assistant Director of Public Works who may act in place of the
19 Director as the hearing officer. The Assistant Director ~~hearing officer~~ shall have the same authority
20 as the Director to hear and decide the case and to make any order hereinafter provided for
21 including abating the public nuisance by ordering that the work be done and assessing costs against
22 the property for abating the nuisance.

1 SEC. 923. ISSUANCE CONTENTS OF A DIRECTOR'S ORDER.

2 (a) At the conclusion of the hearing, the hearing officer may issue an order
3 abating the public nuisance by requiring that the work be done and assessing costs against the property
4 for abating the nuisance ("Director's Order").

5 (b) The Director's Order shall set forth the following:

6 (1) The street address of the building or structure and a legal description of the
7 premises property where the Director has ordered the public nuisance to be abated sufficient for
8 identification. It shall contain

9 (2) A statement of the work required to be done to abate the public nuisance.

10 (3) The Director's Order shall specify the time within which the work
11 required to abate the public nuisance is to be commenced. The Director's Order shall further
12 specify

13 (4) A reasonable time statement that the property owner has 30 days from
14 the date of the Director's Order within which the work to abate the public nuisance by completing
15 the required work shall be completed.

16 (5) The date and time on which the Department will enter the property to do the
17 work required to abate the public nuisance.

18 (6) A statement of the costs to be assessed against the property to abate the public
19 nuisance, including the costs incurred to date and any additional costs to be incurred if the required
20 work is not done by the date ordered by the Director.

21 (7) A statement that the property may be sold by the Tax Collector after three years
22 for unpaid delinquent assessments.

23 (c) Upon written application of an interested party the property owner showing a
24 reasonable cause for any delay, the Director may grant a reasonable extension of time not to
25

1 exceed 30 days within which the ~~required work~~ required to abate the public nuisance must be
2 commenced completed.

3 (d) ~~Upon written application of the property owner showing a reasonable~~
4 ~~cause for any delay, the Director may extend the time not to exceed 30 days for the work~~
5 ~~required to abate the public nuisance to be completed. The time for completion may be~~
6 ~~extended by the Director for cause. This shall be in writing upon the application of an~~
7 ~~interested party.~~

8 SEC. 924. POSTING AND SERVICE OF ORDER.

9 A copy of the Director's Order to install the service lateral reconnection to the
10 ~~building or structure~~ shall be posted in a conspicuous place upon the building or structure and
11 shall be served in the manner prescribed in Section 920 upon all persons to whom the notice
12 of hearing is required to be served, and a copy shall be recorded in the office of the Recorder
13 of the City and County.

14 SEC. 925. FORFEITURE OF PROPERTY OWNERS' RIGHT TO DO WORK.

15 Upon a property owner's failure to comply with issuance of a Director's Order issued
16 ~~under Whenever, pursuant to Section 919, the Director determines to do or cause to be done any of the~~
17 ~~work described therein, he shall notify the owner of the building or other structure of his intention so to~~
18 ~~do in the manner set forth in Section 9230, and shall specify a date upon which he shall solicit bids to~~
19 ~~do the work. From and after said specified date the~~ property ~~owner of the building or other structure~~
20 shall be deemed to have forfeited all right to do such work on said building or other structure
21 except as the Director may otherwise allow.

22 SEC. 926. ASSESSMENT FOR COSTS.

23 (a) The Director shall take action to have the costs of abating the public
24 ~~nuisance all work done or caused to be done pursuant to the provisions of Section 919~~ assessed
25 against the ~~parcel or parcels of land~~ property upon which said building or other structure is

1 situated. Such costs shall include: ~~in addition to (i) the cost of installing performing the required~~
 2 ~~construction in accordance with the provisions of Section 917 service lateral reconnection;~~ (ii) an
 3 amount equal to 15 percent of such cost to cover the cost to the City for administration and
 4 supervision of the work required; ~~and (iii) any costs incurred by any other City department,~~
 5 ~~including the City Attorney's Office, in furtherance of the work done or related to any action,~~
 6 ~~administrative proceeding, or special proceeding to abate the public nuisance.~~

7 (b) In any action, administrative proceeding, or special proceeding to abate the
 8 public nuisance, the prevailing party may seek recovery of attorneys' fees; provided, however, that the
 9 recovery of such fees is available only if the City, at the initiation of the individual action or
 10 proceeding, elects to seek recovery of its own attorneys' fees. In no action, administrative proceeding
 11 or special proceeding shall an award of attorneys' fees to the prevailing party exceed the amount of
 12 reasonable attorneys' fees incurred by the City in the action or proceeding.

13 SEC. 927. REPORT OF COSTS.

14 The Department ~~of Public Works~~ shall keep an account of the cost of all work
 15 done or caused to be done by the Department ~~of Public Works~~ or by contract to which shall
 16 have been added the 15 percent administrative and supervisory cost and any costs incurred by
 17 any other City department and shall render an itemized report in writing to the Board of
 18 Supervisors showing such cost.

19 SEC. 928. HEARING AND CONFIRMATION OF REPORT FOR SPECIAL
 20 ASSESSMENT OF COSTS.

21 (a) At the time fixed for receiving and considering said report, the Board of
 22 Supervisors shall hear the same, together with any objections which may be raised by any
 23 property owner liable to be assessed for the cost described in said report, and thereupon may
 24 make such modifications in the report as the Board deems necessary, after which by motion
 25 or resolution said report shall be confirmed. The costs assessed for abating a public nuisance at

1 ~~the property of installing the service lateral reconnection~~, as confirmed by the Board of
2 Supervisors, shall constitute a special assessment against the ~~parcel or parcels of land on which~~
3 ~~the same existed property~~ and shall constitute a lien on said property for the amount of said
4 assessment. After confirmation of said report, a copy thereof shall be transmitted to the
5 Assessor and to the Tax Collector of the City and County, whereupon it shall be the duty of
6 said officers to add the amount of said assessment to the next regular bill for taxes levied
7 against said ~~parcel or parcels of land property~~ for municipal purposes, and thereafter said
8 amount shall be collected at the same time and in the same manner as ordinary City and
9 County taxes are collected, and shall be subject to the same penalties and the same
10 procedure under foreclosure and sale in case of delinquency as provided for ordinary taxes of
11 the City and County of San Francisco.

12 (b) Notwithstanding any provision contained in this Article making the costs
13 ~~assessed for abating a public nuisance at the property of installing the service lateral reconnection~~ a
14 special assessment against the property upon which the same exists, said cost, as confirmed
15 by the Board of Supervisors and to the extent that the same has not been paid to the City,
16 shall be a personal obligation of the property owner and his heirs, successors and assigns,
17 and said owner and his heirs, successors and assigns shall be liable to the City and County of
18 San Francisco for the payment thereof.

19 (c) If any property to which the cost of the abatement relates has been transferred or
20 conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has
21 been created and attached thereon, prior to the date on which the first installment of taxes would
22 become delinquent, then the cost of the abatement shall not result in a lien against the property, but
23 shall instead be transferred to the unsecured roll for collection.

1 SEC. 929. COSTS OF ~~SERVICE LATERAL INSTALLATION BY CITY~~ABATING THE
2 PUBLIC NUISANCE.

3 (a) Whenever the Director, pursuant to authority conferred by this Article,
4 shall ~~cause the abate a public nuisance on a property by causing the required construction in~~
5 ~~accordance with the provisions of Section 917 to be performed service lateral reconnection to a~~
6 ~~building or other structure to be installed~~ by the Department of ~~Public Works~~ or pursuant to
7 contract, ~~or take any other action to enforce the requirements of this Article~~, the cost thereof shall
8 be paid from the "Underground Public Nuisance Abatement Service Lateral Fund" and assessed
9 against the property upon which the particular building or other structure is located.

10 (b) The assessment charged under ~~Subsection (a)~~928 ~~may~~must be paid either
11 in one lump sum payment or in 10 installments, which would be comprised of biannual
12 payments during the five-year period. If the property owner chooses to pay the assessments
13 in installments, a six percent interest charge shall be added annually.

14 SEC. 930. UNDERGROUND ~~SERVICE LATERAL~~PUBLIC NUISANCE ABATEMENT
15 FUND.

16 (a) A special revolving fund, to be known as the "Underground Service
17 Lateral Public Nuisance Abatement Fund," is hereby created for the purpose of defraying the
18 costs and expenses which may be incurred by the Director ~~of Public Works in carrying out the~~
19 ~~authority conferred by this Article to install the service lateral reconnections to buildings or other~~
20 ~~structures to abate a public nuisance at a property or to enforce any of the other requirements of this~~
21 Article. The Underground Public Nuisance Abatement Fund is a Category 8 fund under Section
22 10.100-1 of the San Francisco Administrative Code.

23 (b) The Board of Supervisors may by transfer or appropriation, establish or
24 increase the special revolving fund with such sums as it may deem necessary in order to
25 expedite the abatement of a public nuisance at a property or the enforcement of any of the other

1 ~~requirements of this Article. performance of the work of installing the service lateral reconnection.~~ The
 2 special revolving fund shall be replenished with all funds collected under the proceedings
 3 herein provided for, either upon voluntary payments or as the result of sale of the property
 4 after delinquency, or otherwise. Balances remaining in the Underground ~~Service Lateral~~ Public
 5 Nuisance Abatement Fund at the close of any fiscal year shall be carried forward in such fund.

6 SEC. 938. DIRECTOR MAY ENTER INTO AGREEMENT FOR JOINT
 7 CONSTRUCTION.

8 The Director, with the approval of the ~~Chief Administrative Officer~~ City
 9 Administrator, may enter into an agreement with owners or operators of any utility facilities
 10 required to be installed underground in any street area by any Ordinance or Code, for the
 11 purpose of constructing the utility facilities jointly with public governmental facilities under a
 12 public contract. Said owner or operator shall, under such agreement, proceed in accordance
 13 with the provisions of Section 910 of this Article.

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

16
 17 By: 
 18 WILLIAM K. SANDERS
 Deputy City Attorney



City and County of San Francisco

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

Tails Ordinance

File Number: 070621

Date Passed:

Ordinance amending Article 18 of the San Francisco Public Works Code by adding Section 944 to declare a public nuisance any property located in a underground utility district in which the property owner has refused to comply with an order from the Director of Public Works to install conduits and associated equipment necessary to obtain utility service at a building or structure on the property; amending Section 926 of the Public Works Code to allow the City to recover all costs incurred by the City in connection with abating the public nuisance; amending Sections 900, 915, and 919 through 930 of the Public Works Code consistent with this legislation; and further amending Sections 900, 901, 906, 908 through 911, and 938 of the Public Works Code to make certain technical changes that are necessary to bring those sections up-to-date.

June 5, 2007 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

June 5, 2007 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

June 12, 2007 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell, McGoldrick, Mirkarimi, Peskin


Absent: 1 - Sandoval

File No. 070621

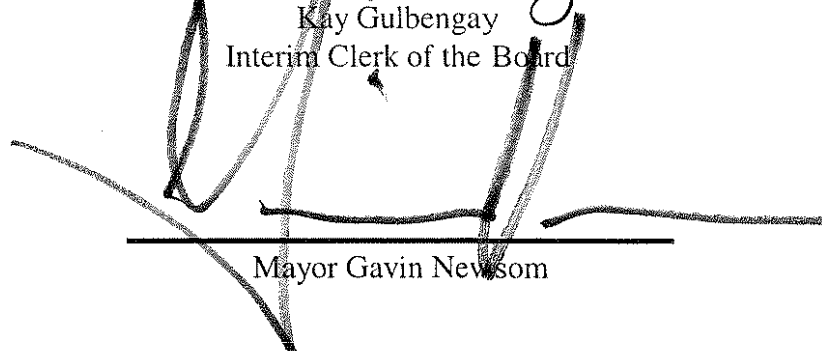
I hereby certify that the foregoing Ordinance was FINALLY PASSED on June 12, 2007 by the Board of Supervisors of the City and County of San Francisco.

JUN 22 2007

Date Approved



Kay Gulbengay
Interim Clerk of the Board



Mayor Gavin Newsom