

1 [Environment Code - Yellow Pages Distribution Pilot Program]

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3 **Ordinance adding Chapter 20 to the Environment Code to establish a three-year pilot**  
4 **program to reduce waste in the distribution of Yellow Pages phone directories to**  
5 **private residences and businesses in San Francisco, and to reduce neighborhood**  
6 **blight, by restricting distribution to circumstances where: 1) there is personal delivery**  
7 **of the directory to a human being, 2) there has been a request for delivery of the**  
8 **directory to the residence or business, or 3) directories are maintained for pick-up at a**  
9 **distribution center or business open to the public; and mandating a public outreach**  
10 **program to educate the public about the environmental harms associated with**  
11 **excessive distribution of Yellow Pages Phone Directories, develop and publicize**  
12 **alternatives to private possession of such directories, and inform the public of the**  
13 **option and means of obtaining such directories; and making environmental findings.**

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15 NOTE: Additions are *single-underline italics Times New Roman*;  
16 deletions are ~~*strike-through italics Times New Roman*~~.  
Board amendment additions are double-underlined;  
Board amendment deletions are ~~strike-through normal~~.

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

18 Section 1. The San Francisco Environment Code is hereby amended by adding  
19 Chapter 20, to read as follows:

20 Chapter 20: Yellow Pages Distribution Pilot Program

21 Sec. 20.1. Findings and Purpose.

22 Sec. 20.2. Definitions.

23 Sec. 20.3. Distribution of Commercial Phone Directories.

24 Sec. 20.4. Public Outreach Program.

1           Sec. 20.5.       Promotion of General Welfare.

2           Sec. 20.6.       Conflict With State Or Federal Law.

3           Sec. 20.7.       Severability.

4           Sec. 20.8.       Operative Date; Sunset Provision; Reports.

5  
6           **SEC. 20.1. FINDINGS AND PURPOSE.**

7           (a) Every year, private residences and businesses in San Francisco cumulatively receive,  
8           unsolicited, hundreds of thousands of Commercial Phone Directories, commonly known as "the Yellow  
9           Pages." These unsolicited Commercial Phone Directories cumulatively weigh thousands of pounds and  
10           contain millions of pages.

11           (b) The failure to target deliveries of Commercial Phone Directories to private residences and  
12           businesses where an owner or occupant has indicated an interest in receiving one or more Commercial  
13           Phone Directories results in significant wastage. In many cases unsolicited Commercial Phone  
14           Directories that have been delivered to private residences and businesses are not used by the recipient,  
15           and often are not picked up by the intended recipient. In other cases, they are only rarely used by the  
16           recipient. And, even when Commercial Phone Directories are used by the recipient, in many cases the  
17           same information is readily available to the recipient through electronic channels of communication.

18           (c) The wastage caused by delivery of unsolicited Commercial Phone Directories to private  
19           residences and businesses greatly exacerbates the environmental harms and economic costs inherent in  
20           the production and disposal of such directories.

21           (1) The wastage causes substantial and unnecessary depletion of natural resources that go into  
22           the production of Commercial Phone Directories, including substantial consumption of energy used in  
23           the production process. Further, overproduction of Commercial Phone Directories unnecessarily  
24           pollutes the environment.

1           (2) The wastage causes substantial and unnecessary environmental harms and economic costs  
2 associated with the disposal of Commercial Phone Directories, even if they are recycled, which they  
3 often are not. While recycling of Commercial Phone Directories is environmentally preferable to their  
4 being disposed of without recycling, the better approach from an environmental and economic  
5 standpoint is to prevent wastage in the first place, and thereby reduce the need for recycling, by  
6 devising a system tailored to match the production of Commercial Phone Directories with the demand  
7 for such directories. Not printing a Commercial Phone Directory reduces greenhouse gases to a far  
8 greater extent than printing the directory and eventually recycling it.

9           (d) Delivery of unsolicited Commercial Phone Directories to private residences and businesses  
10 also creates neighborhood blight. Unsolicited deliveries often sit on the porch, the steps, in front of the  
11 door to a home, or on the sidewalk, for days or even weeks. Piles of Commercial Phone Directories  
12 are often left in front of multi-unit residential buildings, to be battered and degraded by the elements  
13 rather than picked up by the intended recipients. The size, weight, and bulk of the product operates as  
14 a particular disincentive for people to pick it up. And the size and bulk of the product creates a  
15 particularly unsightly blight on City streets, especially in more densely populated areas, impeding the  
16 aesthetic enjoyment of the neighborhood.

17           (e) The nature and magnitude of the environmental and related harms caused by delivery of  
18 unsolicited Phone Directories is unique to Phone Directories. In the experience of San Francisco and  
19 other cities, no product or object of similar size, weight, and bulk, whether made of paper or otherwise,  
20 and whether containing print or otherwise, is regularly left, unsolicited, at private residences and  
21 businesses throughout San Francisco. Commercial Phone Directories comprise a large subset –  
22 almost certainly a majority – of the Phone Directories delivered unsolicited to private residences and  
23 businesses in San Francisco.

24           (f) The information contained in Commercial Phone Directories is readily available on the  
25 Internet or may easily be made available on the Internet. The large majority of private residences and

1 businesses in San Francisco have access to the Internet, and the numbers of private residences and  
2 businesses with access to the Internet is expected to become even greater in the future. Access to the  
3 Internet has become increasingly common and convenient for residents and businesses in San  
4 Francisco with the advent of personal computers, including hand-held devices, and smart phones.

5 (g) The purpose of this Chapter is to significantly reduce the environmental and other harms  
6 and related costs caused by delivery of unsolicited Commercial Phone Directories to private residences  
7 and businesses in San Francisco. There is a compelling public interest in achieving this objective.

8 (h) The Pilot Program established by this Chapter directly advances the City's interest in  
9 significantly reducing the environmental and other harms and related costs caused by delivery of  
10 unsolicited Commercial Phone Directories to private residences and businesses in San Francisco. The  
11 Pilot Program is narrowly tailored to meet this objective. It does not prohibit the publication or  
12 distribution of Commercial Phone Directories but rather focuses on channeling their distribution to  
13 Persons and others who find a need to use such directories. And a central feature of the program is its  
14 public outreach component, which is designed in part to ensure that Persons and others who seek to  
15 obtain a Commercial Phone Directory are able easily to do so.

16 **SEC. 20.2. DEFINITIONS.**

17 For purposes of this Chapter, the following definitions apply.

18 (a) "City" means the City and County of San Francisco.

19 (b) "Commercial Phone Directory" means a printed publication (a hard copy) of at least 100  
20 pages (counting the front and back of a page as two pages), consisting of nonresidential phone number  
21 listings and advertisements for those listed in the publication, with the listings segregated under  
22 headings for similar types of businesses. A "Commercial Phone Directory" is commonly, but not  
23 necessarily, printed on yellow paper.

24 (c) "Commission" means the Commission on the Environment.

25 (d) "Department" means the Department of the Environment.

1 (e) "Director" means the Director of the Department of the Environment.

2 (f) "Distribute" means to physically deliver Commercial Phone Directories to private  
3 residences and/or businesses in San Francisco. "Distribute" does not include storage of Commercial  
4 Phone Directories by a Distributor or Phone Company at a site under the control of the Distributor or  
5 Phone Company, at which site Persons and others may come to receive Commercial Phone  
6 Directories. The act of distribution of a Commercial Phone Directory shall be imputed to all  
7 Distributors, as defined in subsection (g), of that directory.

8 (g) "Distributor" means (1) a company, entity, business, or Person contractually obligated to  
9 distribute or cause the distribution of Commercial Phone Directories to private residences and/or  
10 businesses in San Francisco; (2) a company, entity, business, or Person that enters into a contract with  
11 a Distributor as defined in subdivision (g)(1) for the purpose of that Distributor's distributing or  
12 causing the distribution of Commercial Phone Directories to private residences and/or businesses in  
13 San Francisco; (3) a company, entity, business, or Person that does not contract for the distribution of  
14 Commercial Phone Directories to private residences and/or businesses in San Francisco but instead  
15 itself distributes the Commercial Phone Directories.

16 Notwithstanding the above definition, "Distributor" does not include a Person or Persons  
17 whose sole role in the distribution of Commercial Phone Directories is limited to driving the streets  
18 and physically delivering Commercial Phone Directories. In addition, "Distributor" does not include  
19 the United States Postal Service, a commercial courier, or a commercial package delivery service that  
20 allows a customer to track the status of a shipment by destination, date, and time of delivery.

21 (h) "Person" means a human being.

22 (i) "Phone Company" means a company or other entity that provides telephone service to  
23 private residences and/or businesses in San Francisco. "Phone Company" includes a wholly owned  
24 subsidiary of a Phone Company, or any other company or entity the ownership or management of  
25 which is controlled by a Phone Company.

1           (j) "Phone Directory" includes Commercial Phone Directories but also includes an  
2 alphabetical compilation of phone listings for residences, businesses, and government offices,  
3 commonly known as "the White Pages." A "Phone Directory" is a printed publication (a hard copy).

4           (k) "Pilot Program" means the Yellow Pages Distribution Pilot Program established by this  
5 Chapter.

6           (l) "State law" means the entire corpus of State law, including decisions and regulations of the  
7 California Public Utilities Commission.

8           **SEC. 20.3. DISTRIBUTION OF COMMERCIAL PHONE DIRECTORIES.**

9           (a) A Distributor may not distribute or cause to be distributed a Commercial Phone Directory  
10 to a private residence or business in San Francisco unless:

11           (1) The Distributor delivers the Commercial Phone Directory to a Person at the private  
12 residence or business who is an occupant or authorized representative of the private residence or  
13 business and who personally accepts the Commercial Phone Directory; or

14           (2) The Distributor delivers the Commercial Phone Directory to a private residence or  
15 business after having received a request from an occupant or authorized representative of the private  
16 residence or business for the Commercial Phone Directory to be delivered there.

17           (b) Subsection (a) shall not be construed to prevent the placement of Commercial Phone  
18 Directories in a business open to the public, with the consent of the occupant or authorized  
19 representative of the business, to be available for pick-up by patrons or other members of the public.

20           (c) For purposes of the exception in subdivision (a)(2), there is no restriction on the manner of  
21 making a request for delivery of a Commercial Phone Directory to a private residence or business. But  
22 the Distributor has a duty to maintain documentation of requests for a Commercial Phone Directory to  
23 be delivered to a private residence or business. The Distributor is permitted but not required to  
24 maintain a registry of such requests. In any proceeding to determine whether a Distributor has  
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1 violated subsection (a) because of not qualifying for the exception in subdivision (a)(2), the absence of  
2 documentation of a request shall raise an inference that the request was not made.

3 (d) For purposes of the exception in subdivision (a)(2), a request for delivery of a Commercial  
4 Phone Directory shall be construed to continue in effect for the duration of the Pilot Program.

5 (e) A Distributor may not evade the prohibition contained in subsection (a) by:

6 (1) Dividing a Commercial Phone Directory into two or more volumes, when at least one of the  
7 volumes does not meet the pages requirement in the definition of Commercial Phone Directory but the  
8 volumes combined would meet the pages requirement; or

9 (2) Including in a Commercial Phone Directory listings the distribution of which are required  
10 by State law, or other information the distribution of which is required by State law.

11 (f) A Distributor who violates subsection (a) may be subject to administrative penalties, as  
12 follows.

13 (1) The Director, a designee of the Director, the Director of Public Works, or a designee of the  
14 Director of Public Works, may issue administrative citations for violations of subsection (a). San  
15 Francisco Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative  
16 Fines," is hereby incorporated in its entirety and shall govern the amount of fees and the procedure for  
17 imposition, enforcement, collection, and administrative review of administrative citations issued under  
18 this subsection (f). The Director, a designee of the Director, the Director of Public Works, or a  
19 designee of the Director of Public Works, shall impose fines as set forth in Section 100.5(a) of the San  
20 Francisco Administrative Code.

21 (2) For the purpose of determining administrative penalties, violations of subsection (a) shall  
22 be computed over any period of time not to exceed 12 months and shall be consolidated in increments  
23 of fifty Commercial Phone Directories unlawfully distributed. For example, a Distributor's unlawful  
24 distribution of 1-50 Commercial Phone Directories shall count as one violation for the purpose of  
25 determining an administrative penalty; a Distributor's unlawful distribution of 51-100 Commercial

1 Phone Directories shall count as two violations for the purpose of determining an administrative  
2 penalty; and so on. More than one Distributor may be assessed an administrative penalty for the same  
3 violation. No Distributor may be assessed twice for the same violation.

4 (g) Distributors have a duty to provide reasonable access to relevant information sought by the  
5 Director, a designee of the Director, the Director of Public Works, or a designee of the Director of  
6 Public Works, for purposes of enforcing the provisions of this Chapter. A Distributor who violates this  
7 subsection (g) may be subject to administrative penalties through the process described in subdivision  
8 (f)(1). For purposes of this subsection (g), violations shall be computed on a daily basis. For example,  
9 the first day a Distributor fails to provide reasonable access to relevant information sought shall count  
10 as one violation for the purpose of determining an administrative penalty; the second day a Distributor  
11 fails to provide reasonable access to relevant information sought shall count as a second violation for  
12 the purpose of determining an administrative penalty; and so on.

13 (h) The Director is authorized to adopt regulations to implement this Section and other  
14 provisions of this Chapter following a public hearing. At the Director's discretion, the Director may  
15 delegate this hearing function, but not the authority to adopt regulations, to a designee.

16 (i) This Section shall not preclude a Distributor, Phone Company, or anyone else from using  
17 any lawful means to inform Persons or others that they may request delivery of a Commercial Phone  
18 Directory to a private residence or business, to publicize the process for making such a request, or to  
19 inform Persons or others of the availability of Commercial Phone Directories at a distribution center  
20 or business where Commercial Phone Directories are available to members of the public. To the extent  
21 permitted by State law, these means of providing information may include but are not limited to:  
22 Notices inserted in phone bills sent to phone customers; notices in other communications from Phone  
23 Companies to their customers; notices in Phone Directories that are not Commercial Phone  
24 Directories and that are distributed to residences and businesses; notices on handbills distributed to  
25 residences and businesses in conformity with provisions of local law regarding distribution of

1 handbills; notices posted on doors, similar to notices posted by commercial mail services when no one  
2 answers the door; notices sent by U.S. mail or email; phone calls; advertisements on television, radio,  
3 or the Internet; and press releases.

4 **SEC. 20.4. PUBLIC OUTREACH PROGRAM.**

5 (a) The City shall develop and implement a public outreach program to educate San Francisco  
6 residents and businesses about the environmental harms associated with excessive distribution of  
7 Commercial Phone Directories; develop alternatives to private possession of Commercial Phone  
8 Directories to obtain the information contained in those directories, and inform the public of those and  
9 other alternatives; and inform the public about the option and means of obtaining a Commercial Phone  
10 Directory from a Distributor or other source. The public outreach program shall include a special  
11 emphasis on outreach to seniors, the disabled, and low-income persons.

12 (b) The Department shall coordinate with other City offices, departments, boards, and  
13 commissions the development and implementation of the public outreach program mandated by  
14 subsection (a). These other City entities may include but are not limited to the Office of the Mayor, the  
15 Office of the City Administrator, the Department of Public Works, and the Department of Technology.  
16 All City offices, departments, boards, and commissions shall cooperate with and reasonably assist the  
17 Department in its efforts to coordinate the development and implementation of the program.

18 (c) In developing and implementing the public outreach program mandated by subsection (a),  
19 the City shall consider the following methods of providing information to the public: Phone calls from  
20 the City to private residences and businesses; a notice on the City's website and the Department's  
21 website; notices on regular meeting agendas of the Commission and possibly of other City boards and  
22 commissions; public service announcements on local television stations and the City's television  
23 station; press releases; and mailings to private residences and businesses and possibly to centers in the  
24 City that house senior citizens or disabled persons. In addition, the City may consider any other

1 methods it concludes may be useful in providing information to the public that will further the goals of  
2 the public outreach program as stated in subsection (a).

3 (d) In developing and implementing the public outreach program mandated by subsection (a),  
4 the City shall consider the feasibility of making Commercial Phone Directories available for  
5 distribution to the public in City buildings such as branches of the San Francisco Public Library,  
6 Recreation Centers, and City Hall; the feasibility of making electronic copies of Commercial Phone  
7 Directories more accessible to members of the public; and the feasibility of providing a service by  
8 which members of the public can call a City phone number and request information in a Commercial  
9 Phone Directory.

10 (e) While subsections (c) and (d) require the City to consider various matters in developing and  
11 implementing the public outreach program mandated by subsection (a), they do not require that the  
12 public outreach program include any particular component.

13 (f) The public outreach program mandated by subsection (a) shall be adopted no later than  
14 October 1, 2011, in the manner prescribed in Section 20.8(a). The City's failure to adopt the public  
15 outreach program by October 1, 2011 shall not invalidate this Chapter or have any legal effect other  
16 than the effect on the Chapter's operative date as specified in Section 20.8(a). The content of the public  
17 outreach program is within the City's discretion and any alleged insufficiency of the program in  
18 meeting its objectives shall not invalidate this Chapter or have any effect on the Chapter's operative  
19 date. The content of the public outreach program may evolve during the three-year duration of the  
20 Pilot Program.

21 **SEC. 20.5. PROMOTION OF GENERAL WELFARE.**

22 In adopting and implementing this Chapter, the City is assuming an undertaking only to  
23 promote the general welfare . It is not assuming, nor is it imposing on its officers and employees, an  
24 obligation for breach of which it is liable in money damages to any person who claims that such breach  
25 proximately caused injury.

1           **SEC. 20.6. CONFLICT WITH STATE OR FEDERAL LAW.**

2           *Nothing in this Chapter shall authorize the City to impose any duties or obligations in conflict*  
3 *with limitations on municipal authority imposed by federal or State law. This Chapter shall be*  
4 *construed so as not to conflict with applicable federal or State law. In adopting regulations pursuant*  
5 *to Section 20.3(h) or engaging in enforcement actions pursuant to Sections 20.3(f), 20.3(g), and 20.8(c),*  
6 *the City is authorized to implement this Chapter so as to avoid a conflict, if any, with applicable federal*  
7 *or State law.*

8           **SEC. 20.7. SEVERABILITY.**

9           *If any of the provisions of this Chapter or the application thereof to any person or circumstance*  
10 *is held invalid, the remainder of those provisions, including the application of such part or provisions*  
11 *to persons or circumstances other than those to which it is held invalid, shall not be affected thereby*  
12 *and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.*

13           **SEC. 20.8. OPERATIVE DATE; SUNSET PROVISION; REPORTS.**

14           *(a) This Chapter shall become operative thirty days after the City adopts the public outreach*  
15 *program mandated by Section 20.4(a). The public outreach program shall be adopted when notice of*  
16 *its adoption is posted on the Department's website and at the Public Library, and a notice of its*  
17 *adoption is transmitted by the Department to the Clerk of the Board of Supervisors. In addition, a*  
18 *Distributor, Phone Company, other company, entity, business, Person, or anyone else may file a*  
19 *written request with the Director or the Director's designee to be notified of the adoption of the public*  
20 *outreach program at the time of its adoption. The Director or designee shall provide such notice upon*  
21 *request; but failure to provide such notice shall not delay or otherwise affect the date this Chapter*  
22 *becomes operative, or have any other legal effect.*

23           *(b) This Chapter shall remain operative for three years following the date that the Chapter*  
24 *becomes operative. At the conclusion of the three-year period, this Chapter shall "sunset" and no*  
25 *longer have the force of law.*

1           (c) Distributors shall submit a written report to the Director or the Director's designee one  
2 year after the operative date of this Chapter, two years after the operative date, and six months prior to  
3 the sunset date. These reports shall contain information on the total number of Commercial Phone  
4 Directories distributed, and the number of them distributed according to different means of  
5 distribution. The Director may require Distributors to submit other information pertaining to  
6 distribution of Commercial Phone Directories.

7           Failure of a Distributor to comply with the reporting requirement mandated by this subsection  
8 (c) may subject the Distributor to administrative penalties through the process described in Section  
9 20.3(f)(1). For purposes of this subsection (c), violations shall be computed on a daily basis, in the  
10 manner described in Section 20.3(g).

11           To the extent submission of information from one Distributor would be duplicative of  
12 information submitted or to be submitted by another Distributor, the Director may, upon request of a  
13 Distributor, waive the reporting requirement mandated by this subsection (c) for that Distributor.

14           (d) The Department shall report to the Board of Supervisors, no later than three months prior  
15 to the sunset date of this Chapter, on the efficacy of this Chapter as a means of reducing wastage in the  
16 distribution of Commercial Phone Directories in San Francisco, the scope and effectiveness of the  
17 public outreach program mandated by Section 20.4(a), and any other matters pertaining to this  
18 Chapter. All City offices, departments, boards, and commissions shall cooperate with and reasonably  
19 assist the Department in its efforts to prepare the report. This subsection (d) shall not preclude the  
20 Board of Supervisors or a committee thereof, or the Commission, or any other City entity or official,  
21 from holding hearings at any time on the same subject.

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23           Section 2. Environmental Findings. The Planning Department has determined that the  
24 actions contemplated in this Ordinance are in compliance with the California Environmental  
25 Quality Act (California Public Resources Code section 21000 et seq.). Said determination is

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

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

6 By: \_\_\_\_\_  
7 PAUL ZAREFSKY  
8 Deputy City Attorney

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