

FILE NO. 051142

1 [Construction and Demolition Debris Recovery.]

2

3 **Ordinance amending the Building Code by amending Section 103.2.2; amending**

4 **Chapter 13 to change the title of the Chapter from "Energy Conservation" to "Resource**

5 **Conservation" and adding Chapter 13B entitled "Construction and Demolition Debris**

6 **Recovery Program;" Section ~~106.3.2.6~~; amending the Health Code by adding Sections**

7 **288 and 288.1; and amending the Environment Code by adding Chapter ~~13~~14, entitled**

8 **Construction and Demolition Debris Recovery Ordinance, to establish a**

9 **comprehensive program to require the recovery rather than landfill disposal of**

10 **construction and demolition debris generated in San Francisco by prohibiting disposal**

11 **of such debris with garbage; imposing requirements and conditions in building**

12 **permits; establishing a program to register construction and demolition debris**

13 **transporters and processing facilities; and establishing enforcement mechanisms**

14 **including penalties; amending the Police Code Section 39-1 to implement the new**

15 **program; setting an operative date; and making environmental findings.**

16 Note: Additions are single-underline italics Times New Roman;

17 deletions are ~~strikethrough italics Times New Roman~~.

18 Board amendment additions are double underlined.

19 Board amendment deletions are ~~strikethrough normal~~.

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

20 Section 1. Findings. The Board of Supervisors hereby finds and declares:

21 A. San Francisco is committed to protecting the public health, safety, welfare and

22 environment. This requires commitment that our air, water and land be healthy and safe.

23 The construction and demolition of buildings used for housing, recreation and commerce is

24 elemental to public well being, but can also result in the generation of pollution and the waste

25 of natural resources. In order for our City to reduce waste, preserve resources and protect

1 public health during building construction and demolition, the Board of Supervisors intends to
2 require debris from building projects to be recovered.

3 B. This ordinance enacts a new Chapter of the Environment Code and makes
4 amendments to the Building Code and the Health Code in order to establish a comprehensive
5 program to effectuate the City's goals.

6 C. On October 11, 2005, the Planning Department determined that the actions
7 contemplated in this Ordinance are categorically exempt from the California Environmental
8 Quality Act (California Public Resources Code sections 121000 et seq.). Said determination
9 is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated
10 herein by reference.

11 Section 2. The San Francisco Building Code is hereby amended by adding Chapter
12 13B Section 406.3.2.6, to read as follows:

13 SEC. 1301B. 406.3.2.6 TITLE.

14 This chapter shall be known as the "Construction and Demolition Debris Recovery
15 Program".

16 SEC. 1302B. 406.3.2.6 RECOVERY OF CONSTRUCTION AND DEMOLITION
17 DEBRIS.

18 Under the requirements set forth herein and in Chapter 1413 of the Environment Code, all
19 construction and demolition debris in amounts of one cubic yard or greater generated in the course
20 of a construction or demolition project subject to a permit pursuant to Section 106.1 of the
21 Building Code must be transported off the site by a registered transporter, unless transported by the
22 owner of the site permittee, and handled, processed and otherwise managed by a registered facility
23 for recovery of the materials. All persons subject to these requirements, including an An
24
25

1 applicant for any building or demolition permit shall comply with the requirements for construction
2 and demolition debris recovery set forth in Chapter 1413 of the Environment Code.

3 SEC. 406.3.2.6.4 1303B. DEFINITIONS.

4 "Construction and Demolition Debris" shall mean building materials and solid waste generated
5 from construction and demolition activities, including, but not limited to, fully-cured asphalt, concrete,
6 brick, rock, soil, lumber, gypsum wallboard, cardboard and other associated packaging, roofing
7 material, ceramic tile, carpeting, fixtures, plastic pipe, metals, tree stumps, and other vegetative matter
8 resulting from land clearing and landscaping for construction, deconstruction, demolition or land
9 developments. This term does not include refuse regulated under the 1932 Refuse Collection and
10 Disposal Initiative Ordinance or sections of the Municipal Code that implement the provisions of that
11 ordinance; materials from the public right-of-way; or, unless specified in Chapter 14 of the
12 Environment Code, materials source separated for reuse or recycling. Hazardous waste, as
13 defined in California Health and Safety Code section 25100 et seq., as amended, is not Construction
14 and Demolition Debris for purposes of this Chapter.

15 "Registered Transporter " or "Registered Facility" shall mean a person who holds a valid
16 registration issued by the Director of the Department of the Environment pursuant to Chapter 1413 of
17 the Environment Code. "Transporter" does not include a person that owns and operates only vehicles
18 with no more than 2 two axles and no more than 2 two tires per axle.

19 SEC. 406.3.2.6.2-1304B PERMIT CONDITION.

20 The provisions of Chapter 1413 of the Environment Code and any approvals or conditions
21 imposed in writing by the Department of the Environment are conditions of the permit issued by the
22 Department under section 106.1, and a violation of Chapter 1413 or such approvals or conditions
23 shall be deemed non-compliance with the permit.

24 SEC. 406.3.2.6.3 1305B. PERMIT NOTIFICATION.

1 Permit application materials shall bear notice of and reference to the above requirements and
2 the owner's responsibility for compliance with such requirements.

3 Section 3. The San Francisco Health Code is hereby amended by adding Section 288
4 to read as follows:

5 SEC. 288. CONSTRUCTION AND DEMOLITION DEBRIS.

6 No commercial establishment, dwelling, householder or other person or entity, including the
7 City and County of San Francisco, shall place out for regular refuse collection any construction and
8 demolition debris. Unless otherwise required by Chapter 14~~13~~ of the Environment Code or acceptable
9 in an on-site residential or commercial recycling or composting collection program, construction and
10 demolition debris must be disposed of at a construction and demolition debris facility registered
11 pursuant to Chapter 14 of the Environment Code. For purposes of this section, construction and
12 demolition debris means building materials and solid waste generated by construction and demolition
13 activities, including but not limited to: fully-cured asphalt, concrete, brick, rock, soil, lumber, gypsum
14 wallboard, cardboard and other associated packaging, roofing material, ceramic tile, carpeting,
15 fixtures, plastic pipe, metals, tree stumps, and other vegetative matter resulting from land clearing and
16 landscaping for construction, deconstruction, demolition or land developments. Construction and
17 demolition debris does not include any refuse regulated under the 1932 Refuse Collection and Disposal
18 Initiative Ordinance or sections of the Municipal Code that implement the provisions of that ordinance.
19 Hazardous waste, as defined in California Health and Safety Code section 25100 et seq., as amended,
20 is not construction and demolition debris for purposes of this section.

21 Section 4. The San Francisco Health Code is hereby amended by adding Section
22 288.1 to read as follows:

23 SEC. 288.1. PENALTY.

1 Any person, firm or corporation violating any of the provisions of Section 288 of this Article
2 shall be guilty of an infraction and, upon conviction thereof, shall be punished for the first offense by a
3 fine of not less than \$80 nor more than \$100; and for a second offense by a fine of not less than \$150
4 nor more than \$200; and for each additional offense by a fine of not less than \$250 nor more than
5 \$500. In the alternative, any person, firm or corporation violating any of the provisions of Section 288
6 of this Article may be assessed an administrative penalty not to exceed \$300 for each violation. Such
7 penalty shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.

8 Section 5. The San Francisco Environment Code is hereby amended by adding
9 Chapter ~~43-14~~, which shall be entitled Construction and Demolition Debris Recovery
10 Ordinance, and to read as follows:

11 SEC. ~~43~~1400. FINDINGS.

12 The Board of Supervisors finds and declares the following:

13 A. People who live in, work in or visit San Francisco generate 1.8 million tons of solid
14 waste annually with more than half of these materials recovered through waste prevention, recycling
15 and composting.

16 B. The State of California through its California Integrated Waste Management Act of
17 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the state divert 50% of
18 discarded materials (base year 1990) from landfill. Every city and county in California, including the
19 City, could face fines up to \$10,000 a day for not meeting the above mandated goal.

20 C. The Source Reduction and Recycling Element (SRRE) for San Francisco adopted by the
21 Board of Supervisors in 1992, recognized the importance of recovering wood, metals, and inerts from
22 construction and demolition activities in order to meet the state mandated waste reduction goal.

1 D. The Board of Supervisors adopted Resolution No. 679-02 setting a goal of 75%
2 diversion from landfill by 2010 and promoting the highest and best use of recovered materials and
3 authorizing the Commission on the Environment to adopt a zero waste goal, which it set as 2020.

4 E. The Green Building Ordinance, Chapter 7 of the Environment Code, establishes
5 LEED™ Silver level as the standard for all City building projects, which can include and includes
6 the goal of diverting 75% of construction and demolition debris from landfill for each project.

7 F. There are facilities both within the City and in nearby surrounding areas that can
8 effectively reuse, recycle or otherwise recover the constituent elements of the materials generated by
9 construction and demolition activity and thereby divert such materials from landfill.

10 G. Construction and demolition waste recovery programs reduce the amount of materials
11 generated and hauled to landfill, decrease worker exposure to hazards, improve worker safety, reduce
12 truck trips and traffic and improve air quality, thereby enhancing the health, safety and welfare of San
13 Franciscans.

14 H. This Chapter requires construction and demolition debris to be transported by a
15 registered vehicle and processed by a registered facility in order to ensure proper handling and to
16 recover an additional estimated 100,000 tons from landfill disposal annually.

17 I. State law requires the California Integrated Waste Management Board to adopt a model
18 construction and demolition debris ordinance and requires that Board to take into account a city's
19 efforts to encourage or require recovery of construction and demolition debris in determining whether
20 a city has met the mandated 50% recovery rate and other solid waste reduction and recycling
21 requirements. This Chapter would help the City maintain the levels required by the state mandate and
22 achieve the City's goals of 75% landfill diversion by 2010 and zero waste by 2020.

23 J. In keeping with the Precautionary Principle, codified in Chapter 1 of the Environment
24 Code, this Chapter requires proper handling of construction debris as a deterrent to unsafe and
25

1 wasteful practices. In this way, the City will create and maintain a healthy, viable environment for
2 current and future generations, and will become a model of sustainability.

3 SEC. 131401. DEFINITIONS.

4 For the purposes of this Chapter, the following words have the following meanings:

5 (a) "Alternative Daily Cover" or "ADC" shall mean materials, other than soil, that have
6 been approved by the California Integrated Waste Management Board or a successor agency for use as
7 an overlay on an exposed landfill face.

8 (b) "Bio-mass Conversion" shall mean the controlled combustion, when separated from
9 other solid waste and used for producing electricity or heat, of wood, woodchips, woodwaste, tree and
10 brush prunings. Bio-mass conversion does not include the controlled combustion of recyclable pulp or
11 recyclable paper materials, sludge, medical or hazardous waste.

12 (c) "Construction and Demolition Debris" shall mean building materials and solid waste
13 generated from construction and demolition activities, including, but not limited to, fully-cured asphalt,
14 concrete, brick, rock, soil, lumber, gypsum wallboard, cardboard and other associated packaging,
15 roofing material, ceramic tile, carpeting, fixtures, plastic pipe, metals, tree stumps, and other
16 vegetative matter resulting from land clearing and landscaping for construction, deconstruction,
17 demolition or land developments. This term does not include: refuse regulated under the 1932 Refuse
18 Collection and Disposal Initiative Ordinance or sections of the Municipal Code that implement the
19 provisions of that ordinance; materials excavated from the public right-of-way; or, unless
20 otherwise specified in Section 1402(b), materials source separated for reuse or recycling.
21 Hazardous waste, as defined in California Health and Safety Code section 25100 et seq., as amended,
22 is not Construction and Demolition Debris for purposes of this Chapter.

23 (d) "Department" shall mean the San Francisco Department of the Environment.
24
25

1 (e) "Director" shall mean the Director of the Department of the Environment or his or her
2 designee.

3 (f) "Facility" shall mean a facility that receives and processes construction and demolition
4 debris into its component material types for reuse, recycling, and disposal of residuals.

5 (g) "Permittee" shall mean any individual, firm, limited liability company, association,
6 partnership, public or private corporation or any other entity who is issued a permit pursuant to
7 Section 106.1 of the Building Code.

8 (h) "Person" shall mean a natural person, a firm, joint stock company, business concern,
9 association, partnership or corporation or governmental entity, including the City and County of
10 San Francisco and its departments, boards and commissions for projects within the
11 geographic boundaries of the City, and its or their successors or assigns, or agents. A
12 governmental entity may also be a "person" for purposes of obtaining a registration for a
13 facility.

14 (h)(i) "Recover" or "Recovery" shall mean any activity, including source reduction,
15 deconstruction and salvaging, reuse, recycling and composting, which causes materials to be recovered
16 for use as a resource and diverted from disposal.

17 (i)(i) "Registered Transporter " or "Registered Facility" shall mean a person who holds a
18 valid registration issued by the Director pursuant to this Chapter.

19 (j) "Transport" or "Transportation" shall mean transportation of construction and
20 demolition debris. "Transport" or "Transportation" does not include transportation of less than
21 one cubic yard of construction and demolition debris or transportation in a vehicle that has no
22 more than two axles and no more than two tires per axle.

23 (k) "Transporter" shall mean a person that transports construction and demolition debris
24 as defined in this Chapter. "Transporter" does not include a person that owns and operates

1 only vehicles with no more than 2 axles and no more than 2 tires per axle. "Transporter" does
2 not include a person that owns the property at which the construction and demolition debris
3 was generated. permittee transporting Construction and Demolition debris from the permitted
4 site.

5 (l) "Vehicle" shall mean a vehicle used to transport construction and demolition debris as
6 those terms are defined in this Chapter., other than a vehicle with not more than two axles
7 and not more than two tires per axle. A vehicle with not more than two axles and not more
8 than two tires per axle is not subject to this Chapter.

9 SEC. 431402. REQUIREMENTS APPLICABILITY OF CHAPTER.

10 (a) Pursuant to Section 106.3.2.6 of the Building Code, every permittee must
11 comply with the provisions of this Chapter.

12 (b) (a) Except as provided in this Chapter, no person, other than permittee the owner
13 of the property where the construction and demolition debris was generated, may transport and
14 no person may process construction and demolition debris from a project subject to Section
15 406.3.2.6 of the Building Code unless that person has a registration from the Department as
16 provided in this Chapter. Except as provided in this Chapter, all construction and demolition
17 debris, regardless of transport or volume, must be processed at a registered facility.

18 (b) A person conducting full demolition of an existing structure must submit a waste
19 diversion plan to the Director which provides for a minimum of 65% diversion from landfill of
20 construction and demolition debris, including materials source separated for reuse or recycling
21 which would otherwise not be subject to this Chapter. The plan may propose to use facilities
22 and transporters that are not registered under this Chapter. The waste diversion plan must be
23 submitted to the Director at the time the person applies for a demolition permit from the
24 Department of Building Inspection and must include the following information: a list of all
25

1 material types and volumes anticipated from the demolition; the market or destination for each
2 material; the estimated recovery rate (diversion from landfill) by material or market; and the
3 anticipated transporter for each material type. The Director shall make a determination as to
4 the adequacy of the plan within five (5) business days and shall notify the Department of
5 Building Inspection of its decision.

6 SEC. 431403. RESERVED REQUIREMENTS FOR PERMITTEES.

7 ~~All construction and demolition debris generated in the course of a project subject to a permit~~
8 ~~pursuant to Section 106.3.2.6 of the Building Code, if transported, must be transported off the~~
9 ~~site by a registered transporter, unless transported by the permittee, and must be handled,~~
10 ~~processed and otherwise managed for recovery at a registered facility.~~

11 SEC. 431404. REGISTRATION REQUIREMENT FOR FACILITIES AND TRANSPORTERS.

12 (a) A person subject to Section 431402 shall apply for a registration by filing with the
13 Director an application form prescribed by the Director, which contains the following information, and
14 the information set forth in Section 431405.

15 (i) For construction and demolition debris processing facilities: the name and address of
16 the person who owns the facility; the name and address of the person who operates the facility; a
17 statement that the owner or operator has all permits, authorizations or licenses required by any local,
18 state or federal agency to operate the facility and all necessary insurance.

19 (ii) For transporters of construction and demolition debris: the name and address of the
20 person who owns the vehicle(s); a statement that the vehicle(s) and each operator has all permits,
21 authorizations or licenses and any insurance required by any local, state or federal agency to operate
22 the vehicle(s). An owner of a vehicle may obtain a single registration covering all vehicles and all
23 debris boxes or other containers, provided that each vehicle is clearly and prominently marked as
24 belonging to that owner (with the name of the business entity). The owner of the vehicle(s) is

1 responsible for compliance by any operator of a vehicle owned by that person being used to transport
2 construction and demolition debris.

3 (b) The person who owns the facility or the vehicle(s) must certify the accuracy of the
4 information submitted in the application form under penalty of perjury.

5 (c) The Director must act on an application form within 15 days of receipt.

6 (d) If the Director determines that the information required by the application form is not
7 complete, the Director will provide written notice to the potential registrant of the remaining
8 information needed.

9 (e) If the Director determines that the application form is complete, the Director shall issue
10 a registration containing the following minimum information: a reference to the general terms and
11 conditions specified in Section 431406; the name and address of the registrant, the name and address
12 of the facility (if applicable); the effective and expiration date of the registration; and a registration
13 number assigned by the Director.

14 SEC. 431405. REGISTRATION CRITERIA.

15 The owner of the facility or the transporter shall include the following information in the
16 application form described in Section 431404.

17 (a) For Facilities.

18 (i) The facility meets an overall minimum recovery rate of 65 percent for construction and
19 demolition debris (based on the most recent month), which may include materials used as ADC or bio-
20 mass conversion, provided that the facility can demonstrate that the use as ADC or bio-mass
21 conversion is the highest and best use. The recovery rate will be determined by the total quantity of
22 materials delivered to established recycling and composting markets divided by the total quantity
23 received by the registered facility. Highest and best use for ADC does not include ADC which is
24 generated by intentional crushing or grinding of construction and demolition debris that has not been

1 processed to remove wood, metal, wallboard, glass and other materials for which markets or uses other
2 than ADC are available. Consistent with this section, the Director shall adopt regulations pursuant to
3 Section ~~4314~~12 to specify how the recovery rate will be calculated and when ADC or bio-mass
4 conversion is considered to be the highest and best use of a particular material.

5 (ii) The facility has and is implementing a hazardous waste load checking program to
6 minimize hazardous waste accepted at the facility.

7 (iii) The facility has no outstanding notices of violation from any federal, state or local
8 agency that could affect the permits, authorizations or licenses required for its continued operation.

9 (iv) The facility agrees to submit annual reports to the Director on forms and by dates
10 specified by the Director pursuant to Section ~~4314~~12. The reports must include, with respect to San
11 Francisco materials only, the following information: the total quantity of material received at the
12 registered facility, the breakdown of all of the specific recycled commodities, the end use of the
13 recycled commodity (reuse, recycling, composting, ADC, bio-mass conversion) landfill destination for
14 residuals, and the recovery ratio for the report period by processing area.

15 (v) For each truckload received at a discrete facility processing area, the facility agrees to
16 provide each vehicle with a uniquely numbered tag receipt specifying, at a minimum, the facility name
17 and processing area, the quantity of material received and the current recovery rate for that processing
18 area. The receipt will also include the identity of the transporter and the permit application number
19 issued by the Department of Building Inspections, if any, associated with that load.

20 (vi) The facility agrees to comply with the provisions of this Chapter; provide documentation
21 to support the information in the application form, including the Section ~~4314~~04(b) certification, to the
22 Director upon request; and allow the Director to make inspections of the facility in order to verify the
23 information in the application form and required reports.

24 (b) For Transporters.
25

1 (i) The owner has no outstanding notices of violation from any federal, state or local
2 agency that could affect the permits, authorizations or licenses required for continued operation of his
3 or her vehicles.

4 (ii) The owner agrees to submit to the Director, upon request, the receipts specified in
5 subsection (a)(v).

6 (iii) The owner agrees that for each truckload of materials delivered to a facility, the
7 operator of the vehicle will provide to the facility the permit application number, if any, associated
8 with that load.

9 (iv) The owner of the vehicle agrees to comply with the provisions of this Chapter; provide
10 documentation to support the information in the application form, including the Section 431404(b)
11 certification, to the Director upon request; and allow the Director to make inspections of vehicles in
12 order to verify the information in the application form and reports.

13 (v) The owner agrees that all vehicles will operate in accordance with state and federal
14 laws and motor carrier regulations and in accordance with best business practices to ensure against
15 leakage and unsafe loads. All Construction and Demolition Debris must be transported in either a fully
16 enclosed vehicle or container and must be covered to minimize any potential spillage or littering.

17 SEC. 431406. GENERAL TERMS AND CONDITIONS FOR REGISTERED FACILITIES AND
18 TRANSPORTERS.

19 The following terms and conditions shall apply to each registration:

20 (a) A registration is valid for two years.

21 (b) Each registrant must submit a registration renewal on a form specified by the Director
22 thirty (30) days prior to the expiration date of the registration. Except as provided in this subsection, if
23 a registrant submits a properly completed renewal form thirty (30) days prior to the expiration date,
24 the current registration will continue in full force and effect until the Director issues a registration or
25

1 all administrative and judicial appeals have been exhausted or the time for appeal has expired. A
2 person may not renew a registration during a period of suspension, either by filing a renewal form or
3 by operation of law. At the end of the suspension period, the person may apply for a registration.

4 (c) All records required to be kept by registered facilities and transporters shall be kept for
5 at least three (3) years.

6 (d) A registration is not transferable.

7 (e) A registration does not take the place of any license required by state, federal or local
8 law nor does compliance with the requirements of this Chapter relieve any party of compliance with
9 any other applicable State, federal or local law.

10 (f) A copy of proof of registration shall be prominently displayed at any registered facility
11 and kept in a registered vehicle.

12 (g) Within thirty (30) days of a change of any of the information required on a registration
13 or renewal form, a registrant must file an amendment to the registration on a form prescribed by the
14 Director.

15 (h) Each registrant must notify the Director, in writing, within twenty-four (24) hours of the
16 time a permit, authorization or license required by any local, state or federal agency to operate the
17 facility or vehicle terminates, expires or is revoked or suspended.

18 SEC. 431407. TRADE SECRETS.

19 (a) If a person believes that any information required to be reported or disclosed by this
20 Chapter contains a trade secret, the person shall provide the information to the Director and shall
21 notify the Director in writing of that belief, detailing the basis of the belief as to each specific item of
22 information the person claims is a trade secret. For purposes of this Chapter, "trade secret" shall have
23 the same meaning as it has under state law. The person designating information as a trade secret shall
24 specify a name and street address for notification purposes and shall be responsible for updating such

1 information. The Director shall not disclose any properly substantiated trade secret which is so
2 designated by a person except as required by this Chapter or as otherwise required by law.

3 (b) Information designated as trade secret may be disclosed to an officer or employee of the
4 City and County of San Francisco, the State of California, or the United States of America for use in
5 connection with the official duties of such officer or employee acting under authority of law for the
6 protection of health, without liability on the part of the City.

7 (c) When the Director or other City official or employee receives a request for information
8 that has been designated as, or which the City determines may be, a trade secret, the City shall notify
9 the person or business of the request. The City may request further evidence or explanation from the
10 person as to why the information requested is a trade secret. If the City determines that the information
11 does not constitute a trade secret, the City shall notify the person or business of that conclusion and
12 that the information will be released by a specified date in order to provide the person or business the
13 opportunity to obtain a court order prohibiting disclosure.

14 (d) In adopting this Chapter, the Board of Supervisors does not intend to authorize or
15 require the disclosure to the public of any trade secrets protected under the laws of the State of
16 California.

17 (e) This Section is not intended to empower a person or business to refuse to disclose any
18 information, including but not limited to trade secrets, to the Director or other City Departments
19 required under this Chapter.

20 (f) Notwithstanding any other provision of this Chapter, any officer or employee of the City
21 and County of San Francisco, or former officer or employee or contractor with the City or employee
22 thereof, who by virtue of such employment of official position has obtained possession or has had
23 access to information, the disclosure of which is prohibited by this Section, and who, knowing that
24
25

1 disclosure of the information is prohibited, knowingly and willfully discloses the information in any
2 manner to any person or business not entitled to receive it, shall be guilty of a misdemeanor.

3 SEC. 431408. RESERVED.

4 SEC. 431409. LIST OF REGISTERED FACILITIES AND REGISTERED TRANSPORTERS.

5 The Director will maintain a current list of registered facilities and registered transporters
6 available at the Department's Office and on its website. The Director will update the list at least every
7 sixty (60) days. The Director will work with the Department of Building Inspection and other City
8 departments to ensure availability of this information to the public.

9 SEC. 431410. ENFORCEMENT.

10 (a) The Director has authority to administer all provisions of this Chapter and to enforce its
11 provisions by any lawful means available for such purpose. The Department of Building Inspection
12 shall work together with the Director to coordinate enforcement of this Chapter with enforcement of
13 relevant provisions of the Building Code.

14 (b) In order to carry out the provisions of this Chapter, the Director has the authority to
15 inspect any registered facility or registered transporter. This right of entry will be exercised only at
16 reasonable hours, and with the consent of the owner of the vehicle or facility or with a proper
17 inspection warrant. The Director will inspect each registered facility and transporter at least once
18 annually.

19 (c) Suspension of registration. Whenever the Director finds that information in a person's
20 application, registration or any required report is inaccurate, a person does not have the appropriate
21 permits, authorizations or licenses to operate the registered facility or vehicle, or that a person is
22 violating or has violated this Chapter or the terms of a registration, the Director may issue an order
23 suspending the registration as provided in this Section. The Director's order to suspend must include a
24 written statement of the reasons for the suspension and must provide the person with an opportunity to
25

1 respond in writing before the order becomes effective. The order shall provide the effective date and
2 end date of the suspension. The suspension period will be no more than: one (1) month for the first
3 violation; six (6) months for the second; and twelve months (12) for any subsequent violations. The
4 Director's decision shall be final.

5 (d) A final decision of the Director to suspend a registration may be appealed to the Board
6 of Appeals in the manner prescribed in Article I of the San Francisco Business and Tax Regulations
7 Code. Any person who fails to appeal the Director's decision to the Board of Appeals within the time
8 specified may not challenge a decision or final order of the Director in any judicial proceedings
9 brought to enforce the decision or order or for other remedies.

10 Within ninety (90) days of the decision of the Board of Appeals, a person may file with a Court
11 of competent jurisdiction a petition for writ of mandate to review the Board of Appeals decision,
12 provided that the responsible party has exhausted its administrative remedies. Any person who fails to
13 file a petition within this 90-day period may not challenge a decision or final order of the Board of
14 Appeals in any judicial proceedings brought to enforce the decision or order or for other remedies.
15 Section 1094.5 of the California Code of Civil Procedure shall govern any proceedings conducted
16 pursuant to this Section. In all proceedings pursuant to this Section, the Court shall affirm the Board
17 of Appeal's decision if it is based upon substantial evidence in the whole record. This Section does not
18 prohibit the Court from granting any appropriate relief within its jurisdiction.

19 (e) The Director may request the City Attorney or the District Attorney, as the case may be,
20 to commence an action to enforce this Chapter.

21 (i) Civil Penalties. Any person who violates this Chapter shall be civilly liable to
22 the City and County of San Francisco for a civil penalty in an amount not to exceed one-thousand
23 dollars (\$1,000) for each day in which the violation occurs. Each day that such violation continues
24 shall constitute a separate violation. For a second violation of the Chapter, the civil penalty will be not
25

1 less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) for each day
2 in which the violation occurs. In determining civil penalties, the court shall consider the extent of harm
3 caused by the violation(s), the nature and persistence of the violation(s), the length of time over which
4 the violation(s) occur(s), the frequency of past violations, any action taken to mitigate the violation,
5 and the financial burden to the violator.

6 (ii) Criminal Penalties. Each violation shall be considered a separate misdemeanor
7 punishable by a fine not exceeding than one thousand dollars (\$1,000), or imprisonment not to exceed
8 six (6) months in the County Jail, or both. In determining criminal penalties, the court shall consider
9 the extent of harm caused by the violation(s), the nature and persistence of the violation(s), the length
10 of time over which the violation(s) occur(s), the frequency of past violations, any action taken to
11 mitigate the violation, the financial burden to the violator, and such other factors as deemed relevant
12 and material.

13 (f) Remedies under this Section are in addition to and do not supersede or limit any and all
14 other remedies, civil or criminal.

15 SEC. 431411. REPORTS.

16 Within two (2) years of the effective date of this Chapter, the Director shall report to the
17 Commission on the Environment on the results of this ordinance, including the quantity recovered from
18 landfill, and any recommended amendments of the ordinance.

19 SEC. 431412. FORMS, REGULATIONS AND GUIDELINES.

20 (a) Consistent with the intent of this Chapter, and after consultation with other City
21 departments, public notice and a public meeting, the Director may adopt forms, regulations, and
22 guidelines as directed by this Chapter and as necessary and appropriate to implement this Chapter.

23 (b) The Department shall provide assistance and consulting to persons subject to this
24 Chapter regarding compliance with this Chapter.

1 (c) The Director, consistent with this Chapter, may waive any specific requirement of this
2 Chapter if the person seeking the waiver has demonstrated that strict application of the specific
3 requirement would create practical difficulties not generally applicable to other persons in similar
4 circumstances. The Director shall specify in writing the basis for any waiver under this Section.

5 SEC. 431413. COST OF IMPLEMENTATION.

6 The Director shall determine the cost of implementing this Chapter. The Director may request
7 that relevant City departments provide work orders to the Director to cover the cost of implementing
8 and maintaining the program required by this Chapter.

9 SEC. 431414. RESERVED ACTIVITIES ON CITY PROPERTY.

10 ~~All departments, boards, commissions and agencies of the City and County of San~~
11 ~~Francisco that authorize construction or improvements on land under their jurisdiction under~~
12 ~~circumstances where no permit needs to be obtained pursuant to the San Francisco Building~~
13 ~~Code shall adopt rules and regulations to ensure that construction and demolition debris is~~
14 ~~recovered and procedures as set forth in this Chapter and Health Code section 288 are~~
15 ~~followed. The Directors of the Department of the Environment and Building Inspection shall~~
16 ~~assist the departments, boards, commissions and agencies to ensure that these requirements~~
17 ~~are met.~~

18 SEC. 431415. DISCLAIMER OF LIABILITY.

19 The degree of protection required by this Chapter is considered to be reasonable for regulatory
20 purposes. The standards set forth in this Chapter are minimal standards and do not imply that
21 compliance will ensure proper handling of construction and demolition debris. This Chapter shall not
22 create liability on the part of the City, or any of its officers or employees for any damages that result
23 from reliance on this Article or any administrative decision lawfully made in accordance with this
24 Chapter. All persons handling construction and demolition debris within the City should be and are
25

1 advised to conduct their own inquiry as to the handling of such materials. In undertaking the
2 implementation of this Chapter, the City is assuming an undertaking only to promote the general
3 welfare. It is not assuming, nor is it imposing on its officer and employees, an obligation for breach of
4 which it is liable in money damages to any person who claims that such breach proximately caused
5 injury.

6 SEC. 431416. DUTIES ARE DISCRETIONARY.

7 Subject to the limitations of due process and applicable requirements of State or federal laws,
8 and notwithstanding any other provisions of this Code whenever the words "shall" or "must" are used
9 in establishing a responsibility or duty of the City, its elected or appointed officers, employees or
10 agents, it is the legislative intent that such words establish a discretionary responsibility or duty
11 requiring the exercise of judgement and discretion.

12 SEC. 431417. SEVERABILITY.

13 If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to
14 be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall
15 not affect the validity of the remaining portions of the Chapter. The Board of Supervisors hereby
16 declares that it would have passed this Chapter and each and every section, subsection, sentence,
17 clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this
18 Chapter would be subsequently declared invalid or unconstitutional.

19 Section 6. This ordinance shall take effect ~~120 (one hundred and twenty) days after~~
20 adoption by the Board of Supervisors on July 1, 2006.

21 Section 7. If any section, subsection, sentence, clause, or phrase of this ordinance is
22 for any reason held to be invalid or unconstitutional by a decision of any court of competent
23 jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter.
24 The Board of Supervisors hereby declares that it would have passed this ordinance and each
25

1 and every section, subsection, sentence, clause, or phrase not declared invalid or
2 unconstitutional without regard to whether any portion of this ordinance would be
3 subsequently declared invalid or unconstitutional.

4 Section 8. The San Francisco Police Code is hereby amended by amending Section
5 39-1 to read as follows:

6 SEC. 39-1. PROCEDURE FOR ASSESSMENT AND COLLECTION OF ADMINISTRATIVE
7 PENALTIES FOR SPECIFIED LITTERING AND NUISANCE VIOLATIONS.

8 (a) This Section shall govern the imposition, assessment and collection of
9 administrative penalties imposed pursuant to Sections 37, 38 and 63 of the Police Code,
10 Sections 41.13, 283.1, 287, 288.1 and 600 of the Health Code, and Sections 170, 173, 174,
11 174.2, 184.63 and 724.5 of the Public Works Code.

12 (b) The Board of Supervisors finds:

13 (1) That it is in the best interest of the City and its citizens to provide an alternative,
14 administrative penalty mechanism for enforcement of the littering and nuisance violations
15 covered by this section in addition to the existing enforcement mechanisms authorized under
16 the California Penal Code; and

17 (2) That the administrative penalty scheme established by this section is not
18 intended to be punitive in nature, but is instead intended to compensate the public for the
19 injury and damage caused by the prohibited conduct. The administrative penalties authorized
20 under this section are intended to be reasonable and not disproportionate to the damage or
21 injury to the City and the public caused by the prohibited conduct.

22 (c) Administrative Citation. Where an officer or employee designated in Section 38
23 determines that there has been a violation of a local litter or nuisance law that authorizes
24 imposition of an administrative penalty, the officer or employee may issue an administrative
25

1 citation to the person and/or entity responsible for the violation. For purposes of this Section,
2 an entity is responsible if an officer, employee or agent of the entity commits the violation. The
3 citation shall inform the person or entity responsible of the date, time, place and nature of the
4 violation and the amount of the proposed penalty, and shall state that the penalty is due and
5 payable to the City Treasurer within 15 City business days from the date of the notice, if not
6 contested within the time period specified. The citation shall also state that the person or
7 entity responsible has the right, pursuant to Subsection (d), to request administrative review of
8 the citing officer or employee's determination as to the violation and assessment of penalties,
9 and shall set forth the procedure for requesting administrative review. The Director shall
10 serve the administrative citation as follows:

11 1. Where there is a nexus between the violator and a specific property:

12 (A) One copy of the Notice shall be posted in a conspicuous place upon the building
13 or property.

14 (B) One copy of the Notice shall be served upon each of the following:

15 (i) The person, if any, in real or apparent charge and control of the premises
16 or property involved;

17 (ii) The owner of record.

18 Service required by subparagraph (B) may be made by personal service or by certified
19 mail.

20 2. Where the issuing officer or employee is unable to ascertain a nexus between
21 the violation and property within the City, a completed copy of the administrative citation may
22 be served on the individual who has committed the violation by personal service or by certified
23 mail.

1 3. For purposes of this Section, there is a nexus where activity on the property has
2 caused, contributed to, or been a substantial factor in causing, the violation.

3 (d) Request for Hearing; Hearing.

4 (1) A person or entity that has been issued an administrative citation may request
5 administrative review in order to contest the citation issued in accordance with this section.
6 Administrative review shall be initiated by filing a request for administrative review with the
7 Director of Public Works within 15 City business days from the date of the citation. Failure to
8 request a hearing within the time specified in the citation shall be deemed an admission that
9 the cited person or entity committed the violation identified in the administrative citation.

10 (2) Whenever administrative review is requested pursuant to this Section, the
11 Director of Public Works shall, within five City business days of receipt of the request, notify
12 the requestor of the date, time, and place of the administrative review hearing by certified
13 mail. Such hearing shall be held no later than thirty (30) calendar days after the Director
14 receives the request, unless time is extended by mutual agreement of the affected parties.

15 (3) The administrative review hearing shall be conducted by a neutral hearing of
16 officer from outside the Department of Public Works and the department whose employee
17 issued the citation, assigned by the Director of Administrative Services. The Director of
18 Administrative Services may issue rules as needed to implement this requirement. The
19 parties may present evidence and testimony to the hearing officer. All testimony shall be
20 under oath. The hearing officer shall ensure that a record of the proceedings is maintained.
21 The burden of proof to uphold the violation shall be on the City, but the administrative citation
22 shall be prima facie evidence of the violation.

23 (4) The hearing officer shall issue a decision including a summary of the issues and
24 the evidence presented, and findings and conclusions, within ten (10) calendar days of the
25

1 conclusion of the hearing. The hearing officer may uphold the penalty imposed by the citation,
2 reduce the penalty, or dismiss the citation. A copy of the decision shall be served by certified
3 mail upon the person or entity contesting the violation. The decision shall be a final
4 administrative determination. An aggrieved party may seek judicial review of the decision
5 pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6.

6 (e) Payment and Collection of Penalty.

7 (1) Where a person or entity has not made a timely request for administrative
8 review, the penalty shall be due and payable to the City Treasurer on or before 15 City
9 business days from the date of issuance.

10 (2) Where a person or entity has made a timely request for administrative review,
11 and the penalty has been upheld in whole or in part upon review, any administrative penalty
12 imposed by the hearing officer shall be due and payable not later than ten City business days
13 from the date of the notice of decision issued under subparagraph (d)(4).

14 (3) If a penalty due and payable under paragraphs (1) or (2) remains unpaid after
15 the specified due date, the Director of Public Works shall send the violator written notice that
16 the penalty is overdue. Penalties that remain unpaid 30 days after the due date shall be
17 subject to a late payment penalty of ten percent (10%) plus interest at the rate of one percent
18 (1%) per month on the outstanding balance, which shall be added to the penalty amounts
19 from the date that payment is due. Persons and entities against whom administrative
20 penalties are imposed shall also be liable for the costs and attorney's fees incurred by the City
21 and County in bringing any civil action to enforce the provisions of this section, including
22 obtaining a judgment for the amount of the administrative penalty and other costs and
23 charges.

1 (4) Where there is a nexus between the violation and property in the City owned by
2 the violator, the Director shall further inform the violator that if the amount due is not paid
3 within 30 days from the date of the notice, the Director shall initiate proceedings to make the
4 amount due and all additional authorized costs and charges, including attorneys fees. a lien
5 on the property. Such liens shall be imposed in accordance with Chapter 10, Article XX of the
6 Administrative Code.

7 (f) The revenues generated by penalties from an administrative citation issued
8 pursuant to this Section may be expended only by the department that is responsible for
9 issuing the administrative citation, except that each department other than Public Works that
10 issues administrative citations pursuant to this Section shall reimburse the Department of
11 Public Works for the costs incurred by the Department of Public Works in administering review
12 of those citations issued by the other department. The revenues from administrative citations
13 issued by Class 8280 Environmental Control Officers and 8282 Senior Environmental Control
14 Officers may be expended exclusively by the Department of Public Works for the purpose of
15 funding litter enforcement and abatement except where the use or expenditure of those
16 revenues is specifically directed by law to another program within the Department of Public
17 Works.

18 Section 9. The San Francisco Building Code is hereby amended by changing the title
19 of Chapter 13 from "Energy Conservation" to "Resource Conservation".

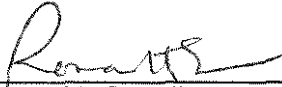
20 Section 10. The San Francisco Building Code is hereby amended by amending
21 Section 106.3.2.2 to read as follows:

22 SEC. 106.3.2.2. DEMOLITION. An application for a permit to demolish a
23 building or structure shall not be deemed complete until
24
25

1 (a) the applicant declares under penalty of perjury that every party who has a recorded
2 interest in the property that is the subject of the application has been notified of the filing of the
3 application. See Section 110, Table 1-L - Public Information - for fee to defray the cost of
4 maintaining records of such declarations and other attendant costs and.

5 (b) the Department receives written notice from the Department of the Environment that
6 the Department of the Environment has approved the applicant's waste diversion plan in
7 accordance with Chapter 14 of the Environment Code.

8
9
10
11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: 
14 Rena H. Sandler
15 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: 051142

Date Passed:

Ordinance amending the Building Code by amending Chapter 13 of the Building Code to change the title of the Chapter from "Energy Conservation" to "Resource Conservation" and adding Chapter 13B entitled "Construction and Demolition Debris Recovery Program;" amending the Health Code by adding Sections 288 and 288.1; and amending the Environment Code by adding Chapter 14, entitled Construction and Demolition Debris Recovery Ordinance, to establish a comprehensive program to require the recovery rather than landfill disposal of construction and demolition debris generated in San Francisco by prohibiting disposal of such debris with garbage; imposing requirements and conditions in building permits; establishing a program to register construction and demolition debris transporters and processing facilities; and establishing enforcement mechanisms including penalties; amending the Police Code Section 39-1 to implement the new program; setting an operative date; and making environmental findings.

January 24, 2006 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick,
Mirkarimi, Peskin, Sandoval
Excused: 1 - Alioto-Pier

January 31, 2006 Board of Supervisors — CONTINUED

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
Mirkarimi, Peskin, Sandoval
Absent: 1 - McGoldrick

February 7, 2006 Board of Supervisors — FINALLY PASSED

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

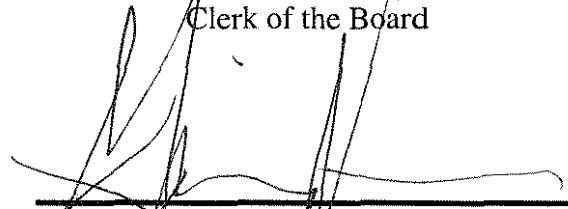
File No. 051142

I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on February 7, 2006
by the Board of Supervisors of the City and
County of San Francisco.



Gloria L. Young
Clerk of the Board

2.16.06
Date Approved



Mayor Gavin Newsom