

1 [Transportation of Aggregate Materials.]

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3 **Ordinance amending the San Francisco Administrative Code by adding a new Chapter**
4 **12T to require City Departments and contractors operating vehicles carrying dirt and**
5 **other aggregate material to cover the load to prevent the entrainment of particulate**
6 **material into the air during the transportation of such materials within San Francisco.**

7 Note: This Chapter is entirely new.
8 Board amendment additions are double underlined.
9 Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. The San Francisco Administrative Code is hereby amended by adding a
12 new Chapter 12T, to read as follows:

13 **Chapter 12T – Transportation of Aggregate Materials**

14 Sec. 12T.1. FINDINGS. The Board of Supervisors finds and declares the following:

15 (a) Particulate matter and other air-borne materials have been shown to have an adverse
16 impact on public health, including asthma and other respiratory illnesses; and,

17 (b) Particulate matter and other air-borne materials may have negative impacts on the
18 environment, particularly in ecologically sensitive areas; and,

19 (c) Vehicles transporting uncovered dirt and other aggregate materials may facilitate the
20 release of particulate matter into the environment; and,

21 (d) Vehicles that transport dirt and other aggregate materials often drive through
22 residential and ecologically sensitive areas; and,

23 (e) Covering loads of aggregate material during transit within the City would prevent the
24 entrainment of particulate matter into the environment; and,

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1 (f) Under this Chapter, the City and County of San Francisco wishes to exercise its power
2 to make economic decisions involving its own funds as a participant in the marketplace and to conduct
3 its own business as a municipal corporation to ensure that its activities do not increase the amount of
4 particulate matter present in residential and other ecologically sensitive areas. The City enacts this
5 Chapter to require City Departments and City contractors to cover their loads when transporting dirt
6 and other aggregate materials in the City.

7 Sec. 12T.2. DEFINITIONS. For the purposes of this Chapter, the following definitions shall
8 apply to the terms used herein.

9 (a) "Aggregate Material" shall mean rock fragments, pebbles, sand, dirt, gravel, cobbles,
10 crushed base, asphalt, and other similar materials.

11 (b) "City" or "City and County" shall mean the City and County of San Francisco, or any
12 department, board, commission or agency thereof.

13 (c) "Contract" shall mean a written agreement for services to be paid for or administered
14 by the City that might require the transportation of aggregate materials in the City.

15 (d) "Contract awarding authority" shall mean the City officer, department, commission,
16 employee or board authorized to enter into contracts on behalf of the City.

17 (e) "Contractor" shall mean any person who enters into a contract with the City.

18 (f) "Person" shall mean a natural person, a firm, joint stock company, business concern,
19 association, partnership or corporation, its or their successors or assigns, or agents.

20 (g) "Subcontract" shall mean any agreement that is subordinate to the contract that
21 involves the transportation of aggregate materials.

22 (h) "Subcontractor" shall mean any Person who enters into a subcontract with the
23 contractor.

24 (i) "Vehicle" shall have the same meaning as that found in Section 670 of the California
25 Vehicle Code.

1 Sec. 12T.3. COVERING OF AGGREGATE MATERIALS REQUIRED. Any City
2 Department, Contractor, or Subcontractor operating any vehicle hauling aggregate material shall
3 cover the load so as to prevent its contents from dropping, sifting, leaking, blowing, spilling, or
4 otherwise escaping from the vehicle, regardless of the degree to which the vehicle is loaded. Aggregate
5 materials shall only be carried in the cargo area of the vehicle. The cargo area shall not contain any
6 holes, cracks, or openings through which the aggregate material may escape.

7 Sec. 12T.4. CONTRACT REQUIREMENTS. As of the effective date of this Chapter, when the
8 City enters into a contract or extends the terms of an existing contract, the contract shall obligate the
9 Contractor to the following terms and conditions:

10 (a) Contractor agrees that it shall comply with the requirements of Section 12T.3 of this
11 Chapter and agrees to include the requirements of Section 12T.3 in any subcontract which may involve
12 transportation of aggregate material.

13 (b) Contractor's failure to comply with the foregoing requirement shall constitute a
14 material breach of the contract.

15 (c) In the event that Contractor or its Subcontractor is found to be in breach of this
16 provision, Contractor shall be liable for liquidated damages in an amount equal to its net profit under
17 the contract, or five percent of the total amount of the contract, whichever is greater. Such liquidated
18 damages shall be payable upon demand, and may be withheld from monies owed to Contractor under
19 the contract.

20 (d) Nothing in this Section shall be construed to limit any other remedies available at law to
21 City.

22 Sec 12T.5. ENFORCEMENT. Whenever the contract awarding authority discovers, after an
23 investigation, that a contractor and/or subcontractor has violated the requirements of Sections 12T.3
24 and/or 12T.4 of this Chapter, the contracting awarding authority or her or his designee shall have the
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1 authority to impose such sanctions or take such other actions as are designed to ensure compliance
2 with the provisions of this Chapter which shall include, but are not limited to:


3 (a) Termination or suspension of the contract;

4 (b) Ordering the withholding of funds due the contractor under any contract with the City
5 and County;

6 (c) Disqualification of the contractor from eligibility for any contracts with the City for a
7 period not to exceed five years, with a right to review and reconsideration by the City after two years
8 upon a showing of corrective action indicating violations are not likely to reoccur.

9 Sec. 12T.6. SEVERABILITY. If any section, subsection, clause, phrase or portion of this
10 Chapter is for any reason held invalid or unconstitutional by any court or federal or State agency of
11 competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision
12 and such holding shall not affect the validity of the remaining portions thereof.

13 APPROVED AS TO FORM:
14 LOUISE H. RENNE, City Attorney

15 By: 
16 Rona H. Sandler
17 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: 011796

Date Passed:

Ordinance amending the San Francisco Administrative Code by adding a new Chapter 12T to require City Departments and contractors operating vehicles carrying dirt and other aggregate material to cover the load to prevent the entrainment of particulate material into the air during the transportation of such materials within San Francisco.

December 17, 2001 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval, Yee


January 7, 2002 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval, Yee

File No. 011796

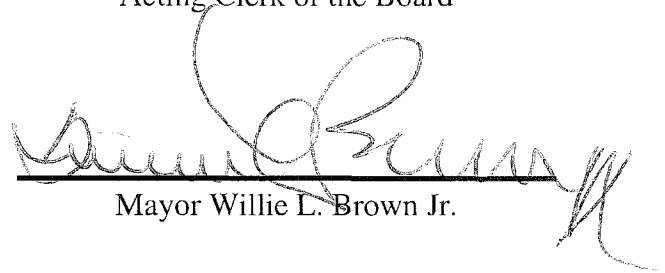
I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on January 7, 2002
by the Board of Supervisors of the City and
County of San Francisco.

JAN 18 2002



Gregoire Hobson
Acting Clerk of the Board

Date Approved



Mayor Willie L. Brown Jr.