

FILE NO. 090724

ORDINANCE NO.

173-09

1 [Establishing a Cigarette Litter Abatement Fee.]

2

3 Ordinance amending the San Francisco Administrative Code (1) by adding a new

4 Chapter 105 to establish a Cigarette Litter Abatement Fee of ~~\$.33~~ \$0.20 per pack of

5 cigarettes sold in San Francisco to recover the cost of abating cigarette litter from City

6 streets, sidewalks, and other public property and (2) by adding a new Section 10.100-

7 4670 to establish a an Environment Cigarette Litter Abatement Fund; amending the San

8 Francisco Health Code, Article 19H, Section 1009.60 to include ~~the failure to pay the~~

9 ~~Cigarette Litter Abatement Fee among the violations of Tobacco Control Laws for which~~ allow

10 the Director of the Department of Public Health may to suspend a tobacco sales permit

11 and impose administrative penalties for failure to pay the Cigarette Litter Abatement Fee;

12 ~~(3)~~ by amending Article 6 of the San Francisco Business and Tax Regulations Code to

13 include the Cigarette Litter Abatement Fee; and making environmental findings.

14 NOTE: Additions are *single-underline italics Times New Roman*;

15 deletions are *strike-through 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. ~~Purpose and Findings.~~

19 ~~(a) The Planning Department has determined that the actions contemplated in this~~

20 ~~Ordinance are in compliance with the California Environmental Quality Act (California Public~~

21 ~~Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the~~

22 ~~Board of Supervisors in File No. _____ and is incorporated herein by reference.~~

23 (ba) In fiscal year 2008-2009, the Department of Public Works, Recreation and Parks

24 Department, Port of San Francisco, Municipal Transportation Agency of the City and County of

25

Mayor Newsom
BOARD OF SUPERVISORS

1 San Francisco collectively spent in excess of \$44,000,000-\$24,792,558 removing litter from the
2 sidewalks, gutters and outdoor public spaces of San Francisco.

3 (eb) According to the 2009 audit of the composition of street and sidewalk litter conducted by
4 MGM Management, cigarette butts and related packaging litter constitute 25% of all such litter thereby
5 accounting for nearly \$11,000,000-\$6,098,969 of the City's annual litter removal costs.

6 (ec) In 2009, Health Economics Consulting Group conducted a report on the cost of tobacco
7 cigarette litter to the City of San Francisco and calculated a maximum permissible fee per pack of
8 cigarettes that offsets to offset the City's costs of abating tobacco cigarette litter abatement
9 costs. The report is on file with the Clerk of the Board of Supervisors in File No. 090724 and
10 is incorporated herein by reference. It concludes that a fee of up to \$.033-0.22 per pack of cigarettes
11 sold in San Francisco may be imposed to offset the City's tobacco-cigarette litter abatement costs.

12 (ed) In addition to the aesthetic degradation that results from litter generally, cigarette litter
13 uniquely damages the environment. The smoked filter and leftover tobacco from smoked cigarettes
14 butts contain a variety of toxic organic compounds and heavy metals that can cause toxicity in the
15 marine environment. Standard Acute Aquatic Toxicity tests conducted by Dr. Richard Gersberg, Ph.D.
16 at San Diego State University have determined that the Lethal Concentration that kills 50% of both
17 freshwater Flat Head Minnows and saltwater Smelt in a 96 hour period (commonly referred to as the
18 LC50) occurs in a solution of just one smoked cigarette butt in approximately a one liter bucket of
19 water.

20 (fe) This Ordinance establishes the Cigarette Litter Abatement Fee that will provide revenue to
21 mitigate the City's annual costs of abating the nuisance that cigarette butts and other cigarette
22 related litter causes.

23 (gf) Imposing a litter impact fee directly on the cigarette purchaser at the point of sale for
24 each pack of cigarettes sold in the City at the point of sale is the most practical and equitable
25

1 revenue mechanism to recover the public expense required to abate cigarette litter. The fee is
2 imposed at the point of sale in order to collect the litter impact fee directly from the purchaser.

3 (hg) The Cigarette Litter Abatement Fee will also mitigate support public efforts to curb
4 improper cigarette litter disposal behavior by funding anti-cigarette litter education, and will provide
5 the revenue required to administer this Ordinance, including but not limited to, costs for collecting,
6 processing the fees and process and enforcing compliance with the Cigarette Litter Abatement
7 Fees requirement.

8 Section 2. The San Francisco Administrative Code is hereby amended by adding a
9 new Chapter 105 to read as follows:

10 **SEC. 105.1. TITLE.**

11 This Ordinance shall be known as the "Cigarette Litter Abatement Fee Ordinance" and the
12 Fee imposed herein shall be known as the "Cigarette Litter Abatement Fee."

13 **SEC. 105.2. DEFINITIONS.**

14 The following definitions shall apply for purposes of this Ordinance:

15 (a) "Cigarette litter abatement" means cigarette litter collection and removal, proper
16 cigarette litter disposal education, fee collection, administration and enforcement. "Cigarette
17 Retailer" means a person required to obtain and maintain a tobacco sales permit under San
18 Francisco Health Code section 1009.52.

19 (b) "Cigarette salesSale" means any sales, or offer to sell or exchange, for any form of
20 consideration, cigarettes to any person by any person who operates an establishment any
21 transfer of title or possession of a Pack or Packs of Cigarettes by a Cigarette Retailer to a
22 person for a consideration, exchange or barter, in any manner or by any means whatever.

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

24 (d) "Department" means the Department of Public Health.

25 (e) "Director" means the Director of Health or his or her designee.

1 (f) "Establishment" means any store, stand, booth, concession or any other enterprise
2 that engages in the retail sale of cigarettes, including those who operate vending machines
3 from which cigarettes are sold in the City.

4 (gd) "Fee" means the Cigarette Litter Abatement Fee imposed pursuant to this Chapter 105 of
5 the San Francisco Administrative Code.

6 (h) "Permittee" means a person who has obtained a tobacco sales permit for a specific
7 location pursuant to the Health Code Article 19H.

8 (i) "Pack of cigarettes" means twenty cigarettes per box. The Tax Collector may adjust
9 the Fee pro rata for sales of cigarettes in smaller or larger quantities.

10 (e) "Inventory Purchase Invoice" means a purchase invoice for every Cigarette
11 Retailer tobacco product purchase, that meets the requirements of California Business and
12 Professions Code Section 22978.4, as it may be amended from time to time, and that
13 California Business and Professions Code Section 22974 requires a Cigarette Retailer to
14 retain for at least four years.

15 (f) "Pack of Cigarettes" means the individual packet, box or other container by which
16 retail sales of cigarettes are normally made or intended to be made. "Pack of Cigarettes"
17 does not mean containers such as cartons, cases, bales or boxes which contain smaller
18 packaged units of cigarettes.

19 (fg) "Person" means any individual, partnership, cooperative association, private corporation,
20 personal representative, receiver, trustee, assignee, or any other legal entity subject to Health Code
21 Article 19H other than a cigarette wholesaler, cigarette distributor, cigarette manufacturer or
22 Cigarette Retailer.

23 (kh) "Purchaser" means the person obtaining cigarettes from a Cigarette Retailer as a
24 result of a Cigarette Sale any person who buys or exchanges, for any form of consideration,
25 cigarettes from an establishment.

1 (i) "Rule" means any rule, regulation, guideline, instruction or prescribed form that the
2 Tax Collector duly issues, promulgates or adopts under either Section 105.4(b) of this
3 Ordinance or Article 6 of the Business and Tax Regulations Code to enforce and administer
4 this Cigarette Litter Abatement Fee Ordinance.

5 (i) "Tax Collector" means the designee of the Office of the Treasurer and Tax Collector of
6 the City and County of San Francisco.

7 **SEC. 105.3. IMPOSITION OF CIGARETTE LITTER ABATEMENT FEE.**

8 (a) The City hereby imposes a Cigarette Litter Abatement Fee at the rate of \$0.33-0.20 per
9 pack of cigarettes ~~Pack of Cigarettes~~, on the purchaser ~~Purchaser~~ for all Cigarette Sales of
10 each pack of cigarettes sold ~~within the geographic limits of the City and County of San~~
11 Francisco, subject to adjustment from time to time under subsection (fg) below. The Fee shall be
12 imposed on a per-Pack of Cigarettes basis for Cigarette Sales in larger quantities. The Fee is
13 payable at the time of the Cigarette Sale transaction. The Fee is imposed at the time of
14 purchase of each pack of cigarettes sold, whether the cigarettes are sold as individual
15 cigarettes, packs, or in multi-pack cartons.

16 (b) Each Cigarette Retailer shall collect the Fee from the Purchaser at the time of the
17 Cigarette Sale and remit the collected revenue to the City as provided in Subsection (c). Each
18 person who engages in cigarette sales, or allows cigarette sales, in any establishment located
19 within the geographic boundaries of the City and County of San Francisco, shall collect the
20 Fee from the purchaser along with the charge for the cigarettes at the time of sale and remit
21 the revenue collected as the Fee to the City as provided in Subsection 105.4. The permittee
22 shall add the Fee to and cause it to be separately stated on the purchasers bill as "Cigarette
23 Litter and Abatement Fee."

24 (c) If the permittee under San Francisco Health Code Article 19H fails to collect the
25 Fee that subsection (a) requires, the permittee is liable to the City for the full fee amount. The

1 Cigarette Retailer shall hold the collected Fee revenue in trust for the City and remit such
2 revenue to the Tax Collector each calendar quarter on or before the last day of the month
3 immediately following each respective quarterly period, and in accordance with the Tax
4 Collector's Rules, except that all such amounts shall be due immediately upon the City's
5 suspension of a Cigarette Retailer's Health Code Article 19H tobacco sales permit, or upon a
6 Cigarette Retailer's voluntary surrender of such tobacco sales permit, or upon the transfer of
7 ownership or cessation of a Cigarette Retailer's business for any reason.

8 (d) If the Cigarette Retailer fails to collect and remit the Fee as Subsections (a), (b) and (c)
9 require, the Cigarette Retailer is liable to the City for the full Fee amount.

10 ~~(d) The City may use the Fee proceeds solely to fund the expenses that the City will~~
11 ~~incur for cigarette litter abatement, including cigarette litter removal, cigarette anti-litter~~
12 ~~education and fee collection, administration and enforcement costs. The Tax Collector shall~~
13 ~~be fully reimbursed for collection expenses, including but not limited to, personnel, training,~~
14 ~~space, equipment, materials and supplies, and systems programming enhancements specific~~
15 ~~to collections of the Fee.~~

16 (e) The Tax Collector shall deposit all monies collected pursuant to this Cigarette Litter
17 Abatement Fee Ordinance to the credit of the Environment Cigarette Litter Abatement Fund
18 authorized by San Francisco Administrative Code Section 10.100-70. Said fund shall be used
19 exclusively for the following purposes:

20 (1) Refunds of any overpayments of the Fee imposed hereunder;

21 (2) Costs of administration, collection and enforcement of this Cigarette Litter
22 Abatement Fee Ordinance, including but not limited to, the Tax Collector's personnel, training,
23 space, equipment, materials and supplies, and systems programming expenses specific to
24 collecting the Fee;

1 (3) Costs of public outreach and education to curb improper cigarette litter disposal:

2 and

3 (4) Costs to collect and remove cigarette litter from City sidewalks, gutters and public
4 spaces.

5 ~~(e) The City shall maintain Fee revenues separate from other City funds and deposit~~
6 ~~them in the Cigarette Litter Abatement Fee Fund authorized by Section 10.100-46 of the San~~
7 ~~Francisco Administrative Code to be used exclusively for eligible cigarette litter abatement~~
8 ~~costs.~~

9 (fg) Fee Adjustment. Beginning with fiscal year 2011-2012, the City may adjust the Fee each
10 year, without further action by the Board of Supervisors, as set forth in this subsection.

11 (1) Not later than April 1, the Director of the Department of the Environment, or his or her
12 designee, shall report to the Controller the Fees collected from for the prior fiscal year and the City's
13 prior fiscal year's costs of cigarette litter abatement to support the services and activities
14 described in Section 105.3(e) herein, as well as any other information that the Controller deems
15 necessary to carry out the performance of the duties set forth herein.

16 (2) Not later than May 15, the Controller shall determine whether the current Fees have Fee
17 has produced or are is projected to produce revenues sufficient to support the costs of cigarette
18 litter abatement for which the City assessed the Fees the services and activities described in
19 Section 105.3(e) herein and that the Fees current Fee has have not produced or are is not
20 projected to produce revenue which is significantly more than the costs of providing the necessary
21 to support those services and activities services for which the Fees are assessed.

22 (3) The Controller shall, if necessary, adjust the Fee upward or downward for the upcoming
23 fiscal year as appropriate to ensure that, over time, the Fee program recovers no more than the costs
24 of cigarette litter abatement the services and activities described in Section 105.3(e) herein.

25 The adjusted rates Fee shall become operative on July 1.

1 ~~(4) The Tax Collector shall post the adjusted fee Fee on its website. Failure to make the~~
2 ~~posting that this subsection requires shall not affect the rights of the City to collect the adjusted Fee.~~

3 ~~SEC. 105.4. RULES AND REGULATIONS.~~

4 ~~(a) The Director and Tax Collector may adopt rules and regulations for the purpose of~~
5 ~~carrying out and enforcing this Chapter, provided that such rules and regulations shall require:~~

6 ~~(1) That Fees this Chapter imposes are due and payable each calendar quarter on or~~
7 ~~before the last day of the month immediately following each respective quarterly period,~~
8 ~~except that all such amounts shall be due immediately upon the City's suspension or~~
9 ~~revocation of a permittee's Health Code Article 19H tobacco sales permit, or upon the~~
10 ~~voluntary surrender of such tobacco sales permit, or upon cessation of a permittee's business~~
11 ~~for any reason;~~

12 ~~(2) Permittee may develop a methodology to track the number of packs of cigarettes~~
13 ~~sold in San Francisco or use the purchase invoices of cigarette purchased for the applicable~~
14 ~~period as a record to support its return with the quarterly Fee payment. Permittee's returns~~
15 ~~may include adjustments to the total on the purchase invoices to reflect the number of actual~~
16 ~~sales packs of cigarettes in San Francisco was lower than the total number of packs on the~~
17 ~~purchase invoices; If permittee's return relies on purchase invoices to show the number of~~
18 ~~packs of cigarettes sold in San Francisco, permittee may submit an affidavit explaining the~~
19 ~~relationship between the Fee payment to the City and the cigarettes purchased.~~

20 ~~(3) Permittee shall hold the revenue collected as the Fee in trust for the City and shall~~
21 ~~remit to the Tax Collector as prescribed by this Chapter and Business and Tax Regulations~~
22 ~~Code, Article 6, Section 6.1-1 et. seq., Common Administrative Provisions; and~~

23 ~~(4) The Tax Collector shall collect the Fee pursuant to the Business and Tax~~
24 ~~Regulations Code, Article 6, Section 6.1-1 et. seq., Common Administrative Provisions,~~
25 ~~provided that nothing in this Chapter nor in Article 6 of the Business and Tax Regulations~~

1 Code shall be construed to mean that this Cigarette Litter Abatement Fee is a tax rather than
2 a fee. The Tax Collector may require such information and documentation from permittee as
3 is reasonably necessary to determine compliance with the requirements of this Chapter.

4 (b) Failure or refusal to comply with any rules and regulations promulgated under this
5 Section shall be a violation of and subject to the penalties of this Chapter.

6 ~~SEC. 105.5. RECORDS.~~

7 (a) Every permittee shall keep and preserve records, including but not limited to,
8 purchase invoices of cigarette purchases, as may be necessary to determine the amount of
9 the Fee for which the permittee may be liable, including all local, State and federal tax returns
10 of any kind, for a period of five years. The Tax Collector shall have the right to inspect,
11 examine, and copy such records at any time during normal business hours. Refusal to allow
12 full inspection, examination or copying of such records shall subject the permittee to the
13 penalties contained in Article 6 of the Business and Tax Regulations Code. Where the
14 permittee does not have the necessary records or fails to produce such records in a timely
15 fashion, the Tax Collector may determine the Fee based upon any information in the Tax
16 Collector's possession or that may come into the Tax Collector's possession. Such
17 determination shall be prima facie evidence of the permittee's liability in any subsequent
18 administrative or judicial proceeding.

19 (b) Invoices shall include the name, address, and telephone number of the distributor
20 or wholesaler; the license number of the distributor or the wholesaler as provided by the State
21 Board of Equalization; the amount of excise taxes due to the Board of Equalization by the
22 distributor on the sale of cigarettes; the name, address, and license number of the retailer,
23 distributor, or wholesaler to who cigarettes are sold; an itemized listing of the cigarettes sold;
24 the date the cigarette was sold; each invoice for the sale of cigarettes shall be legible and
25 readable.

1 ~~(c) The Tax Collector may order any persons, whether as permittees, witnesses, or~~
2 ~~custodian of records, to produce for inspection, examination and copying at the Tax~~
3 ~~Collector's office all books, papers and records which the Tax Collector believes may have~~
4 ~~relevance to enforcing compliance with the determination and collection of the assessment.~~
5 ~~The Tax Collector may order the attendance before the Tax Collector of all persons, whether~~
6 ~~as permittees, witnesses, or custodian of records, whom the Tax Collector believes may have~~
7 ~~any knowledge of such books, papers and records. The Tax Collector may issue, and serve,~~
8 ~~subpoenas to carry out these provisions.~~

9 ~~SEC. 105.6. AUDIT.~~

10 ~~The Tax Collector or his or her designee shall, at all times during normal business~~
11 ~~hours, have the right to inspect, examine, and copy the records of any cigarette permittee~~
12 ~~operating in the City and may audit the permittee's books and issue deficiency and jeopardy~~
13 ~~determinations pursuant to Article 6 of the Business and Tax Regulations Code for the~~
14 ~~purpose of ascertaining and determining compliance with this Cigarette Litter Abatement Fee~~
15 ~~Ordinance.~~

16 SEC. 105.74. ENFORCEMENT.

17 (a) The Tax Collector shall enforce the provisions of this Cigarette Litter Abatement
18 Fee Ordinance. The Tax Collector shall collect the Fee, conduct audits, and issue deficiency
19 and jeopardy determinations pursuant to the Business and Tax Regulations Code, Article 6,
20 provided that nothing in this Ordinance or in Article 6 of the Business and Tax Regulations
21 Code shall be construed to mean that the Cigarette Litter Abatement Fee is a tax rather than a
22 fee. The Tax Collector may issue, and serve, subpoenas to carry out these duties.

23 (b) The Tax Collector shall have the power and duty to promulgate Rules to implement
24 and administer this Ordinance, including but not limited to Rules prescribing methods and
25 schedules for Fee collection, payment and verification. A Cigarette Retailer's failure or refusal

1 to comply with any Rule shall be a violation of this Ordinance and may subject the violator to
2 the penalties set forth herein or in Business and Tax Regulations Code, Article 6.

3 (c) Until otherwise specified by Rule, the Tax Collector shall allow any Cigarette
4 Retailer to report Cigarette Sales based either on its Inventory Purchase Invoices for the
5 reporting period or its Cigarette Sales records for the reporting period. A Cigarette Retailer
6 shall use the same method for calculating and reporting its Fees each reporting period until
7 otherwise specified by Rule.

8 (d) The Cigarette Litter Abatement Fee Ordinance is a Tobacco Control Law under
9 Health Code Section 1009.60. Upon a decision of the Director of the Department of Public
10 Health that any Cigarette Retailer has engaged in any conduct that violates any requirement
11 of this Ordinance, the Director may suspend the Cigarette Retailer's tobacco sales permit as
12 set forth in Health Code Section 1009.66, impose administrative penalties as set forth in
13 Health Code Section 1009.67, or both suspend the permit and impose administrative
14 penalties.

15 **SEC. 105.5. RECORDS FOR ENFORCEMENT ONLY**

16 (a) Every Cigarette Retailer shall keep and preserve all such records as the Tax
17 Collector may require for the purpose of ascertaining and determining compliance with this
18 Cigarette Litter Abatement Fee Ordinance, including but not limited to, all local, State and
19 Federal tax returns and all Inventory Purchase Invoices, for a period of four years. Cigarette
20 Retailers shall submit copies of such records with its periodic Fee returns as the Tax Collector
21 may by Rule require, and shall make its original documents available at its retail location for
22 review, inspection or copying by the Tax Collector upon request during normal business
23 hours.

24 (b) The City shall access and use Cigarette Retailers' records required to be prepared
25 or provided under this Ordinance and Rules promulgated hereunder, including but not limited

1 to its local, State and Federal tax returns and Inventory Purchase Invoices, solely for the
2 purposes of enforcing this Cigarette Litter Abatement Fee Ordinance. The City shall adhere
3 to all applicable state and local laws, policies and regulations pertaining to personal
4 information, individual privacy, trade secrets and proprietary information with respect to such
5 records.

6 ~~The Cigarette Litter Abatement Fee Ordinance is a Tobacco Control Law under Health~~
7 ~~Code Section 1009.60. The Director shall enforce all provisions of this Ordinance. Upon a~~
8 ~~decision of the Director that any person subject to this Ordinance has engaged in any conduct~~
9 ~~that violates any requirement of this Ordinance, the Director may suspend a permittee's~~
10 ~~tobacco sales permit as set forth in Health Code Section 1009.66, impose administrative~~
11 ~~penalties as set forth in Health Code Section 1009.67, or both suspend the permit and impose~~
12 ~~administrative penalties.~~

13 ~~SEC. 105.8. SEVERABILITY.~~

14 ~~The provisions of this ordinance shall not apply to any person, association, corporation~~
15 ~~or to any property as to whom or which it is beyond the power of the City to impose the Fee~~
16 ~~provided herein. If any word, sentence, clause, section or part of this Ordinance, or any Fee~~
17 ~~imposed upon any person or entity is found to be unconstitutional, illegal or invalid, such~~
18 ~~unconstitutionality, illegality, or invalidity shall affect only such word, clause, sentence, section~~
19 ~~or part of this Ordinance, or person or entity; and shall not affect or impair any of the~~
20 ~~remaining provisions, word, sentences, clauses, sections or other parts of this Ordinance, or~~
21 ~~its effect on other persons or entities. It is hereby declared to be the intention of the Board of~~
22 ~~Supervisors of the City that this Ordinance would have been adopted had such~~
23 ~~unconstitutional, illegal or invalid word, sentence, clause, section or part of this Ordinance not~~
24 ~~been included herein; or had such person or entity been expressly exempted from the~~
25 ~~application of this Ordinance. To this end the provisions of this Ordinance are severable.~~

1 **SEC. 105.9. EFFECTIVE/OPERATIVE DATES.**

2 This Chapter shall become effective upon passage, except that the Fee imposed by this Chapter
3 Ordinance shall become operative and be imposed on October 1, 2009, and shall not apply prior to
4 said date to Cigarette Sales that occur prior to October 1, 2009.

5 **Section 3. SEVERABILITY.**

6 The provisions of this ordinance shall not apply to any person, association, corporation
7 or to any property as to whom or which it is beyond the power of the City to impose the Fee
8 provided herein. If any word, sentence, clause, section or part of this Ordinance, or any Fee
9 imposed upon any person or entity is found to be unconstitutional, illegal or invalid, such
10 unconstitutionality, illegality, or invalidity shall affect only such word, clause, sentence, section
11 or part of this Ordinance, or person or entity; and shall not affect or impair any of the
12 remaining provisions, word, sentences, clauses, sections or other parts of this Ordinance, or
13 its effect on other persons or entities. It is hereby declared to be the intention of the Board of
14 Supervisors of the City that this Ordinance would have been adopted had such
15 unconstitutional, illegal or invalid word, sentence, clause, section or part of this Ordinance not
16 been included herein; or had such person or entity been expressly exempted from the
17 application of this Ordinance. To this end the provisions of this Ordinance are severable.

18 Section 4. The San Francisco Administrative Code is hereby amended by adding a
19 new Section 10.100-70 to read as follows:

20 Section 2. The San Francisco Administrative Code is hereby amended by adding a
21 new Section 10.100-46 to read as follows:

22 **SEC. 10.100-4670. ENVIRONMENT CIGARETTE LITTER ABATEMENT FUND**

23 (a) Establishment of Fund. The Environment Cigarette Litter Abatement Fee Fund is
24 established as a category four fund as defined in Section 10.100-1 of the Administrative Code and shall
25 receive all Cigarette Litter Abatement Fees imposed and collected under Chapter 105 of the

1 San Francisco Administrative Code, monies collected pursuant to Administrative Code
2 Chapter 105 and Health Code Article 19H Section 1009.60(b).

3 (b) Use of Fund. The fund shall be used solely for cigarette litter abatement costs
4 incurred by, or on behalf of, the City and County of San Francisco, including cigarette litter
5 removal costs, anti-cigarette litter education costs, and fee collection, administration and
6 enforcement costs. The City shall use this fund exclusively for the following purposes:

7 (1) Refunds of any overpayments of the Fee imposed hereunder;

8 (2) Costs of administration, collection and enforcement of the Cigarette Litter
9 Abatement Ordinance, including but not limited to, the Tax Collector's personnel, training,
10 space, equipment, materials and supplies, and systems programming expenses specific to
11 collection of the Fee;

12 (3) Costs of public outreach and education to curb improper cigarette litter disposal;

13 and

14 (4) Costs to collect and remove cigarette litter from City sidewalks, gutters and public
15 spaces.

16 (c) Administration of Fund. Expenditures from the fund shall be made upon the
17 recommendation of the Director of the Department of the Environment with the approval of the
18 Controller. Expenditures and encumbrances from this fund shall be subject to the budget and fiscal
19 provisions of the Charter.

20 Section 3-5. The San Francisco Health Code is hereby amended by amending Article
21 19H, Section 1009.60, to read as follows:

22 **SEC. 1009.60. CONDUCT VIOLATING TOBACCO CONTROL LAWS.**

23 (a) Upon a decision by If the Director decides that the permittee or the permittee's agent
24 or employee has engaged in any conduct that violates local, state, or federal law applicable to
25 tobacco products or tobacco sales, including Administrative Code Chapter 105 (imposing Cigarette

1 Litter Abatement Fee), the Director may suspend a tobacco sales permit as set forth in section
2 1009.66, impose administrative penalties as set forth in section 1009.67, or both suspend the
3 permit and impose administrative penalties.

4 (b) The Director shall commence enforcement of this section by serving either a notice
5 of correction under section 1009.68 of this Article or a notice of initial determination under
6 section 1009.69 of this Article.

7 Section 4. 5. The San Francisco Business and Tax Regulations Code is hereby
8 amended by amending Article 6, Section 6.1-1, to read as follows:

9 **SEC. 6.1-1. COMMON ADMINISTRATIVE PROVISIONS.**

10 (a) Except where the specific language of the Business and Tax Regulations Code or
11 context otherwise requires, these common administrative provisions shall apply to Articles 6,
12 7, 9, 10, 10B, 11, 12, 12-A and 12-B of such Code *and to Chapter 105 of the San Francisco*
13 *Administrative Code*~~to~~. Any provision of this Article 6 that references or applies to Article 10
14 shall be deemed to reference or apply to Article 10B. Any provision of this Article 6 that
15 references or applies to a tax shall be deemed to also reference or apply to a fee administered pursuant
16 to this Article.

17 (b) Unless expressly provided otherwise, all statutory references in this Article and the
18 Articles set forth in Subsection (a) shall refer to such statutes as amended from time to time
19 and shall include successor provisions.

20 (c) For purposes of this Article, a domestic partnership established pursuant to
21 Chapter 62 of the San Francisco Administrative Code shall be treated the same as a married
22 couple.

23 **Section 6. Environmental Findings.**

24 The Planning Department has determined that the actions contemplated in this
25 Ordinance are in compliance with the California Environmental Quality Act (California Public

1 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
2 Board of Supervisors in File No. 090724 and is incorporated herein by reference.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: 
7 CATHARINE BARNES
8 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

File Number: 090724

Date Passed:

Ordinance amending the San Francisco Administrative Code (1) by adding a new Chapter 105 to establish a Cigarette Litter Abatement Fee of \$0.20 per pack of cigarettes sold in San Francisco to recover the cost of abating cigarette litter from City streets, sidewalks, and other public property and (2) by adding a new Section 10.100-70 to establish an Environment Cigarette Litter Abatement Fund; amending the San Francisco Health Code, Article 19H, Section 1009.60 to allow the Director of the Department of Public Health to suspend a tobacco sales permit and impose administrative penalties for failure to pay the Cigarette Litter Abatement Fee; amending Article 6 of the San Francisco Business and Tax Regulations Code to include the Cigarette Litter Abatement Fee; and making environmental findings.

July 7, 2009 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

July 14, 2009 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

File No. 090724

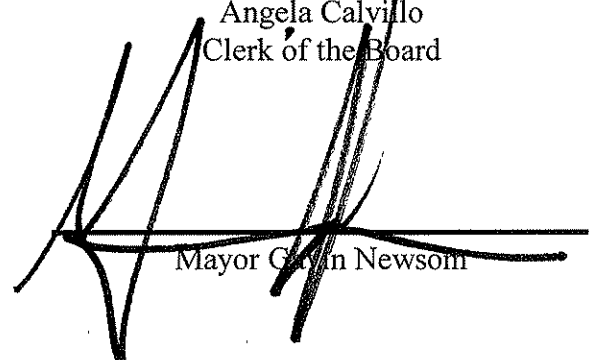
I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on July 14, 2009 by
the Board of Supervisors of the City and
County of San Francisco.



Angela Calvillo
Clerk of the Board

7/21/2009

Date Approved



Mayor Gavin Newsom