

1 [Construction Dust Control.]

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3 **Ordinance amending the San Francisco Building Code by adding Section 106.3.2.6 to**
 4 **require that all site preparation work, demolition, or other construction activities within**
 5 **the City and County of San Francisco that have the potential to create dust or will**
 6 **expose or disturb more than 10 cubic yards or 500 square feet of soil must comply with**
 7 **specified dust control measures whether or not the activity requires a permit from the**
 8 **Department of Building Inspection, with provision for waiver by the Director for**
 9 **activities on sites less than one half acre that are unlikely to result in any visible**
 10 **windblown dust; amending the San Francisco Health Code by adding Article 22B to**
 11 **require, for projects over one half acre, that the project sponsor obtain approval of a**
 12 **dust control plan from the Director of Public Health unless the Director waives these**
 13 **requirements or the project qualifies for an interior only tenant improvement project**
 14 **exemption, and enacting fees to defray the costs of implementation; adopting**
 15 **environmental and general findings.**

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17 Note: Additions are *single-underline italics Times New Roman*;
 18 deletions are ~~*strikethrough italics Times New Roman*~~.
 Board amendment additions are double underlined.
 Board amendment deletions are ~~strikethrough normal~~.

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

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22 Section 1. Findings. The Board of Supervisors of the City and County of San Francisco
 23 hereby finds and determines that:

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25 (a) Environmental Findings. The Planning Department has determined that the
 actions contemplated in this Ordinance are in compliance with the California Environmental
 Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is

1 on file with the Clerk of the Board of Supervisors in File No. _____ and is
2 incorporated herein by reference.

3 (b) General Findings.

4 (1) Even though there are Federal Standards for air pollutants and implementation
5 of State and Regional air quality control plans, air pollutants continue to have impacts on
6 human health throughout the country. California has found that particulate matter exposure
7 can cause health effects at lower levels than national standards. The current health burden of
8 particulate matter demands that, where possible, public agencies take feasible available
9 actions to reduce sources of particulate matter exposure.

10 (2) According to the California Air Resources Board, reducing ambient particulate
11 matter from 1998-2000 levels to natural background concentrations in San Francisco would
12 prevent over 200 premature deaths.

13 (3) Dust can be an irritant causing watering eyes or irritation to the lungs, nose and
14 throat.

15 (4) Demolition, excavation, grading, and other construction activities can cause
16 wind-blown dust to add to particulate matter in the local atmosphere. Depending on
17 exposure, adverse health effects can occur due to this particulate matter in general and also
18 due to specific contaminants such as lead or asbestos that may be constituents of dust.

19 (5) The intent of this ordinance is to reduce the quantity of dust generated during
20 site preparation, construction and demolition in order to protect the health of the general
21 public, protect the health of on-site workers, minimize public nuisance complaints, and avoid
22 orders to stop work by the Department of Building Inspection.

23 Section 2. The San Francisco Building Code is hereby amended by adding Section
24 106.3.2.6, to read as follows:

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1 SEC. 106.3.2.6. Construction dust control.

2 106.3.2.6.1. Dust control required. All applicants for a building, demolition, excavation,
3 grading, foundation, or other permit required by this Code to construct a new building, to demolish a
4 building, to substantially alter or to add to an existing building shall comply with the requirements for
5 dust control and, in addition, for projects over a half acre the applicant will be required to submit a
6 Dust Control Plan for approval by the San Francisco Health Department as set forth in Article 22B of
7 the San Francisco Health Code.

8 106.3.2.6.2. Permit approval. For projects of over one half acre in size, no building or other
9 permit application subject to the requirements of this section shall be approved until the Department of
10 Building Inspection receives either

11 (a) written notification from the Director of Public Health that the applicant either has a
12 site-specific dust control plan for the project approved by the Director of Public Health or the Director
13 of Public Health has waived the requirement or

14 (b) the applicant qualifies as an interior only tenant improvement project that will not
15 produce exterior visible dust and therefore is exempt from complying with Article 22B of the San
16 Francisco Health Code.

17 EXCEPTION: The Director may issue a site permit pursuant to Section 106.3.4.2 prior
18 to the time an applicant complies with this section.

19
20 106.3.2.6.3. GENERAL DUST CONTROL REQUIREMENTS.

21 (a) All site preparation work, demolition or construction activities within the City and
22 County of San Francisco that have the potential to create dust or will expose or disturb more than 10
23 cubic yards or 500 square feet of soil shall comply with the requirements of this Section whether or not
24 the activity requires a permit from the Department of Building Inspection.

1 **(b)** *For projects over one half acre in size, the project sponsor shall designate a person or*
2 *persons who will be responsible for monitoring compliance with dust control requirements. The*
3 *designated person or persons shall be on the site or available by telephone or other means during all*
4 *times that site preparation, demolition or construction activities may be in progress, including holidays*
5 *and weekends. The name and telephone number where such person or persons may be reached at all*
6 *times shall be provided to the Director and to the Director of Public Health prior to commencement of*
7 *work on the project.*

8 **(c)** *The project sponsor and the contractor responsible for construction activities at the*
9 *project site shall use the following practices to control construction dust on the site or other practices*
10 *that result in equivalent dust control that are acceptable to the Director.*

11 **(1)** *Water all active construction areas sufficiently to prevent dust from becoming airborne.*
12 *Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour.*
13 *Reclaimed water must be used if required by Article 21, Section 1100 et seq. of the San Francisco*
14 *Public Works Code. If not required, reclaimed water should be used whenever possible.*

15 **(2)** *Provide as much water as necessary to control dust (without creating run-off) in any*
16 *area of land clearing, earth movement, excavation, drillings, and other dust-generating activity.*

17 **(3)** *During excavation and dirt-moving activities, wet sweep or vacuum the streets,*
18 *sidewalks, paths, and intersections where work is in progress at the end of the workday.*

19 **(4)** *Cover any inactive (no disturbance for more than seven days) stockpiles greater than ten*
20 *cubic yards or 500 square feet of excavated materials, backfill material, import material, gravel, sand,*
21 *road base, and soil with a 10 mil (0.01 inch) polyethylene plastic or equivalent tarp and brace it down*
22 *or use other equivalent soil stabilization techniques.*

23 **(5)** *Use dust enclosures, curtains, and dust collectors as necessary to control dust in the*
24 *excavation area.*

1 106.3.2.6.4. Large projects. If the project is over one half acre in size and the project does not
2 qualify for an interior only tenant improvement project exemption or the Department of Public Health
3 has not issued a waiver for a site-specific dust control plan for the project; construction, demolition,
4 excavation, grading, foundation work, or other permitted activities may not commence until the owner
5 or the owner's agent has submitted to the Department a copy of the Director of Public Health's written
6 approval of the dust control plan. All site preparation and construction activities on the job site shall
7 comply with the general requirements for dust control and the site-specific dust control plan approved
8 by the Director of Public Health. The failure to comply with all provisions of the approved site-specific
9 dust control plan shall be considered a violation of this Code.

10 106.3.2.6.5. Waiver of requirements for compliance for small sites; rescission of waiver.

11 For sites less than a half acre in size:

12 (a) The Director may waive these requirements if the applicant demonstrates to the
13 Director's satisfaction that the proposed site preparation, demolition or construction activities are
14 unlikely to result in any visible windblown dust.

15 (b) If at any time, contrary to the applicant's assertions, the construction activities produce
16 visible windblown dust, the Director may issue a written order rescinding the waiver. A copy of the
17 rescission order shall be personally served on the owner of the property at the address on file with the
18 Department of Building Inspection and posted on the job site.

19 (c) If the Director orders rescission of the waiver, the owner of the property and the
20 contractor or other persons responsible for construction activities at the site shall comply immediately
21 with the above dust control requirements.

22 106.3.2.6.6. Permit notification. All building, demolition, excavation, grading, foundation, or
23 other permit subject to this section issued by the Central Permit Bureau shall bear notice of the above
24 requirements and of the owner's responsibility to control construction dust on the site.

1 (e) “Sensitive Receptor” means residence, school, childcare center, hospital or other
2 health-care facility or group living quarters.

3 SEC. 1241. APPLICABILITY OF ARTICLE.

4 This Article shall apply to any site preparation or construction activities taking place within the
5 City and County of San Francisco that has the potential to create dust or that will expose or disturb
6 soil.

7 SECTION 1242. SITE-SPECIFIC DUST CONTROL PLAN.

8 (a) Applicants for projects over a half acre in size shall submit a map showing the location
9 of the project and clearly identifying all surrounding sensitive receptors and particularly noting those
10 within 1000 feet of the project. The Director of Health shall review this map and any other information
11 available to the Director to verify compliance with this submittal requirement. If no sensitive receptors
12 are determined to be within 1000 feet of the project, then the Director of Health may issue a waiver to
13 the Applicant that specifies that the project is not required to have a site-specific dust control plan.

14 (b) For projects determined by the Director to be within 1000 feet of sensitive receptors, the
15 Applicant will submit a site-specific dust control plan to the Director for approval.

16 (c) The site-specific dust control plan shall contain all provisions of Section 106.3.2.6.3 of
17 the Building Code and enhanced site-specific dust monitoring and control measures that will apply to
18 the project. These site-specific measures may include the following or equivalent measures, which
19 accomplish the goal of minimizing visible dust:

20 (1) wetting down areas around soil improvement operations, visibly dry disturbed soil
21 surface areas, and visibly dry disturbed unpaved driveways at least three times per shift per day.

22 (2) analysis of the wind direction,

23 (3) placement of upwind and downwind particulate dust monitors,

24 (4) recordkeeping for particulate monitoring results,

1 (5) hiring of an independent third party to conduct inspections for visible dust and keeping
2 records of those inspections,

3 (6) requirements for when dust generating operations have to be shut down due to dust
4 crossing the property boundary or if dust is contained within the property boundary but not controlled
5 after a specified number of minutes,

6 (7) establishing a hotline for surrounding community members to call and report visible
7 dust problems so that the Applicant can promptly fix those problem; posting signs around the site with
8 the hotline number and making sure that the number is given to adjacent residents, schools and
9 businesses.

10 (8) limiting the area subject to excavation, grading, and other demolition or construction
11 activities at any one time,

12 (9) minimizing the amount of excavated material or waste materials stored at the site,

13 (10) installing dust curtains, plastic tarps or windbreaks, or planting tree windbreaks on the
14 property line on windward and down windward sides of construction areas, as necessary,

15 (11) paving, applying water three times daily, or applying non-toxic soil stabilizers on all
16 unpaved access roads, parking areas and staging areas at the construction site. Reclaimed water must
17 be used if required by Article 21, Section 1100 et seq. of the San Francisco Public Works Code, Article
18 22. If not required, reclaimed water should be used whenever possible.

19 (12) loading haul trucks carrying excavated material and other non-excavated material so
20 that the material does not extend above the walls or back of the truck bed. Tightly cover with
21 tarps or other effective covers all trucks hauling soil, sand, and other loose materials before the
22 trucks leave the loading area. Wet prior to covering if needed.

23 (13) establishing speed limits so that vehicles entering or exiting construction areas shall
24 travel at a speed that minimizes dust emissions. This speed shall be no more than 15 miles per hour.

1 (14) sweeping streets with water sweepers at the end of each day if visible soil material is
2 carried onto adjacent paved roads. Reclaimed water must be used if required by Article 21, Section
3 1100 et seq. of the San Francisco Public Works Code. If not required, reclaimed water should be used
4 whenever possible.

5 (15) installing wheel washers to clean all trucks and equipment leaving the construction site.
6 If wheel washers cannot be installed, tires or tracks and spoil trucks shall be brushed off before they re-
7 enter City streets to minimize deposition of dust-causing materials.

8 (16) terminating excavation, grading, and other construction activities when winds speeds
9 exceed 25 miles per hour.

10 (17) hydroseeding inactive construction areas, including previously graded areas inactive for
11 at least 10 calendar days, or applying non-toxic soil stabilizers.

12 (18) sweeping of surrounding streets during demolition, excavation and construction at least
13 once per day to reduce particulate emissions.

14 SEC. 1243. EXEMPTION FOR INTERIOR ONLY TENANT IMPROVEMENT PROJECTS

15 Interior Only Tenant Improvement Projects that are over one half acre in size and will not
16 produce any exterior visible dust are exempt from complying with these requirements. If the interior
17 only tenant improvement projects are changed during the course of construction and begin producing
18 exterior visible dust then they will be required to immediately comply with Section 1242 by submitting a
19 site-specific dust control plan for the Director's approval.

20 SEC. 1244. WAIVER OF REQUIREMENTS FOR COMPLIANCE; RESCISSION OF WAIVER.

21 (a) The Director may waive the requirements for a site-specific dust control plan as
22 described in Section 1242 (a) or if the Applicant demonstrates to the Director's satisfaction that a site-
23 specific dust control plan should not be required.

24 (b) The Director may rescind a waiver,

1 (1) if sensitive uses are placed within 1000 feet of the project;
2 (2) if requested by the Director of Building Inspection; or
3 (3) the Director is presented with information that contradicts the Applicant's
4 demonstration that a site-specific dust control plan should not be required.

5 The Director shall provide the Director of Building Inspection with a copy of the rescission
6 order. If the Director orders rescission of the waiver, the owner of the property and the contractor or
7 other persons responsible for construction activities at the site shall comply immediately with Section
8 1242 by submitting a site-specific dust control plan for the Director's approval.

9 SEC. 1245. DIRECTOR'S APPROVAL OF DUST CONTROL PLAN AND NOTIFICATION TO
10 THE DIRECTOR OF BUILDING INSPECTION.

11 After the Director has approved the Applicant's dust control plan, the Director shall provide the
12 Applicant and the Director of Building Inspection with written notification that the Applicant has
13 complied with the requirements of this Article.

14 SEC. 1246. RULES AND REGULATIONS.

15 The Director may adopt, and may thereafter amend, rules, regulations and guidelines that the
16 Director deems necessary to implement the provisions of this Article. A public hearing before the
17 Health Commission shall be held prior to the adoption or any amendment of the rules, regulations and
18 guidelines recommended for implementation. In addition to any notices required by law, the Director
19 shall send written notice, at least 15 days prior to the hearing, to any interested party who sends a
20 written request to the Director for notice of hearings related to the adoption of rules, regulations and
21 guidelines under this section.

22 SEC. 1247. CONSTRUCTION ON CITY PROPERTY.

23 All departments, boards, commissions, and agencies of the City and County of San Francisco
24 that authorize construction or improvements on land under their jurisdiction under circumstances
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1 where no building, excavation, grading, foundation, or other permit needs to be obtained under the San
2 Francisco Building Code shall adopt rules and regulations to insure that the same dust control
3 requirements that are set forth in this Article are followed. The Directors of Public Health and
4 Building Inspection shall assist the departments, boards, commission and agencies to insure that these
5 requirements are met.

6 SEC. 1248. NO ASSUMPTION OF LIABILITY.

7 In undertaking the enforcement of this ordinance, the City is assuming an undertaking only to
8 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
9 obligation for breach of which it is liable in money damages to any person who claims that such breach
10 proximately caused injury.

11 SEC. 1249. FEES.

12 The Director is authorized to charge the following fees to defray the costs of document
13 processing and review, consultation with applicants, and administration of this Article: for fiscal year
14 2008-2009 (1) an initial fee of \$492, payable to the Department upon the filing of a Dust Control Plan
15 with the Department; and (2) an additional fee of \$164 per hour for time spent in document processing
16 and review and applicant consultation exceeding three hours or portion thereof, payable to the
17 Department. Beginning with fiscal year 2009-2010, no later than April 15 each year, the Controller
18 shall adjust the fees provided in this Article to reflect changes in the relevant Consumer Price Index,
19 without further action by the Board of Supervisors. In adjusting the fees, the Controller may round
20 these fees up or down to the nearest dollar. The Director shall perform an annual review of the fees
21 scheduled to be assessed for the following fiscal year and shall file a report with the Controller no later
22 than May 1st of each year, proposing, if necessary, an adjustment to the fees to ensure that costs are

1 fully recovered and that fees do not produce significantly more revenue than required to cover the costs
2 of operating the program. The Controller shall adjust fees when necessary in either case.

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

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7 By: _____
8 JUDITH A. BOYAJIAN
9 Deputy City Attorney

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