

1 [Environment Code and Precautionary Principle Policy.]

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3 **Ordinance enacting a new Environment Code by repealing Chapters 12I (Tropical**
4 **Hardwood and Virgin Redwood Ban); 12S (Ban on Purchase of Motor Vehicle Fuel**
5 **Containing MTBE); 12T (Transportation of Aggregate Materials); 21A (Resource**
6 **Conservation); 21F (Environmentally Preferable Purchasing); 21G (Arsenic-Treated**
7 **Wood); 39 (Integrated Pest Management Ordinance); 82 (Resource Efficiency**
8 **Requirements; 85 (Healthy Air and Smog Prevention); and 5 (Article XXIII) (Urban**
9 **Forestry Council) of the San Francisco Administrative Code and by re-adopting these**
10 **provisions with minor changes, including dissolving the inactive Clean Air Advisory**
11 **Committee, and adding a Precautionary Principal Policy Statement as Chapter 1 of the**
12 **Environment Code; and requesting the Planning Commission to initiate amendments to**
13 **the General Plan to incorporate the Precautionary Principle.**

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

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

19 Section 1. The Board of Supervisors adopts this San Francisco Municipal Environment
20 Code to consolidate the City's ordinances governing protection of the environment, natural
21 resources and sustainability that were previously codified in the Administrative Code.

22 Section 2. The San Francisco Administrative Code is hereby amended by repealing
23 Chapters 12I, 12S, 12T, 21A, 21F, 21G; 39, 82, and 85 and Article XXIII of Chapter 5, in their
24 entirety. These provisions will be reenacted with minor changes as follows as a new
25 Environment Code.

1 Section 3. The San Francisco Environment Code is hereby adopted, to read as follows:

2 Chapter 1 Precautionary Principle Policy Statement

3 Sec. 100. FINDINGS.

4 The Board of Supervisors finds and declares that:

5 A. Every San Franciscan has an equal right to a healthy and safe environment. This
6 requires that our air, water, land, and food be of a sufficiently high standard that individuals and
7 communities can live healthy, fulfilling, and dignified lives. The duty to enhance, protect and preserve
8 San Francisco's environment rests on the shoulders of government, residents, citizen groups and
9 businesses alike.

10 B. Historically, environmentally harmful activities have only been stopped after they have
11 manifested extreme environmental degradation or exposed people to harm. In the case of PCBs, DDT,
12 lead, and asbestos, for instance, regulatory action took place only after disaster had struck. The delay
13 between first knowledge of harm and appropriate action to deal with it can be measured in human lives
14 cut short.

15 C. San Francisco is a leader in making choices based on the least environmentally harmful
16 alternatives, thereby challenging traditional assumptions about risk management. Numerous City
17 ordinances including: the Integrated Pest Management Ordinance, the Resource Efficient Building
18 Ordinance, the Healthy Air Ordinance, the Resource Conservation Ordinance, and the
19 Environmentally Preferable Purchasing Ordinance apply a precautionary approach to specific City
20 purchases and activities. Internationally, this model is called the Precautionary Principle.

21 D. As the City consolidates existing environmental laws into a single Environment Code,
22 and builds a framework for future legislation, the Precautionary Principle approach will serve as a
23 policy framework to develop and implement laws for a healthier and more just San Francisco. In this
24 way, the City will create and maintain a healthy, viable Bay Area environment for current and future
25 generations, and will become a model of sustainability.

1 E. Science and technology are creating new solutions to prevent or mitigate environmental
2 problems. However, science is also creating new compounds and chemicals that are already finding
3 their way into mother's milk and causing other new problems. New legislation may be required to
4 address these situations, and the Precautionary Principle is intended as a tool to help promote
5 environmentally healthy alternatives while weeding out the negative and often unintended
6 consequences of new technologies.

7 F. A central element of the precautionary approach is the careful assessment of available
8 alternatives using the best available science. An alternatives assessment examines a broad range of
9 options in order to present the public with the consequences of each approach. The process takes
10 short-term versus long-term effects or costs into consideration, and evaluates and compares the
11 adverse or potentially adverse effects of each option, giving preference to those options with fewer
12 potential hazards. This process allows fundamental questions to be asked: "Is this potentially
13 hazardous activity necessary?" "What less hazardous options are available?" and "How little damage
14 is possible?"

15 G. The alternatives assessment is also a public process because, locally or internationally,
16 the public bears the ecological and health consequences of environmental decisions. A government's
17 course of action is necessarily enriched by broadly based public participation when a full range of
18 alternatives is considered based on input from diverse individuals and groups. The public should be
19 able to determine the range of alternatives examined and suggest specific reasonable alternatives, as
20 well as their short- and long-term benefits and drawbacks.

21 H. This form of open decision-making is in line with San Francisco's historic Sunshine Act,
22 which allows citizens to have full view of the legislative process. One of the goals of the Precautionary
23 Principle is to include citizens as equal partners in decisions affecting their health and environment.

24 I. San Francisco looks forward to the time when the City's power is generated from
25 renewable sources, when all our waste is recycled, when our vehicles produce only potable water as

1 emissions, when the Bay is free from toxins, and the oceans are free from pollutants. The
2 Precautionary Principle provides a means to help us attain these goals as we evaluate future laws and
3 policies in such areas as transportation, construction, land use, planning, water, energy, health care,
4 recreation, purchasing, and public expenditure.

5 J. Transforming our society to realize these goals and achieving a society living
6 respectfully within the bounds of nature will take a behavioral as well as technological revolution. The
7 Precautionary approach to decision-making will help San Francisco speed this process of change by
8 moving beyond finding cures for environmental ills to preventing the ills before they can do harm.

9 Sec. 101. THE SAN FRANCISCO PRECAUTIONARY PRINCIPLE.

10 The following shall constitute the City and County of San Francisco's Precautionary Principle
11 policy. All officers, boards, commissions, and departments of the City and County shall implement the
12 Precautionary Principle in conducting the City and County's affairs:

13 The Precautionary Principle requires a thorough exploration and a careful analysis of a wide
14 range of alternatives. Using the best available science, the Precautionary Principle requires the
15 selection of the alternative that presents the least potential threat to human health and the City's
16 natural systems. Public participation and an open and transparent decision making process are
17 critical to finding and selecting alternatives.

18 Where threats of serious or irreversible damage to people or nature exist, lack of full scientific
19 certainty about cause and effect shall not be viewed as sufficient reason for the City to postpone
20 measures to prevent the degradation of the environment or protect the health of its citizens. Any gaps in
21 scientific data uncovered by the examination of alternatives will provide a guidepost for future
22 research, but will not prevent the City from taking protective action. As new scientific data become
23 available, the City will review its decisions and make adjustments when warranted.

1 Where there are reasonable grounds for concern, the precautionary approach to decision-
2 making is meant to help reduce harm by triggering a process to select the least potential threat. The
3 key elements of the Precautionary Principle approach to decision-making include:

4 1. Anticipatory Action: There is a duty to take anticipatory action to prevent harm.
5 Government, business, and community groups, as well as the general public, share this
6 responsibility.

7 2. Right to Know: The community has a right to know complete and accurate
8 information on potential human health and environmental impacts associated with the selection
9 of products, services, operations or plans. The burden to supply this information lies with the
10 proponent, not with the general public.

11 3. Alternatives Assessment: An obligation exists to examine a full range of alternatives
12 and select the alternative with the least potential impact on human health and the environment
13 including the alternative of doing nothing.

14 4. Full Cost Accounting: When evaluating potential alternatives, there is a duty to
15 consider all the costs, including raw materials, manufacturing, transportation, use, cleanup,
16 eventual disposal, and health costs even if such costs are not reflected in the initial price. Short-
17 and long-term time thresholds should be considered when making decisions.

18 5. Participatory Decision Process: Decisions applying the Precautionary Principle
19 must be transparent, participatory, and informed by the best available science and other
20 relevant information.

21 Sec.102. THREE YEAR REVIEW.

22 No later than three years from the effective date of this ordinance, and after a public hearing,
23 the Commission on the Environment shall submit a report to the Board of Supervisors on the
24 effectiveness of the Precautionary Principle policy.

25 Sec. 103. LIST OF ALL ENVIRONMENTAL ORDINANCES AND RESOLUTIONS.

1 The Director of the Department of the Environment shall produce and maintain a list of all City
2 and County of San Francisco ordinances and resolutions which affect or relate to the environment and
3 shall post this list on the Department of the Environment's website.

4 Sec. 104. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.

5 The Board of Supervisors encourages all City employees and officials to take the precautionary
6 principle into consideration and evaluate alternatives when taking actions that could impact health and
7 the environment, especially where those actions could pose threats of serious harm or irreversible
8 damage. This ordinance does not impose specific duties upon any City employee or official to take
9 specific actions. In adopting and undertaking the enforcement of this ordinance, the City and County
10 of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming,
11 nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money
12 damages to any person who claims that such breach proximately caused injury nor may this ordinance
13 provide any basis for any other judicial relief including, but not limited to a writ of mandamus or an
14 injunction.

15 Chapter 2 Environmentally Preferable Purchasing Ordinance

16 Sec. 200. FINDINGS AND PURPOSE.

17 The Board of Supervisors finds and declares that:

18 (a) Use and disposal of cleaners, as well as other chemical products containing hazardous
19 substances, such as oils, coolants, solvents, lubricants and paints, commonly used by the City and
20 County of San Francisco, can harm human health and the environment. Based on product literature
21 and materials safety data sheets (MSDSs), many cleaning products such as all-purpose cleaners, toilet
22 bowl cleaners, disinfectants and degreasers can cause adverse skin reactions from exposure to the
23 product and chronic health risks from skin and inhalation exposure. Health hazards can be caused not
24 only by the specific chemicals contained in a product, but also by the product's concentration.

1 (b) Accidental release and disposal of the chemicals in many commonly used products
2 cause additional problems. According to the U.S. Environmental Protection Agency (EPA), of
3 particular concern are products containing chemicals that are: (1) persistent, in that they don't break
4 down readily in the environment; (2) bioaccumulative, in that they concentrate in animal and plant
5 tissues as a result of uptake from the surrounding environment (i.e.: from water, air, etc.) or as a result
6 of one animal consuming another that is lower on the food chain; and (3) toxic, that is, hazardous to
7 human health and the environment. In certain forms, persistent, bio-accumulative, toxic chemicals may
8 cause adverse effects in species, including humans, such as cancer, reproductive defects, and declines
9 in population.

10 (c) A significant additional hazard to the environment is release of volatile organic
11 compounds (VOCs), which evaporate from many paints and solvents. The presence of VOCs in the
12 lower atmosphere helps create smog, and in the upper atmosphere contributes to the current global
13 climate-change crisis.

14 (d) Since passage of the Federal Pollution Prevention Act of 1990, it has been national
15 policy in the United States to address the health and ecosystem problems caused by chemical pollution
16 through "source reduction," the effort to reduce chemical waste before it is even generated. This is
17 done by product substitution and modification of processes (such as recycling solvents in a closed
18 system). This approach not only avoids exposing people and ecosystems unnecessarily to the health
19 hazards of persistent, bioaccumulative and toxic chemical use, but offers the City savings in the cost of
20 pollution control, pollution clean-up, liability costs and worker's compensation costs.

21 (e) A study sponsored by Region IX of the United States Environmental Protection Agency
22 to evaluate the frequency and nature of accidental chemical exposures that affect janitorial workers
23 and to assess workers compensation from various state and federal agencies found that: 1) six out of
24 every 100 janitors are injured by chemicals every year; 2) most of these injuries affect workers' eyes or
25

1 skin and a fourth of these are burns; and 3) as a result of their history of chemical and physical
2 injuries, janitorial contractors have fairly high workers' compensation insurance rates.

3 (f) There is a growing body of information available on alternatives to conventionally used
4 products and processes that will reduce risks to human health and the environment. For instance, a
5 1993 EPA pilot study in Philadelphia showed that using a sample range of less hazardous cleaning
6 products reduced staff-reported health problems by nearly 50%. The less-hazardous products were
7 rated nearly as effective as the higher-hazard baseline products. Among thousands of similar private-
8 sector success stories, according to the Oregon Department of Environmental Quality, a Portland auto
9 sales and service company has reduced its monthly volume of hazardous waste by 95% by using non-
10 toxic materials whenever possible and implementing a number of specific operations improvements.
11 These and similar lessons learned are accessible on the world-wide web for use by city staff in fleet
12 maintenance operations and other city services.

13 (g) It is in the interest of the City and County of San Francisco to make every effort to
14 reduce and minimize the health risks to its employees, or potential damage to the environment,
15 associated with the City's use of chemical products in the workplace.

16 (h) Although the City has programs focused on reducing hazardous waste generated by City
17 operations, the City has not conducted an assessment of the extent to which these chemical products
18 are used by City departments nor has it developed a plan to minimize the purchase and use of such
19 products.

20 (i) It shall be the policy of the City and County of San Francisco that the City shall
21 aggressively pursue the goal of reducing the health and environmental impact of the products used in
22 its operations while minimizing any disruptive effects on City Departments. To achieve this goal with
23 respect to the purchase of chemical products, the City shall (1) survey its baseline use of products
24 containing hazardous chemicals, (2) establish standards for evaluating the most preferred of a number
25 of candidate products for performance of a task and (3) develop a pilot program that will evaluate

1 whether the use and disposal hazards created by a large number of baseline products can be reduced
2 by product substitution or changes in work practice.

3 (j) The program established by this legislation shall work closely with the Purchasing
4 Department to establish expertise in the evaluation of chemical products that minimize negative health
5 and environmental consequences while being effective, readily available, and economical. This
6 expertise will augment current City efforts to establish purchasing practices that maximize water,
7 energy, and materials conservation; recyclability and recycled content; fuel efficiency; and other
8 environmentally conscious purchasing attributes.

9 (k) Under this Chapter, the City and County of San Francisco wishes to exercise its power
10 to make economic decisions involving its own funds as a participant in the marketplace and to conduct
11 its own business as a municipal corporation to ensure that purchases and expenditures of public money
12 are made in a manner consistent with its policies.

13 (l) This Chapter applies the Precautionary Principle to the selection of chemical products
14 used in janitorial services, fleet maintenance, and building maintenance in City buildings and machine
15 shops. Selecting less-toxic alternatives improves worker safety and minimizes harmful impacts to the
16 environment.

17 Sec. 201. DEFINITIONS.

18 Terms used in this Chapter shall have the following meaning:

19 (a) "Antimicrobial Agent" means any substance or mixture of substances intended for
20 inhibiting the growth of or destroying any bacteria, fungi pathogenic to human and other animals, or
21 viruses declared to be pests under Section 12754.5 of the California Food and Agricultural Code,
22 except slime control agents, substances intended for the use in or on humans or other animals, and use
23 in or on processed food, beverages, or pharmaceuticals. Antimicrobial Agents include, but are not
24 limited to, disinfectants, sanitizers, bacteriostats, sterilizers, fungicides and fungistats applied to
25 inanimate surfaces, and commodity preservatives and protectants applied to raw materials or

1 manufactured products. Antimicrobial Agent, as used herein, shall not include any Antimicrobial
2 Agents that are used for the purpose of:

3 (1) Improving or maintaining water quality at potable water treatment plants, wastewater
4 treatment plants, reservoirs and related collection, distribution and treatment facilities; and

5 (2) Protecting public health and safety in the provision of health care and the treatment of
6 water in swimming pools, in facility heating ventilation and air conditioning cooling water systems,
7 and in public fountains.

8 (b) "Chemical Product" means any synthetic chemically-based product used for custodial
9 services, fleet maintenance, or facility maintenance. Chemical Product as used herein shall not include
10 those products defined as pesticides under Chapter 3 of the San Francisco Environment Code, except
11 for Antimicrobial Agents as defined herein, and shall not include products that are used primarily as
12 fuel.

13 (c) "City Department" means any department of the City and County of San Francisco.
14 City department does not include any other local agency or any federal or State agency, including but
15 not limited to the San Francisco Unified School District, the San Francisco Community College
16 District, the San Francisco Redevelopment Agency, and the San Francisco Housing Authority.

17 (d) "Commission" means the Commission on the Environment provided for by San
18 Francisco Charter Section 4.118.

19 (e) "Contract" means a binding written agreement for the provision of custodial services or
20 fleet maintenance, including but not limited to a contract between an individual, trust, firm, joint stock
21 company, corporation, partnership, and governmental entities, to the extent allowable by law, and a
22 City Department.

23 (f) "Contractor" means an individual, trust, firm, joint stock company, corporation,
24 partnership, and governmental entities, to the extent allowable by law, that enters into a Contract with
25 a City Department.

1 (g) "Director" means the Director of the Department of the Environment or her or his
2 designee.

3 (h) "Department" means the Department of the Environment.

4 (i) "Hazardous Materials" means any materials that, because of their quantity,
5 concentration, or physical or chemical characteristics, pose a significant present or potential hazard to
6 human health and safety or to the environment if released into the workplace or the environment.
7 Hazardous Materials include, but are not limited to, hazardous substances, hazardous waste, and any
8 material which a handler or the Department has a reasonable basis for believing would be injurious to
9 the health and safety of persons or harmful to the environment if released into the workplace or the
10 environment.

11 (j) "Preferred Products" means those Chemical Products that have lesser or reduced
12 adverse effects on human health and the environment when compared with competing products that
13 serve the same purpose. This comparison is based on the criteria established by the Department.

14 (k) "Targeted Hazardous Products" means: (1) those Chemical Products which contain
15 one or more Hazardous Material(s) and (2) present an unnecessary risk to the health and safety of City
16 employees or to the environment, as determined by the criteria established by the Department.

17 Sec. 202. PREFERRED PURCHASING EXPERTISE.

18 No later than three (3) months from the effective date of this Chapter, the Department shall
19 identify and allocate sufficient resources and staff for the purposes of implementing this Chapter.

20 Sec. 203. INTERDEPARTMENTAL CONSULTATION.

21 In order to benefit from City expertise in Hazardous Materials, industrial hygiene, and other
22 related fields, the Department shall implement this Chapter in consultation with other City
23 Departments including, but not limited to: the Purchasing Department, Department of Public Health,
24 the Department of Public Works, the Department of Public Transportation, the Department of
25 Recreation and Parks, the Public Utilities Commission (PUC), the Port, and the Airport.

1 Sec. 204 REPORT BY CITY DEPARTMENTS.

2 (a) No later than 30 days from the effective date of this Chapter, the Purchasing
3 Department shall provide to the Department a list of chemical products purchased under term
4 contracts with the City during the past twelve (12) months.

5 (b) No later than two (2) months from the effective date of this Chapter, each City
6 Department that independently purchases Chemical Products by means other than a term contract
7 shall provide to the Department a list of such products purchased during the past twelve (12) months
8 and the constituents of each purchased product. This subsection shall not apply to purchases that are
9 disclosed pursuant to subsection (a).

10 Sec. 205. ASSESSMENT OF CITY'S USE OF CHEMICAL PRODUCTS.

11 The Department shall conduct assessments of the City's procurement and use of Chemical
12 Products, as follows:

13 (a) No later than twelve (12) months from the effective date of this Chapter, the Department
14 shall submit a report on its findings of the assessment of Chemical Products to the Commission. This
15 assessment shall consist, at a minimum, of the following:

16 (1) Substantive and quantitative environmental and human health criteria that shall be used
17 by the Department to assess whether an individual Chemical Product shall be considered either a
18 Targeted Hazardous Product or a Preferred Product by the City. The Department, with the approval
19 of the Commission, shall revise the criteria, from time to time, to reflect the current state of scientific
20 knowledge regarding the health and environmental effects of chemical products. The following acute,
21 chronic, and environmental health factors may be considered in establishing the criteria:

22 (A) Irritation potential,

23 (B) Exposure potential,

24 (C) Bioaccumulation,

25 (D) Food chain exposure,

1 (E) Air pollution potential,

2 (F) Presence of cosmetic additives,

3 (G) Carcinogenicity,

4 (H) Tetratogenicity,

5 (I) Neurotoxicity,

6 (J) Reproductive toxicity,

7 (K) Endocrine disruptions, and

8 (L) Other relevant factors.

9 (2) Based on an evaluation of the criteria established pursuant to subparagraph (1), the
10 following information shall be compiled:

11 (A) A list of the Targeted Hazardous Products and Preferred Products purchased and used
12 by City Departments;

13 (B) A list of the City Departments which use these Targeted Hazardous Products and/or
14 Preferred Products;

15 (C) The estimated amount of each Targeted Hazardous Product and Preferred Product
16 purchased during the twelve (12) month period prior to the assessment; and

17 (D) Identification of how the products were purchased (i.e., either directly by the department
18 or through the Purchasing Department). To the extent reasonably available, the Department shall
19 collect similar information from City Contractors for such products purchased on behalf of the City.
20 The Department, with the assistance of the Purchasing Department, shall maintain and update the lists
21 of Targeted Hazardous Products and of Preferred Products as needed.

22 (3) An assessment of current work practices of City Departments that minimize the purchase
23 or the use of Targeted Hazardous Products, such as using physical means to unclog a drain as opposed
24 to using chemicals. To the extent reasonably available, the Department shall collect similar
25 information for City Contractors.

1 (4) Recommendations as to new work practices that would minimize the purchase or use of
2 Targeted Hazardous Products.

3 Sec. 206 TRADE SECRETS.

4 (a) If a person or business believes that any information required to be reported or
5 disclosed by this Chapter involves the release of a trade secret, the person or business shall provide the
6 information to the Department, the Purchasing Department and other City Departments requesting
7 such information and shall notify such these departments in writing of that belief. The Department,
8 Purchasing Department and other City Departments shall not disclose any properly substantiated trade
9 secret which is so designated by a person or business except as required by this Chapter or as
10 otherwise required by law.

11 (b) Information certified by appropriate officials of the United States or the State of
12 California, as necessarily kept secret for national, state or local defense purposes shall be accorded the
13 full protection against disclosure as specified by such official or in accordance with the laws of the
14 United States and the State of California.

15 (c) Information designated as trade secret shall not be disclosed in any document whose
16 disclosure to the public is required by law. Such documents include, but are not limited to, the
17 assessment report required pursuant to Section 205 of this Chapter.

18 (d) Information designated as trade secret may be disclosed to an officer or employee of the
19 City and County of San Francisco, the State of California, or the United States of America for use in
20 connection with the official duties of such officer or employee acting under authority of law for the
21 protection of health.

22 (e) Where the Director receives a request for information that a person or business has
23 designated as a trade secret, the Director shall notify the person or business of said request by certified
24 mail. The Director may release the information thirty (30) days after the mailing of said notice, unless
25 prior to the expiration of said 30-day period, the person or business institutes and thereafter prosecutes

1 in a timely manner an action in a court of competent jurisdiction claiming that the information is
2 subject to protection as a trade secret under California law and seeking an injunction prohibiting
3 disclosure of said information to the general public.

4 (f) In adopting this Chapter, the Board of Supervisors does not intend to authorize or
5 require the disclosure to the public of any trade secrets protected under the laws of the State of
6 California.

7 (g) This Section is not intended to empower a person or business to refuse to disclose any
8 information, including but not limited to trade secrets, to the Director, the Purchasing Department, and
9 other City Departments required under this Chapter.

10 (h) Notwithstanding any other provision of this Chapter, any officer or employee of the City
11 and County of San Francisco, or former officer or employee or contractor with the City or employee
12 thereof, who by virtue of such employment of official position has obtained possession or has had
13 access to information, the disclosure of which is prohibited by this Section, and who, knowing that
14 disclosure of the information is prohibited, knowingly and willfully discloses the information in any
15 manner to any person or business not entitled to receive it, shall be guilty of a misdemeanor.

16 Sec. 207. ESTABLISHMENT OF ENVIRONMENTALLY PREFERABLE PURCHASING PILOT
17 PROGRAM FOR CHEMICAL PRODUCTS.

18 (a) No later than four (4) months after the submission of the Department's report to the
19 Commission pursuant to Section 205, the Department shall provide a report to the Commission
20 proposing a Pilot Program which would minimize the use of Targeted Hazardous Products by City
21 Departments through changes in work practices or by replacement with Preferred Products. The goals
22 of the Pilot Program shall be the following:

23 (1) To evaluate Preferred Products that may be used as substitutes for Targeted Hazardous
24 Products based on:

25 (A) Effectiveness,

1 (B) Ease of use,

2 (C) Availability, and

3 (D) Expected additional costs or savings of the Preferred Products,

4 (2) To evaluate work practices that may reduce the purchase or use of Targeted Hazardous
5 Products while meeting the City Department's needs,

6 (3) To determine whether the criteria established pursuant to Section 205(a)(1) are effective
7 in maximizing the purchase of Preferable Products and minimizing the purchase of Targeted
8 Hazardous Products.

9 (b) The report by the Department shall contain the following:

10 (1) A recommendation as to which City Departments, or which programs within City
11 Departments, should participate in the Pilot Program. The Department shall consider including the
12 following: Central Shops within the Purchasing Department, the Department of Public Works, and the
13 Department of Public Transportation.

14 (2) An appropriate recordkeeping and reporting component to enable the Department to
15 evaluate whether the goals of the Pilot Program are achieved.

16 (3) Any other recommendations to improve the Pilot Program or make it more effective.
17 Such recommendations may include, but are not limited to, recommendations on the development of
18 appropriate definitions of relevant terms, the identification of additional resources needed, a plan for
19 providing outreach and training for end-users of the Preferred Products, and a strategy for consulting
20 with other City Departments in the development and implementation of the Pilot Program.

21 (4) An estimate of the cost to implement the Pilot Program.

22 (c) Upon the approval of the Pilot Program by the Commission, the Commission shall
23 recommend that the Board of Supervisors adopt a resolution calling for the implementation of the Pilot
24 Program and specifying the duration of the Pilot Program.

25 Sec. 208. REPORT ON RESULTS OF PILOT PROGRAM.

1 No later than three (3) months from the completion of the Pilot Program pursuant to Section
2 207, the Department shall submit a report to the Commission summarizing the results of the pilot
3 program. The report shall, at a minimum, include the following information:

4 (a) The benefits realized by minimizing the purchase or use of Targeted Hazardous
5 Products,

6 (b) The success of the Pilot Program in reducing the purchase or use of Targeted
7 Hazardous Products,

8 (c) An assessment of any economic impacts on the participating City Departments caused
9 by the conversion from the use of Targeted Hazardous Products to the use of the Preferred Products
10 and/or work practices that minimize the use of Targeted Hazardous Products.

11 Sec. 209. RECOMMENDATIONS TO THE BOARD OF SUPERVISORS.

12 No later than six (6) months after the completion of the Pilot Program, the Commission shall
13 submit a report to the Board of Supervisors summarizing the findings of the Pilot Program and
14 providing the following:

15 (a) The projected benefits and costs or cost savings of expanding the scope of the Pilot
16 Program to include all City Departments that use Targeted Hazardous Products.

17 (b) A recommendation as to whether City Contractors should be subject to the requirements
18 regarding the purchase and use of Targeted Hazardous Products.

19 Sec. 210. BOARD ACTIONS ON RECOMMENDATIONS FOR PERMANENT PROGRAMS.

20 No later than three (3) months after the submission of the report pursuant to Section 209, the
21 Board of Supervisors shall determine whether this Chapter should be amended to implement a
22 Environmentally Preferable Purchasing Program for all City Departments.

23 Chapter 3 Integrated Pest Management Ordinance

24 SEC. 300. PURPOSE AND FINDINGS.

1 (a) The Board of Supervisors hereby finds and declares that it shall be the policy of the City
2 and County of San Francisco for City departments and City contractors who apply pesticides to City
3 property to eliminate or reduce pesticide applications on City property to the maximum extent feasible.

4 (b) Under this Chapter, the City and County of San Francisco wishes to exercise its power
5 to make economic decisions involving its own funds as a participant in the marketplace and to conduct
6 its own business as a municipal corporation to ensure that purchases and expenditures of public
7 monies are made in a manner consistent with integrated pest management policies and practices.

8 (c) This Chapter 3 concerns the application of pesticides to property owned by the City and
9 County of San Francisco only, and does not concern the application of pesticides to property that is not
10 owned by the City and County of San Francisco.

11 (d) City departments shall implement the following City Integrated Pest Management (IPM)
12 Policy:

13 CITY INTEGRATED PEST MANAGEMENT POLICY

14 The City, in carrying out its operations, shall assume pesticides are potentially hazardous to
15 human and environmental health. City departments shall give preference to reasonably available
16 nonpesticide alternatives when considering the use of pesticides on City property. For all pest problems
17 on City property, City departments shall follow the integrated pest management (IPM) approach
18 outlined below.

19 (1) Monitor each pest ecosystem to determine pest population, size, occurrence, and natural
20 enemy population, if present. Identify decisions and practices that could affect pest populations. Keep
21 records of such monitoring;

22 (2) Set for each pest at each site and identify in an IPM implementation plan, an injury
23 level, based on how much biological, aesthetic or economic damage the site can tolerate;
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1 (3) Consider a range of potential treatments for the pest problem. Employ nonpesticide
2 management tactics first. Consider the use of chemicals only as a last resort and select and use
3 chemicals only within an IPM program and in accordance with the provisions of this Chapter.

4 (A) Determine the most effective treatment time, based on pest biology and other variables,
5 such as weather, seasonal changes in wildlife use and local conditions,

6 (B) Design and construct indoor and outdoor areas to reduce and eliminate pest habitats,

7 (C) Modify management practices, including watering, mulching, waste management, and
8 food storage,

9 (D) Modify pest ecosystems to reduce food and living space,

10 (E) Use physical controls such as hand-weeding, traps and barriers,

11 (F) Use biological controls (introducing or enhancing pests' natural enemies);

12 (4) Conduct ongoing educational programs:

13 (A) Acquaint staff with pest biologies, the IPM approach, new pest management strategies
14 as they become known, and toxicology of pesticides proposed for use,

15 (B) Inform the public of the City's attempt to reduce pesticide use and respond to questions
16 from the public about the City's pest management practices;

17 (5) Monitor treatment to evaluate effectiveness. Keep monitoring records and include them
18 in the IPM implementation plan.

19 (e) Nothing in this Chapter is intended to apply to pesticide applications that are required
20 to comply with federal, State or local laws or regulations.

21 (f) This Chapter applies the Precautionary Principle to the selection of reduced risk
22 pesticides and other pest management techniques on City property with the intent of minimizing
23 negative impacts on human health and the environment.

24 SEC. 301. DEFINITIONS.

25 Whenever used in this Chapter, the following terms shall have the meanings set forth below.

- 1 (a) "City department" means any department of the City and County of San Francisco and
2 includes any pesticide applicator hired by a City department to apply pesticides on City property. City
3 department does not include any other local agency or any federal or State agency, including but not
4 limited to the San Francisco School District, the San Francisco Community College District, the San
5 Francisco Redevelopment Agency and the San Francisco Housing Authority.
- 6 (b) "Commission" means the Commission on the Environment provided for by San
7 Francisco Charter Section 4.118.
- 8 (c) "Contract" means a binding written agreement, including but not limited to a contract,
9 lease, permit, license or easement between a person, firm, corporation or other entity, including a
10 governmental entity, and a City department, which grants a right to use or occupy property of the City
11 and County of San Francisco for a specified purpose or purposes.
- 12 (d) "Contractor" means a person, firm, corporation or other entity, including a
13 governmental entity, that enters into a contract with a City department.
- 14 (e) "Department" means the Department of the Environment provided for by San Francisco
15 Charter Section 4.118.
- 16 (f) "Integrated pest management" means a decision-making process for managing pests
17 that uses monitoring to determine pest injury levels and combines biological, cultural, physical, and
18 chemical tools to minimize health, environmental and financial risks. The method uses extensive
19 knowledge about pests, such as infestation thresholds, life histories, environmental requirements and
20 natural enemies to complement and facilitate biological and other natural control of pests. The method
21 uses the least toxic synthetic pesticides only as a last resort to controlling pests.
- 22 (g) "Pesticide" means pesticide as defined in Section 12753 of Chapter 2 of Division 7 of the
23 California Food and Agricultural Code, but does not include antimicrobial agents. "Antimicrobial
24 Agent" means any substance or mixture of substances intended for inhibiting the growth of or
25 destroying any bacteria, fungi pathogenic to human and other animals, or viruses declared to be pests

1 under Section 12754.5 of the California Food and Agricultural Code, except slime control agents,
2 substances intended for the use in or on humans or other animals, and use in or on processed food,
3 beverages, or pharmaceuticals. Antimicrobial Agents include, but are not limited to, disinfectants,
4 sanitizers, bacteriostats, sterilizers, fungicides and fungistats applied to inanimate surfaces, and
5 commodity preservatives and protectants applied to raw materials or manufactured products.

6 (h) "Toxicity Category I Pesticide Product" means any pesticide product that meets United
7 States Environmental Protection Agency criteria for Toxicity Category I under Section 156.10 of Part
8 156 of Title 40 of the Code of Federal Regulations.

9 (i) "Toxicity Category II Pesticide Product" means any pesticide product that meets United
10 States Environmental Protection Agency criteria for Toxicity Category II under Section 156.10 of Part
11 156 of Title 40 of the Code of Federal Regulations.

12 SEC. 302. BAN ON USE OF TOXICITY CATEGORY I AND CERTAIN OTHER PESTICIDES.

13 Except for pesticides granted an exemption pursuant to Section 307, effective January 1, 1997,
14 no City department shall use any Toxicity Category I Pesticide Product, any pesticide containing a
15 chemical identified by the State of California as a chemical known to the State to cause cancer or
16 reproductive toxicity pursuant to the California Safe Drinking Water and Toxic Enforcement Act of
17 1986, and any pesticide classified as a human carcinogen, probable human carcinogen or possible
18 human carcinogen by the United States Environmental Protection Agency, Office of Prevention,
19 Pesticides and Toxic Substances.

20 SEC. 303. BAN ON USE OF TOXICITY CATEGORY II PESTICIDE PRODUCTS; TOTAL
21 PESTICIDE BAN.

22 (a) Except for pesticides granted an exemption pursuant to Section 307, effective January 1,
23 1998, no City department shall use any Toxicity Category II Pesticide Product.

24 (b) Except for pesticides granted an exemption pursuant to Section 307, by January 1, 2000,
25 any City department that uses one or more pesticides not banned under Section 302 or Section 303(a),

1 shall reduce by 100 percent the cumulative volume of such pesticides that it used in calendar year
2 1996.

3 SEC. 304. NOTICE OF PESTICIDE USE.

4 (a) Except as provided in Subdivisions (b) through (e) hereof, within 120 days of the
5 effective date of this ordinance, any City department that uses any pesticide shall comply with the
6 following notification procedures:

7 (1) Signs shall be posted at least three days before application of the pesticide product and
8 remain posted at least four days after application of the pesticide.

9 (2) Signs shall be posted (i) at every entry point where the pesticide is applied if the
10 pesticide is applied in an enclosed area, and (ii) in highly visible locations around the perimeter of the
11 area where the pesticide is applied if the pesticide is applied in an open area.

12 (3) Signs shall be of a standardized design that are easily recognizable to the public and
13 workers.

14 (4) Signs shall contain the name and active ingredient of the pesticide product, the target
15 pest, the date of pesticide use, the signal word indicating the toxicity category of the pesticide product,
16 the date for re-entry to the area treated, and the name and contact number for the City department
17 responsible for the application.

18 (b) City departments shall not be required to post signs in accordance with Subsection (a)
19 in right-of-way locations that the general public does not use for recreational purposes. However, each
20 City department that uses pesticides in such right-of-way locations shall develop and maintain a public
21 access telephone number about pesticide applications in the right-of-way areas. Information readily
22 available by calling the public access number shall include for any pesticide that will be applied within
23 the next three days or has been applied within the last four days: A description of the area of the
24 pesticide application, the name and active ingredient of the pesticide product, the target pest, the date
25 of pesticide use, the signal word indicating the toxicity category of the pesticide product, the re-entry

1 period of the area treated and the name and contact number for the City department responsible for the
2 application. Information about the public access telephone number shall be posted in a public location
3 at the City department's main office building.

4 (c) City departments using baits or other pesticides granted an exemption by the
5 Department pursuant to Subsection (e) shall not be required to post signs in accordance with
6 Subsection (a). However, each City department that uses pesticidal baits or other pesticides granted an
7 exemption by the Department pursuant to Subsection (e) shall post a permanent sign: (1) in each
8 building or vehicle where such pesticides are used, (2) at the City department's main office or a similar
9 location where the public obtains information regarding the building or vehicle, and (3) when such
10 pesticides are used outdoors to control rats and other pests, in a conspicuous location outside of the
11 area where they are used. The sign shall indicate the name and active ingredient of the pesticides used
12 in and around the building or vehicle, the target pests, the signal word indicating the toxicity category
13 of the pesticide product, the area or areas where the pesticides are commonly placed, and the contact
14 number for the City department responsible for the application.

15 (d) City departments may obtain authorization from the Department to apply a pesticide
16 without providing a three-day advance notification in the event of a public health emergency or to
17 comply with worker safety requirements. Signs meeting the requirements of Subsection (a)(2) through
18 Subsection (a)(4) shall be posted at the time of application and remain posted four days following the
19 application.

20 (e) The Department may grant exemptions to the notification requirements for one-time
21 pesticide uses and may authorize permanent changes in the way City departments notify the public
22 about pesticide use in specific circumstances, upon a finding that good cause exists to allow an
23 exemption to the notification requirements. Prior to granting an exemption pursuant to this subsection,
24 the City department requesting the exemption shall identify the specific situations in which it is not
25

1 possible to comply with the notification requirements and propose alternative notification procedures.

2 The Department shall review and approve the alternative notification procedures.

3 SEC. 305. IMPLEMENTATION OF CITY INTEGRATED PEST MANAGEMENT POLICY.

4 (a) Within 90 days of the effective date of this ordinance each City department that uses
5 pesticides shall submit to the Department a plan for implementing the City Integrated Pest
6 Management (IPM) Policy. The Department may require periodic IPM plan updates. The IPM
7 implementation plans and any periodic updates shall be consistent with the requirements of this Section
8 and any guidelines developed by the Department pursuant to this Chapter.

9 (b) A City department IPM implementation plan shall outline the ways in which the City
10 department shall comply with the City IPM Policy in Section 300(d). The City department IPM
11 implementation plan shall include pesticide applications performed by pesticide applicators at the
12 request of the City department. The IPM implementation plan shall contain a list of the types and
13 quantities of chemicals used as of December 31, 1996, the types of pest problems, the alternatives
14 adopted to date, alternatives proposed for adoption within the next six months, and the name of the
15 IPM Coordinator for the City department.

16 (c) At the request of the Department, the Commission may determine that a City
17 department's IPM implementation plan is not in conformity with the City IPM Policy. Upon a
18 determination of nonconformity, the City department shall submit a revised plan to the Department in
19 accordance with a schedule established by the Commission.

20 (d) The Department shall assist City departments in implementing the City IPM Policy by
21 developing public educational information about IPM plans and programs and the City's IPM Policy.

22 (e) The Department shall establish an IPM Policy implementation program to assist City
23 departments in implementing the City IPM Policy. The Department shall establish a data bank of
24 information concerning pesticide use by City departments and the efficacy of alternatives used by City
25

1 departments. All City departments that use pesticides shall participate in the Department's program
2 by:

3 (1) Identifying the types of pest problems that the City Department has;

4 (2) Identifying types and quantities of pesticides currently in use by the City department;

5 (3) Identifying the use of alternatives for banned pesticides;

6 (4) Designating City department contact personnel who are responsible for the service for
7 which the pesticides are used to regularly assess the efficacy of alternatives and to act as a resource for
8 other City departments; and

9 (5) Providing regular reports as required by the Department of the Environment on the City
10 department's efforts to implement the City IPM Policy.

11 (f) The Department shall determine the cost of maintaining the IPM implementation
12 program. The Department may request that the City departments that use pesticides provide work
13 orders to the Department to cover the cost of maintaining the program.

14 (g) No later than July 1, 1997 and semi-annually thereafter, the Department shall report to
15 the Commission on the status of City department efforts to implement the City IPM Policy. Such report
16 shall include a summary of exemptions granted by the Department during the reporting period. The
17 Department shall provide an annual report to the Board of Supervisors on the status of City department
18 efforts.

19 SEC. 306. RECORDKEEPING AND REPORTING.

20 (a) Each City department that uses pesticides shall keep records of all pest management
21 activities. Each record shall include the following information:

22 (1) The target pest;

23 (2) The type and quantity of pesticide used;

24 (3) The site of the pesticide application;

25 (4) The date the pesticide was used;

1 (5) The name of the pesticide applicator;

2 (6) The application equipment used;

3 (7) Prevention and other non-chemical methods of control used;

4 (8) Experimental efforts; and

5 (9) Exemptions granted by the Department pursuant to Section 304 or 307 for that
6 application.

7 (b) Each City department that uses pesticides shall submit the pest management record
8 required by Subsection (a) to the Department on a monthly basis. The Department may reduce the
9 submittal frequency.

10 (c) Pest management records shall be made available to the public upon request in
11 accordance with the provisions of the San Francisco Sunshine Ordinance, San Francisco
12 Administrative Code, Chapter 67.

13 SEC. 307. EXEMPTIONS.

14 (a) Improving and maintaining water quality. Notwithstanding any other provision of this
15 Chapter, this Chapter shall not apply to the use of any pesticide for the purpose of improving or
16 maintaining water quality at:

17 (1) Drinking water treatment plants;

18 (2) Wastewater treatment plants;

19 (3) Reservoirs; and

20 (4) Related collection, distribution and treatment facilities.

21 (b) One-year exemptions. A City department may apply to the Department for up to a one-
22 year exemption from the pesticide ban imposed by Sections 302 or 303 for use of a particular pesticide
23 for a particular use. The application for an exemption shall be filed on a form specified by the
24 department and shall be signed by the department's IPM Coordinator. The Department of the
25 Environment may grant the one-year exemption upon a finding that the City department has:

1 (1) Made a good-faith effort to find alternatives to the banned pesticide;

2 (2) Demonstrated that effective, economic alternatives to the banned pesticide do not exist
3 for the particular use; and

4 (3) Developed a reasonable plan for investigating alternatives to the banned pesticide during the
5 exemption period.

6 (c) Limited use exemption. A City department may apply to the Department for a limited
7 use exemption for a particular pesticide banned pursuant to Section 302 or 303 and not covered by a
8 one-year exemption. The application for an exemption shall be filed on a form specified by the
9 Department and shall be signed by the City department's IPM Coordinator. The Department may
10 grant a limited-use exemption provided that the Department finds that the City department will use the
11 pesticide for a specific and limited purpose and for a short and defined period and the City department
12 has identified a compelling need to use the pesticide.

13 (d) Reduced-risk pesticide. The Commission on the Environment may exempt a reduced-
14 risk pesticide from the ban imposed by Section 303 upon a finding that the reduced-risk pesticide is
15 commonly used as part of an IPM strategy. Based on recommendations by the Department, the
16 Commission shall maintain a list of reduced-risk pesticides granted an exemption pursuant to this
17 subsection. The Commission shall review the list annually and make necessary changes. The
18 Commission may review and revise the list more frequently upon recommendation by the Department.

19 (e) Emergency exemption. A City department may apply to the Department for an
20 emergency exemption in the event that an emergency pest outbreak poses an immediate threat to public
21 health or significant economic damage will result from failure to use a pesticide banned pursuant to
22 Section 302 or Section 303. The application for an exemption shall be filed on a form specified by the
23 Department. The Department shall respond to the application in a timely manner. If the requesting
24 department is unable to reach the Department, the departmental IPM Coordinator may authorize the
25 one-time emergency use of the required pesticide. The department IPM Coordinator must notify the

1 Department of the determination to use the pesticide by facsimile prior to its application in the event
2 that the department IPM Coordinator is unable to reach the Department. Signs meeting the
3 requirements of Subsection (a)(2) through Subsection (a)(4) shall be posted at the time of application
4 and remain posted four days following the application. The Department may impose additional
5 conditions for emergency applications.

6 SEC. 308. CITY CONTRACTS.

7 (a) As of the effective date of this Section, when a City department enters into a new
8 contract or extends the term of an existing contract, the contract shall obligate the contractor to comply
9 with provisions of this Section 308(a):

10 (1) Effective January 1, 1998, the contractor shall comply with Sections 302, 304 and 306.
11 In addition, effective January 1, 1998, the contractor shall submit to the City department an IPM
12 implementation plan that lists the types and estimated quantities, to the extent possible, of pesticides
13 that the contractor may need to apply to City property during its contract, outlines actions the
14 contractor will take to meet the City IPM Policy in Section 300 to the extent feasible, and identifies the
15 primary IPM contact for the contractor.

16 (2) Effective January 1, 1999, the contractor shall comply with Section 303(a).

17 (3) Effective January 1, 2000, the contractor shall comply with Section 303(b).

18 (b) As of the effective date of this Section, when a City department enters into a new
19 contract or extends the term of an existing contract that authorizes a contractor to apply pesticides to
20 City property, the City department shall submit an IPM implementation plan update to the Commission
21 on the Environment that incorporates the pesticide usage of the contractor into the City department's
22 IPM implementation plan.

23 (c) A contractor, or City department on behalf of a contractor, may apply for any exemption
24 authorized under Section 307.

25 SEC. 309. GUIDELINES.

1 The Department of the Environment may issue guidelines to assist City departments in the
2 implementation of this Chapter.

3 Chapter 4 Healthy Air and Smog Prevention ordinance

4 SEC. 400. FINDINGS AND PURPOSE.

5 The Board of Supervisors finds that:

6 (a) Industries, automobiles, and natural sources all contribute to a significant air pollution
7 problem in the Bay Area. While air pollution in the Bay Area has decreased since its peak in 1969, the
8 growth in population, increase in industrial development, and in particular, the dramatic increase in
9 vehicles and vehicle miles traveled, threaten to overcome the air quality successes to date.

10 (b) Air pollution is a major public health concern in the United States. The American Lung
11 Association estimates the nationwide health costs of air pollution to be in the billions of dollars.
12 According to the United States Public Health Service, high levels of air pollution can cause or
13 aggravate lung illnesses such as acute respiratory infections, asthma, chronic bronchitis, emphysema,
14 and lung cancer. Coughing, wheezing, chest pain, eye irritation, and headaches are common reactions
15 to air pollution. Children, the elderly, athletes, and people with compromised immune systems suffer
16 the worst health problems caused by poor air quality. In these sensitive groups, poor air quality causes
17 more significant health impacts such as breathing difficulties, weakening of the body's ability to resist
18 disease, and hindering the development of lung capacity among children.

19 (c) A recent federal study found that long-term exposure to air pollution in the four (4) Bay
20 Area counties could cause 208 additional cases of cancer for every million residents, which is 208
21 times greater than the acceptable risk of cancer caused by air pollution as established by the Clean Air
22 Act of 1990. The study concludes that most of the cancer risk is attributable to two chemicals
23 contained in vehicle exhaust—benzene, a component of gasoline, and butadiene, a by-product of fuel
24 combustion. This study is significant because it calculated the cancer risks based on the air that people
25 actually breathe, rather than on computer models.

1 (d) Air pollution causes other significant economic costs. These costs from air pollution
2 include damage to plants, animals, buildings and structural materials. Agricultural losses in California
3 caused by air pollution are estimated to be \$300 million each year. Deterioration of buildings, metal,
4 rubber, and painted surfaces (e.g.: the cost to clean buildings resulting from diesel soot) cost millions
5 of dollars each year. Decreased visibility, often called "haze," degrades the natural beauty of the Bay
6 Area and secondarily, this can affect tourism and economic growth. A 1996 University of California at
7 Davis study estimated the total national cost from automobile generated air pollution to be between
8 \$24 and \$450 billion per year.

9 (e) Over one hundred types of air pollutants exist. The most serious and persistent outdoor
10 air quality problem in the Bay Area is high levels of ground level ozone or smog. Ozone is formed as
11 the result of a complex photochemical process which occurs when certain volatile organic compounds
12 and gases (predominantly oxides of nitrogen from automobile combustion) react with sunlight and high
13 temperatures. Since automobile travel is responsible for over half of the chemicals that cause high
14 ozone levels in the Bay Area, replacement of polluting vehicles by less polluting vehicles is a crucial
15 element in the continued health of the residents and businesses of San Francisco.

16 (f) The Clean Air Act mandates the United States Environmental Protection Agency (EPA)
17 to establish national air quality standards that would ensure the same basic health and environmental
18 protection for all Americans. The Bay Area Air Quality Management District (BAAQMD) uses the
19 Pollutant Standard Index (PSI) to report air pollution information to the public, as well as to monitor
20 compliance with the Clean Air Act. The EPA sets the National Ambient Air Quality Standard (NAAQS)
21 to represent the concentration of a pollutant above which adverse health effects have been observed.

22 (g) In the past five (5) years, the Bay Area has violated the NAAQS for ozone twenty-nine
23 (29) times. As a result, the EPA has reclassified the Bay Area as a Nonattainment area for the federal
24 one-hour ozone standard. The loss of ozone attainment status will force the BAAQMD to adopt stricter
25 regulations from a list of measures in the state implementation plan (SIP), a requirement under the

1 Clean Air Act. New regulations will adversely effect Bay Area businesses and possibly automobile
2 owners. Stricter air quality regulations translate to higher costs for everyone and may cause fewer
3 businesses to be created and retained in the Bay Area. The EPA is presently implementing a new ozone
4 monitoring standard which will likely further jeopardize the future attainment status of the Bay Area
5 and lead to adoption of even stricter standards by BAAQMD.

6 (h) Over ninety percent (90%) of Californians live in regions adversely affected by air
7 quality problems, largely as a result of automobile exhaust. A program to control automobile emission
8 in California began in 1961, far in advance of federal controls. The State of California conducts its
9 own vehicle emissions control program that is stricter than federal standards. Nevertheless, the Bay
10 Area continues to violate state ozone standards at an alarming rate, with one-hundred and twelve (112)
11 exceedance over the past five (5) years. In 1988, the California Legislature enacted the California
12 Clean Air Act, which requires each air district not meeting state air quality standards to prepare a
13 Clean Air Plan that would achieve the standards. The Clean Air Plan contains regulations that affect
14 both Bay Area businesses and residents.

15 (i) In 1990, the California Air Resources Board adopted the Low-Emission Vehicle (LEV)
16 regulation, which requires auto manufacturers to produce vehicles that meet increasingly stringent air
17 quality standards. These regulations originally required that, beginning in 1998, two percent (2%) of
18 all vehicles sold by auto manufacturers to be zero emission vehicles (ZEVs). These regulations have
19 since been modified to eliminate the phase-in of ZEV sales requirement for 1998 through 2000 model
20 years in favor of a ZEV demonstration program during this period. The new regulations retain the
21 prior requirement that beginning with the 2003 model year, ten percent (10%) of all vehicles sold in
22 California must be ZEVs.

23 (j) In 1997, the Board of Supervisors approved the Sustainability Plan for the City and
24 County of San Francisco. The Sustainability Plan states, "[a]chieving and maintaining good air
25 quality is crucial to the public health and economic vitality of San Francisco."

1 (k) The United States imports over fifty percent (50%) of its oil. This high dependence on
2 imported oil has become a major national security concern for the Federal Government.

3 (l) To address this national security issue, Congress passed the Energy Policy Act of 1992
4 (EPACT) and directed the Department of Energy (DOE) to establish a variety of programs aimed at
5 substantially reducing the quantity of oil consumed by motor vehicles. EPACT requires the Federal
6 Government to phase in fleet acquisitions of alternative fuel vehicles. DOE is in the process of
7 rulemaking to determine whether alternative fuel vehicle acquisition requirements for private and local
8 government automobile fleets are necessary to achieve EPACT's clean air and energy security goals.
9 DOE is promoting the voluntary use of alternative fuel vehicles through its Clean Cities programs.

10 (m) DOE officially recognized the San Francisco Clean Cities Coalition (SFCCC) in 1994
11 as a Clean Cities program. SFCCC has ongoing programs of substituting conventional transportation
12 fuels with domestically produced, clean burning alternative fuels; encouraging an increase in
13 acquisition and utilization of alternative fuel vehicles (AFVs); developing alternative fuel supply
14 infrastructure and related services; advancing public understanding of the benefits and costs of using
15 AFVs. SFCCC members include: the Department of Administrative Services, Department of Public
16 Transportation, Public Utilities Commission, San Francisco International Airport, San Francisco
17 County Transportation Authority, BAAQMD, City College of San Francisco, Pacific Gas and Electric
18 Company, United States Department of Energy, United States National Park Service, United States
19 General Services Administration, United Airlines, NorCal Waste Management, Inc., Olympian Oil
20 Company, and the San Francisco Bay Area Clean Air Vehicle Coalition (the precursor organization to
21 the Clean Cities Coalition).

22 (n) The City and County of San Francisco currently operates over one hundred and thirty
23 (130) AFVs. These vehicles have proved themselves to be cost effective and were easily integrated into
24 the City's fleet operations. The use of low emission AFVs by the City has been beneficial to the air
25 quality in the Bay Area.

1 (o) Under this Chapter, the City and County of San Francisco wishes to exercise its power
2 to make economic decisions involving its own funds as a participant in the marketplace and to conduct
3 its own business as a municipal corporation to ensure that purchases and expenditures of public
4 moneys are made in a manner consistent with the policy of improving the air quality in the City and in
5 the Bay Area through the purchase and use of low emission AFVs and ZEVs.

6 (p) Under this Chapter, the City and County of San Francisco wishes to foster, promote,
7 and encourage the use of low emission AFVs and ZEVs by developing infrastructures to support the use
8 of these vehicles.

9 (q) Under this Chapter, a Clean Air Program is established to aid the City and County of
10 San Francisco in identifying funding sources for the purchase of low emission AFVs and ZEVs, to assist
11 the City in the development of alternative fuel infrastructures, to develop a clean air plan for the City
12 and County of San Francisco, and to educate and promote the use of low emission AFVs and ZEVs in
13 the private and public sectors.

14 (r) This Chapter applies the Precautionary Principle to the selection of low or zero
15 emission vehicles and the creation of fueling infrastructure for City fleets and public transit to minimize
16 impacts on public health and natural resources.

17 SEC. 401. DEFINITIONS.

18 (a) "Alternative Fuel" means any fuel other than gasoline, diesel, and other substantially
19 petroleum-based fuels that is less polluting than gasoline or diesel fuel, as determined by the California
20 Air Resource Board. Alternative Fuel shall include, but is not limited to, natural gas and electricity.

21 (b) "Alternative Fuel Vehicle" means any motor vehicle powered by alternative fuels.

22 (c) "Bi-Fuel Vehicle" means any motor vehicle designed to operate on two (2) fuels, one of
23 which is an alternative fuel, but not on a mixture of fuels.

24 (d) "Bus" means any passenger vehicle with a seating capacity of greater than fifteen (15)
25 persons.

- 1 (e) "Car-Sharing Program" means a program in which automobile providers are
2 established to make motor vehicles available to people on a per-use basis.
- 3 (f) "City Department" means any department of the City and County of San Francisco. City
4 department does not include any other local agency or any federal or State agency, including but not
5 limited to the San Francisco Unified School District, the San Francisco Community College District,
6 the San Francisco Redevelopment Agency, and the San Francisco Housing Authority.
- 7 (g) "Construction Vehicle" means any motor vehicle intended for use in the construction,
8 repair, and/or demolition of structures or roadways and which is not licensed for use on public roads.
- 9 (h) "Electric Charging Bay" means a device used to restore the electromotive power of a
10 battery in an electric vehicle.
- 11 (i) "Electric Vehicle" means a zero emission vehicle that derives its motive power from one
12 (1) or more electric motors.
- 13 (j) "Fast-Fueling" means a fueling process that refuels an alternative fuel vehicle in the
14 same or less time than traditional refueling methods.
- 15 (k) "Heavy Duty Vehicle" means any motor vehicle, licensed for use on roadways, having a
16 manufacturer's gross vehicle weight rating greater than 14,000 pounds.
- 17 (l) "Hybrid Electric Bus" means a bus having an on-board internal combustion engine
18 attached to an electric generator.
- 19 (m) "Light Duty Truck" means any motor vehicle, with a manufacturer's gross vehicle weight
20 rating of 6,000 pounds or less, which is designed primarily for purposes of transportation of property
21 or is a derivative of such a vehicle, or is available with special features enabling off-street or off-
22 highway operation and use.
- 23 (n) "Medium Duty Vehicle" means any 1995 and subsequent-model year vehicle having a
24 manufacturer's gross vehicle weight rating of 14,000 pounds or less and which is not a passenger
25 vehicle or light-duty truck.

- 1 (o) "Motor Vehicle" means a self-propelled vehicle.
- 2 (p) "Motorized Equipment" means any implement powered by an internal combustion
3 engine.
- 4 (q) "Natural Gas Bus" means a bus powered by natural gas.
- 5 (r) "Natural Gas Fueling Station" means any fueling station that provides fueling services
6 for motor vehicles fueled by natural gas.
- 7 (s) "NOX" means oxides of nitrogen.
- 8 (t) "Particulate Matter (PM)" means solid or liquid particles of soot, dust, smoke, fumes,
9 aerosols or other airborne material.
- 10 (u) "PM10" means particulate matter less than ten (10) microns in diameter.
- 11 (v) "PM2.5" means particulate matter less than two and five-tenths (2.5) microns in
12 diameter.
- 13 (w) "Passenger Vehicle" means any motor vehicle designed primarily for transportation of
14 persons and having a design capacity of twelve (12) persons or less.
- 15 (x) "Portable Motorized Equipment" means motorized equipment that is capable of being
16 carried or moved from one location to another. Indicia of portability or transportability include, but
17 are not limited to, wheels, skids, carrying handles, a dolly, a trailer, or a platform.
- 18 (y) "Stationary Motorized Equipment" means motorized equipment that remains or will remain
19 at a single site at a building, structure, facility, or installation for more than twelve (12) consecutive
20 months.
- 21 (z) "Trolley Bus" means an electric-powered bus that derives its motive power from
22 overhead wires.
- 23 (aa) "Ultra-Low Emission Vehicle" means any motor vehicle that meets or exceeds the
24 standards set forth in 13 California Code of Regulations § 1960.1 for Ultra-Low Emission Vehicles.
- 25

1 (bb) "Zero-Emission Vehicle" means (i) any motor vehicle that produces zero exhaust
2 emissions of all criteria pollutants, as defined by 17 California Code of Regulations § 90701(b), (or
3 precursors thereof) under any and all possible operational modes and conditions or (ii) any vehicle
4 that has been certified by the California Air Resources Board as a zero-emission vehicle.

5 (cc) "Director" means the Director of the Department of the Environment established
6 pursuant to Section 4.118 of the Charter.

7 SEC. 402. CLEAN AIR PROGRAM ESTABLISHMENT, DUTIES AND FUNDING.

8 (a) There is hereby established a program to be known as the Clean Air Program in the City
9 and County of San Francisco in the Department of the Environment.

10 (b) Subject to the budget, fiscal and Civil Service provisions of the Charter, the Director
11 shall appoint an individual who shall be responsible for the day-to-day Program operations, including
12 but not limited to supervision of staff and budgeting. The Clean Air Program shall be responsible for
13 supervising the implementation of the provisions of this Chapter, assisting with the expansion of the
14 alternative fueling network in the City and County of San Francisco, assisting with City department
15 financing and acquisition of ultra-low or zero emission vehicles and equipment, performing outreach to
16 residents and private sector fleet operators to encourage the purchase of ultra-low and zero emission
17 vehicles and equipment, promoting automobile trip reduction by City employees, developing
18 educational programs to train City employees in the use of alternative fuel vehicles and equipment and
19 in techniques that reduce fuel consumption, encouraging the development of car-sharing programs,
20 and serving as San Francisco's Clean Cities Coordinator, under the Clean City Program of the U.S.
21 Department of Energy.

22 SEC. 403. [Reserved]

23 SEC. 404. ALTERNATIVE FUEL INFRASTRUCTURE.

24 (a) Natural Gas Fueling Stations—Assessment and Recommendations. Not later than six
25 (6) months from the effective date of this Chapter, the Planning Department, in cooperation with the

1 Clean Air Program shall assess the need for a competitive network of public access natural gas fast-
2 fueling stations in the City and County of San Francisco and shall provide a report to the Board of
3 Supervisors detailing the results of the assessment. Such report shall include recommendations for
4 legislative action that may be required to achieve the goal set forth in subsection (b).

5 (b) Development of Natural Gas Fueling Stations. Not later than eighteen (18) months from
6 the effective date of this Chapter, the Planning Department, in cooperation with the Department of
7 Building Inspection, shall coordinate the siting and development of not fewer than five (5) public
8 access natural gas fast-fueling stations by public and/or private entities within the City and County of
9 San Francisco.

10 SEC. 405. ELECTRIC VEHICLE CHARGING INFRASTRUCTURE.

11 (a) Establishment of Pilot Program. Not later than eighteen (18) months from the effective
12 date of this Chapter, the Department of Parking and Traffic in consultation with the Department of
13 Building Inspection shall implement a pilot program to install a total of fifty (50) public access,
14 dedicated electric charging bays in at least six (6) City-owned garages, parking lots, and/or other sites
15 accessible to the public.

16 (b) Planning and Assessment. Not later than eighteen (18) months from the effective date of
17 this Chapter, the Department of Parking and Traffic, in cooperation with the Clean Air Program, shall
18 develop and recommend to the Board of Supervisors a plan for creating a comprehensive electric
19 charging infrastructure for electric vehicles in the City and County of San Francisco. Such plan shall
20 include:

21 (1) A market demand assessment for electric charging infrastructure needs within the City
22 and County of San Francisco based on California Air Resource Board mandates for zero-emission
23 vehicle sales and projected sales within the Bay Area;

24 (2) An assessment of public and private funding options available for installation of
25 charging bays in all City-owned parking garages and lots by the year 2003; and

1 (3) Tax-based or other incentive programs to encourage the installation of electric charging
2 bays in privately owned parking facilities located in the City and County of San Francisco.

3 SEC. 406. PROCUREMENT OF VEHICLES BY CITY DEPARTMENTS.

4 (a) Passenger Vehicles and Light-Duty Trucks. Except as set forth in subsection (e),
5 beginning 90 days from the effective date of this Chapter, all City departments shall purchase or lease
6 only models of passenger vehicles and light duty trucks that are rated as ultra-low emission vehicle or
7 zero emission vehicle. Commencing July 1, 2000, at least ten percent (10%) of all passenger vehicles
8 and light duty trucks purchased or leased by the City within any fiscal year shall be zero emission
9 models. The Mayor's Office and the Director shall review annual and supplemental vehicle funding
10 requests from City departments to ensure that this requirement is met each fiscal year.

11 (b) Medium Duty Vehicles. Except as set forth in subsection (e), beginning 90 days from the
12 effective date of this Chapter, City departments shall purchase or lease only Medium Duty Vehicles
13 with engines having exhaust emissions levels rated as ultra-low emission or super ultra-low emission
14 pursuant to Section 1956.8(h) of Title 13 of the California Code of Regulations or Medium Duty
15 Vehicles that are rated as ultra-low emission or super ultra-low emission pursuant to Section
16 1960.1(h)(2) of Title 13 of the California Code of Regulations.

17 (c) Heavy Duty Vehicles. Except as set forth in subsection (e), beginning 90 days from the
18 effective date of this Chapter, when purchasing or leasing Heavy Duty Vehicles, City departments shall
19 purchase or lease only Heavy Duty Vehicles whose engines are certified under the optional standards
20 for their exhaust emissions pursuant to Section 1956.8 of Title 13 of the California Code of
21 Regulations.

22 (d) Motorized Equipment. Except as set forth in subsection (e), City departments shall
23 purchase or lease only portable or stationary motorized equipment that is powered by alternative fuels.

24 (e) Exemptions.

1 (1) Notwithstanding any other provisions of this Chapter, this Section shall not apply to any
2 motor vehicles that are used for public safety purposes. Such vehicles shall include, but are not limited
3 to: police vehicles, fire vehicles, ambulances, and other emergency response vehicles. Nothing in this
4 subsection shall be construed to prohibit City departments from purchasing or leasing motor vehicles
5 used for public safety purposes that satisfy the requirements of this section. It shall be the policy of the
6 City to purchase or lease emergency response vehicles that comply with the requirements of this section
7 to the extent that the purchase or lease of such vehicles is feasible and practical.

8 (2) This Section shall not apply to the acquisition of buses by the Public Transportation
9 Department for its fleet.

10 (3) Upon a written request from a City department, the Director may grant an exemption to
11 the requesting City department from the requirements of this Section under the following
12 circumstances:

13 (A) Where the requesting department demonstrates that no model of motor vehicle or
14 motorized equipment is available which will comply with the requirements of this Section and meet the
15 specifications of the department for its intended use. In deciding whether to grant an exemption
16 pursuant to this subparagraph, the Director shall consider the availability of funding for the purchase
17 or lease of motor vehicles or motorized equipment mandated by this Section.

18 (B) Where the requesting department demonstrates to the satisfaction of the Director each
19 of the following:

20 (i) That the cost of the vehicle or motorized equipment that complies with the requirements
21 of this Section is more than one and a half times the cost of an equivalent low emission vehicle or
22 motorized equipment powered by gasoline or diesel fuel;

23 (ii) That the department has applied for, but failed to receive, funding for the purchase or
24 lease of the vehicle or motorized equipment that complies with the requirements of this Section from
25 sources other than the City's General Fund; and

1 (iii) That the amortized cost differential cannot be recovered over the operating life of the
2 vehicle or motorized equipment that complies with the requirements of this Section through a reduction
3 in fuel, maintenance, and other costs incurred during the operating life of such vehicle or equipment.

4 (C) Where the requesting department demonstrates to the satisfaction of the Director that
5 the use of vehicle or motorized equipment that complies with the requirements of this Section would
6 significantly disrupt departmental operations due to the lack of adequate fueling and/or maintenance
7 facilities for those motor vehicles or motorized equipment.

8 (4) Where the Director grants an exemption pursuant to paragraph (3), the requesting
9 department shall purchase or lease the model of motor vehicle or motorized equipment that will meet
10 its specifications and has the lowest available ratings for emissions of NOX and PM10, and, if
11 applicable, PM2.5 established by the California Air Resources Board for the type or class of vehicle or
12 motorized equipment being purchased or leased.

13 (d) Rules and Regulations. The Director may promulgate such regulations as may be
14 necessary from time to time to carry out the requirements of this section.

15 (e) List of Vendors. The Director shall develop a comprehensive list of vendors supplying
16 motor vehicles and motorized equipment that comply with the requirements of this section for use by
17 City departments in making purchasing or leasing decisions.

18 (f) Other Requirements. All motor vehicles and motorized equipment purchased or leased
19 pursuant to this section shall meet all applicable safety standards and other requirements for the
20 intended use of the vehicle or equipment.

21 (g) Funding. It shall be the policy of the City to: (1) use monies that are not part of a City
22 department's regular appropriation, including, but not limited to, regional, state, or federal grants, to
23 fund the entire purchase or lease price of ultra-low or zero emission vehicles or motorized alternative
24 fuel equipment that is used in a pilot program or demonstration project; and (2) in all other cases, use
25 such monies only to fund the difference in purchase or lease price between the ultra-low or zero

1 emission vehicle or motorized alternative fuel equipment and the gasoline or diesel-fueled motor
2 vehicle or motorized equipment that would otherwise be purchased or leased.

3 (h) Annual Report. Not later than September 1 of each fiscal year, the Director shall submit
4 to the Mayor and the Board of Supervisors a report which includes a summary of motor vehicles and
5 motorized equipment purchased or leased by City departments. Such report shall include a comparison
6 of (i) the annualized projected maintenance and fueling costs for each type or class of motor vehicle
7 and motorized equipment purchased or leased pursuant to this section, (ii) the estimated annualized
8 maintenance and fueling costs for vehicles and motorized equipment that would otherwise be
9 purchased or leased, and (iii) the projected reduction in the emissions of NOX, PM10 and, if
10 applicable, PM2.5 from motor vehicles and motorized equipment purchased or leased pursuant to this
11 section.

12 (i) Phase Out of Highly Polluting Vehicles and Equipment. Not later than eighteen (18)
13 months from the effective date of this Chapter, each City department, with the cooperation of the
14 Director, shall develop and recommend to the Board of Supervisors a plan to phase out the use of older
15 and highly polluting motor vehicles and motorized equipment that have been in service for twelve (12)
16 or more years. Such plan shall include, but is not limited to, a study into the feasibility of centralizing
17 the purchase and ownership of City motor vehicles within the Department of Administrative Services,
18 which are leased to City Departments on an as-needed basis.

19 SEC. 407. OPERATION OF BI-FUEL VEHICLE.

20 No bi-fuel vehicle owned by the City may be powered by gasoline, diesel, or other petroleum-
21 based fuel while operating within the City and County of San Francisco. Bi-fuel vehicles owned by the
22 City shall bear a notice stating the requirements of this subsection, posted in one or more locations that
23 are plainly visible to the vehicle operator. This section shall not apply to (1) the operation of bi-fuel
24 vehicles in emergency situations or (2) the operation of buses by the Public Transportation
25 Commission.

1 SEC. 408. DEPARTMENT OF PUBLIC TRANSPORTATION BUSES AND TROLLEY BUSES.

2 (a) Pilot Program. For the purpose of developing fueling specifications for the first
3 planned Department of Public Transportation bid package after the effective date of this chapter to
4 replace existing diesel-powered buses, the Public Transportation Commission, with input from the
5 Transportation Authority, shall implement an alternative fuels pilot program to evaluate the efficacy of
6 using alternative fuel buses to reduce air pollution while maintaining current level of service and
7 safety. This program shall include testing of both dedicated natural gas and hybrid electric buses.

8 (b) Identification and Conversion of Diesel Bus Lines. Not later than six (6) months from
9 the effective date of this Chapter, the Public Transportation Commission shall identify heavily traveled
10 diesel bus lines that are appropriate for conversion to cleaner, quieter electric trolley bus lines. The
11 Public Transportation Commission and the Planning Department shall develop proposed street
12 amenities, including, but not limited to, light standards and street landscaping, designed to mitigate the
13 aesthetic impact of any proposed overhead wires. Residents in the neighborhoods surrounding such
14 bus lines shall be provided with notice and an opportunity to comment on the proposed plan.

15 (c) Phase-Out of Diesel Buses. Not later than eighteen (18) months from the effective date
16 of this Chapter, the Public Transportation Commission shall develop a plan to phase out the use of
17 diesel buses that have been in service for a time period greater than the time period set forth by the
18 applicable federal funding guidelines.

19 SEC. 409. REGIONAL PUBLIC SECTOR AND PRIVATE SECTOR FLEETS.

20 (a) Regional Public Transportation Authorities. Not later than twelve (12) months from the
21 effective date of this Chapter, the Clean Air Program shall develop a plan, including incentives, to
22 encourage the regional public sector transit agencies to use buses that are classified as zero emission
23 or cleaner emission vehicles on bus lines that originate or terminate in San Francisco.

24 (b) Private Sector Fleets. Not later than twelve (12) months from the effective date of this
25 Chapter, the Clean Air Program shall develop a plan, including incentives, to encourage private sector

1 fleets that operate a significant number of motor vehicles within the City and County of San Francisco
2 to convert their fleets to zero emission vehicles or motor vehicles that comply with the requirements of
3 Section 406 of this Chapter.

4 (c) Residential Vehicles. Not later than twelve (12) months from the effective date of this
5 Chapter, the Clean Air Program shall develop a plan, including incentives, to encourage residents of
6 the City and County of San Francisco to purchase zero-emission vehicles or motor vehicles that comply
7 with Section 406 of this Chapter.

8 (d) San Francisco Unified School District. Upon request by the San Francisco Unified
9 School District, the Transportation Authority and the Public Transportation Commission shall assist
10 the school district with the development of bid specifications and/or contract requirements requiring
11 the use of alternative fuel school buses in the District's bid package for school bus service. Upon
12 request by the San Francisco Unified School District, the Transportation Authority and the Public
13 Transportation Commission shall also assist the school district with the preparation of applications for
14 local, regional, state, and/or federal funding to pay for part or all of the costs of such buses.

15 (e) Car-Sharing Program. The Clean Air Program shall assist the Department of Parking
16 and Traffic and the Planning Department and other Federal and State agencies in the development of
17 car-sharing programs in all high density urban neighborhoods of the City. Such neighborhoods shall
18 include, but are not limited to, Nob Hill, North Beach, Russian Hill, Castro, Tenderloin, Telegraph
19 Hill, Downtown, Mission, Hayes Valley, Haight, Mission Bay, Treasure Island, and the Presidio.

20 Chapter 5 Resource Conservation ordinance

21 SEC. 500. FINDINGS.

22 The Board of Supervisors of the City and County of San Francisco hereby finds and declares as
23 follows:

24 (A) The California Integrated Waste Management Act (Public Resources Code § 40000 et
25 seq.) requires all cities and counties to reduce their waste by 50% by the year 2000 or face potential

1 penalties of up to \$10,000 per day. The City must take a leadership role and act quickly and
2 responsibly to implement the necessary measures to achieve this mandate.

3 (B) City departmental operations and activities have been found to contribute significantly
4 to San Francisco's solid waste stream. The waste management and buy recycled provisions of this
5 ordinance are necessary to help departments reduce their waste.

6 (C) On September 14, 1998, the President of the United States signed Executive Order
7 13101 Greening the Government through Waste Prevention, Recycling, and Federal Acquisition to
8 "strengthen the role of the Federal government as an enlightened, environmentally conscious and
9 concerned consumer." The State and Federal governments have strongly encouraged local
10 governments to procure recycled and environmentally preferable products and services as a way to
11 increase market demand for such products.

12 (D) Local agencies that use appropriated federal funds to procure \$10,000 or more worth of
13 a designated item in a given year are subject to the federal comprehensive procurement guidelines for
14 recycled products.

15 (E) Pursuant to Board of Supervisors Resolution No. 246-99, Establishing Dioxin as a High
16 Priority for Immediate Action for the City and County of San Francisco in Order to Restore Water
17 Quality and Protect the Public Health and Enabling the San Francisco Commission on the
18 Environment to Create a Task Force and Report Back on Strategies to Ensure that Less Toxic, Non-
19 Chlorinated Sustainable Products and Processes are Actively Supported, each City department must
20 report to the Board of Supervisors on strategies they are using to ensure that less-toxic, non-
21 chlorinated products sustainable alternative products, such as chlorine-free paper and PVC-free
22 plastics, are actively supported and used.

23 (F) The landfill capacity available to San Francisco at the Altamont Landfill is expected to
24 last only until approximately 2012.

1 (G) The discard of useable or recyclable materials into the waste stream deprives the City of
2 the economic benefit of the value of these materials while creating unnecessary expenses for collection
3 and disposal.

4 (H) This Chapter applies the Precautionary Principle to the selection of commodities used in
5 City operations that minimize impacts on natural resources by maximizing recycled content, recycling,
6 and reuse.

7 SEC. 501. DEFINITIONS.

8 As used in this Chapter, the following words shall have the following meanings:

9 "Battery" means two or more connected cells that produce a direct current by converting
10 chemical energy to electrical energy. For purposes of this ordinance, "battery" does not include
11 automotive batteries.

12 "Battery charger" means a device that restores anew the active materials in a battery.

13 "Battery pack" means multiple batteries joined together in a single housing.

14 "City department" means any department of the City and County of San Francisco, and does not
15 include any other local agency or any federal or State agency, including but not limited to the San
16 Francisco School District, the San Francisco Community College District, the San Francisco
17 Redevelopment Agency and the San Francisco Housing Authority.

18 "Comprehensive Procurement Guideline" or "CPG" means final guidelines, as periodically
19 hoses, hydraulic mulch, lawn and garden edging, yard trimmings compost, food waste compost, and
20 plastic lumber landscaping timbers and posts); non-paper office products (including promulgated and
21 amended by the U.S. EPA and codified at 40 Code of Federal Regulations Part 247, which designate
22 products that are or can be made with recovered materials in order to assist federal procuring
23 agencies in complying with the requirements of federal law and Executive Order 13101 as they apply to
24 the procurement of items with recovered materials content. As of February 22, 2002, final CPGs exist
25 for: paper and paper products; vehicle products (including engine coolants, re-refined lubricating oils,

1 and retread tires); construction products (including building insulation products, carpet, cement and
2 concrete containing coal fly ash and ground granulated blast furnace slag, consolidated and
3 reprocessed latex paint, floor tiles, patio blocks, shower and room dividers, structural fiberboard,
4 carpet cushion, flowable fill and railroad grade crossing surfaces), transportation products (including
5 channelizers, delineators, flexible delineators, parking stops, traffic barricades and traffic cones); park
6 and recreational products (including plastic fencing, playground surfaces, running tracks, park
7 benches and picnic tables, and playground equipment); landscaping products (including garden and
8 soaker binders, office recycling containers, office waste receptacles, plastic desktop accessories, plastic
9 envelopes, plastic trashbags, printer ribbons, toner cartridges, solid plastic binders, plastic clipboards,
10 plastic file folders, plastic clip portfolios, and plastic presentation folders); and miscellaneous products
11 (including pallets, sorbents, industrial drums, awards and plaques, mats, signage, including sign
12 supports and posts, and manual-grade strapping).

13 "Contract" means a binding written agreement for the provision of goods and/or services to be
14 provided at the expense of the City or to be paid out of monies deposited in the treasury or out of trust
15 monies under control of the City between a person, firm, corporation or other entity, including a
16 governmental entity, and a City department. This Chapter shall not apply to contracts entered into or
17 amended to extend the term prior to October 1, 2000.

18 "Contractor" means a person, firm, corporation or other entity, including a governmental
19 entity, that enters into a contract with a City department.

20 "Contracting officer" means that officer or employee of the City authorized under the Charter
21 or Municipal Code to enter into a contract on behalf of the City. "Contracting officer" shall include the
22 Mayor, each department head or general manager and other employees of the City authorized to enter
23 into contracts on behalf of the City.

24 "Director" means the Director of the Department of the Environment or his or her designee.
25

1 "Document Imaging" means the conversion of paper documents into electronic images on a
2 computer, thereby reducing the amount of paper used for copying and printing. A document imaging
3 system includes the ability to scan, store, index, retrieve and search documents.

4 "Post-consumer material" means those products generated by a business or consumer which
5 have served their intended end use, and which have been diverted from becoming solid waste for
6 purposes of recycling.

7 "Processed Chlorine Free" means recycled paper in which the recycled content is unbleached
8 or bleached without chlorine or chlorine derivatives. Any virgin material portion of the paper must be
9 totally chlorine free (i.e., unbleached or processed with a sequence that includes no chlorine or
10 chlorine derivatives).

11 "Purchaser" means the Purchaser of the City or his or her designee.

12 "Recovered Materials Advisory Notice" or "RMAN" means the information and
13 recommendations periodically published and amended by the U.S. EPA, based on U.S. EPA's market
14 research concerning the availability, quality, and price of products listed in the CPG. Existing RMANs
15 can be found at 60 Federal Register 21386 (May 1, 1995) (RMAN); 62 Federal Register 60976
16 (November 13, 1997) (RMAN II); 61 Federal Register 26986 (May 29, 1996) (Paper RMAN IV); 63
17 Federal Register 31214 (June 8, 1998) (Paper RMAN II); 63 Federal Register 45580 (August 26, 1998)
18 (RMAN III); and 65 Federal Register 3070 (January 19, 2000) (RMAN V).

19 "Recyclable material" means any material or product separated or capable of being separated
20 at its point of discard or from the solid waste stream for utilization as a raw material in the
21 manufacture of a new product.

22 "Recycle" or "recycling" means the process of collecting, sorting, cleaning, treating, reusing or
23 reconstituting a material that would otherwise become a solid waste and/or hazardous waste, and
24 returning it to the economic mainstream in the form of a raw material for new, reused or reconstituted
25 products which may be used in the marketplace.

1 "Recycled product" means a product that is or can be made with recovered materials, including
2 those listed in the CPG and which at a minimum, meets the requirements of the federal RMAN.

3 "Reuse" means the secondary use of a product or its packaging for its original intended purpose
4 or another function which does not require the product to be treated or reconstituted in any way.

5 "Solid Waste" or "Waste" has the same meaning as "solid waste" in the California Integrated
6 Waste Management Act of 1989, Public Resources Code Section 40191.

7 "U.S. EPA" means the United States Environmental Protection Agency.

8 "Waste prevention" means discontinuing the use of an unnecessary material rather than
9 disposing of it to the waste stream and shall include: (1) reduced resource use per unit of product; (2)
10 increased product life; and (3) decreased consumption.

11 "Waste Reduction" means the diversion of materials, products and packaging from disposal
12 through waste prevention, reuse, recycling and/or composting, but does not include steps taken after
13 the material becomes solid waste or actions which would transfer the impacts of land disposal to air or
14 water resources, such as transformation, incineration, pyrolysis, distillation, gasification, or biological
15 conversion (other than composting).

16 SEC. 502. WASTE REDUCTION BY CITY DEPARTMENTS.

17 (a) It shall be the goal of the City and every City department to (i) maximize purchases of
18 recycled products and (ii) divert from disposal as much solid waste as possible so that the City can
19 meet the state-mandated 50% diversion requirement.

20 (b) Within ninety (90) days of the effective date of this Chapter, each City department shall
21 provide to the Director a written commitment signed by its department head to use its best efforts to
22 help the City achieve its overall state-mandated diversion requirement and to maximize purchases of
23 recycled products. Each department shall distribute copies of the written commitment to its employees
24 and contractors within 30 days of execution.

1 (c) Each City department shall designate at least one person responsible for compliance
2 with this Chapter, including preparation of the Departmental Waste Assessment (see Section 503) and
3 the development and implementation of a Resource Conservation Plan (see Section 504). Each
4 department shall advise the Director of the person so designated in the written commitment described
5 in Subsection (b).

6 (d) All assessments, plans and reports required to be submitted to the Director under this
7 Chapter shall be submitted electronically.

8 (e) Within one-hundred eighty (180) days of the effective date of this Chapter, the director
9 shall make recommendations to departments on the use of document imaging systems for storage,
10 retrieval and public access to departmental records.

11 (e) All contracts and other similar written agreements shall incorporate this Chapter by
12 reference whenever applicable and shall provide that the failure of any bidder, proposer or contractor
13 to comply with any of its requirements shall be deemed a material breach of contract.

14 SEC. 503. DEPARTMENTAL WASTE ASSESSMENT.

15 (a) Guidelines. Within thirty (30) days of the effective date of this Chapter and in
16 accordance with Section 511, the Director will adopt guidelines for conducting a departmental audit to
17 establish a Departmental Waste Assessment. For purposes of this assessment, the volume or weight of
18 all waste generated or disposed of or diverted by a department shall be included, unless such waste is
19 not subject to the diversion requirements contained in the California Integrated Waste Management Act
20 of 1989, Public Resources Code § 40000 et seq. The guidelines shall include, at a minimum:

21 (1) Procedures for determining whether a department generates a heterogeneous waste
22 stream (a combination of waste types, such as wood, yard debris, metals and food waste) or generates
23 a homogenous waste stream (such as office-type wastes);

24 (2) Guidance on determining which wastes should be included in a waste assessment
25 (including how to account for wastes not subject to state diversion requirements);

- 1 (3) How to determine which facilities should be included in a waste assessment; and
2 (4) How to estimate/calculate volumes, weights and costs associated with all waste.
3 (b) Within twelve (12) months of the effective date of this Chapter, each department that
4 generates a heterogeneous waste stream (as determined by the Director's guidelines) shall conduct and
5 submit to the Director for review and approval a Departmental Waste Assessment.
6 (c) Within eighteen (18) months of the effective date of this Chapter, each department that
7 generates a homogenous waste stream (as determined by the Director's guidelines) shall conduct and
8 submit to the Director for review and approval a Departmental Waste Assessment.
9 (d) Each department shall update its Departmental Waste Assessment annually and submit
10 it to the Director for approval.

11 SEC. 504. RESOURCE CONSERVATION PLAN.

12 (a) Guidelines. Within thirty (30) days of the effective date of this Chapter and in
13 accordance with Section 511, the Director will issue guidelines for development and implementation of
14 a Resource Conservation Plan. The guidelines will cover, at a minimum, the following elements of a
15 Resource Conservation Plan:

- 16 (1) Waste reduction, prevention and reuse;
17 (2) Facilitation of collection of recyclable materials;
18 (3) Maximizing purchases of recycled products;
19 (4) Operational issues that influence the ability of the City department to recycle, such as
20 janitorial contracts;
21 (5) Product substitution;
22 (6) Equipment purchases that could facilitate recycling;
23 (7) Development of a diversion goal and methods of evaluating whether the goal is being
24 met; and
25 (8) Examples of model programs for heterogeneous and homogenous waste streams.

1 (b) Within eighteen (18) months of the effective date of this Chapter, each department that
2 generates a heterogeneous waste stream (as determined by the Director's guidelines) shall conduct and
3 submit to the Director for review and approval a Resource Conservation Plan.

4 (c) Within twenty-four (24) months of the effective date of this Chapter, each department
5 that generates a homogenous waste stream (as determined by the Director's guidelines) shall conduct
6 and submit to the Director for review and approval a Resource Conservation Plan.

7 SEC. 505. JANITORIAL CONTRACTS.

8 As of six (6) months from the effective date of this Chapter, when the Purchaser or other City
9 department enters into a contract for janitorial services where the City owns or leases at least 50% of
10 the building the Purchaser or other City department shall contractually obligate the janitorial
11 contractor to consolidate recyclable materials from individual City offices to a designated space for
12 pickup by recycling haulers. Consolidation includes collection of recyclable materials from floors or
13 individual offices and transportation to a designated location for pick up by a recycling hauler, but
14 does not include sorting different materials (such as white paper and newspaper) from each other.

15 SEC. 506. PURCHASE AND USE OF PRINTING AND WRITING PAPER PRODUCTS.

16 (a) Every publication exhibit, form and letter produced by a City department, including all
17 materials distributed to the public shall be on printing and writing paper products that contain:

18 (1) A minimum of 30% post-consumer materials for copier and bond paper (including any
19 uncoated duplicating, printer and letterhead paper used in a variety of end use applications such as
20 business forms and offset printing, but excluding high quality papers used for stationery, envelopes and
21 other specialty items); and

22 (2) A minimum of 30% post-consumer materials for all other printing and writing paper
23 products including, without limitation: publications, forms, letters, letterhead, promotional materials,
24 advertisements, educational pamphlets, newsletters, exhibits, reports, business cards, calendars,
25 commission and committee notices, agendas and minutes, requests for proposals or qualifications,

1 invitations for bids, checks, tickets, high quality papers used for stationery, envelopes and other
2 specialty items and other printed materials.

3 (3) The minimum level of post-consumer content will be reviewed annually by the Director.
4 Pursuant to Section 511, the Director may raise, but not lower, the minimum level of post-consumer
5 content as higher post-consumer content paper becomes available.

6 (4) All printing and writing paper products shall be on processed chlorine free paper as it
7 becomes available at a reasonable price. The availability of processed chlorine free paper will be
8 determined by the Director pursuant to Section 511.

9 (b) All pre-printed materials intended for distribution that are purchased or produced in
10 quantities greater than 50 sheets after the effective date of this Chapter must include a recycled content
11 logo and the percentage of post-consumer material in the paper.

12 (c) Each City department including the Purchaser, shall use its best efforts to incorporate
13 the standards set forth in this Section into existing contracts for the provision of printing and writing
14 paper and services. If the City department is unable to amend an existing contract, the City department
15 is authorized to enter into another contract to procure products that do comply with this Section,
16 provided that the City department complies with all other applicable laws. Nothing in this Chapter is
17 or shall be interpreted to require or authorize any City department to breach the terms of a contract.
18 Each City department shall document its efforts pursuant to this Section in a report filed with the
19 Director, explaining the circumstances.

20 (d) This Section does not apply to commercial sanitary products, paperboard and
21 packaging products, newsprint products or other products not generally considered to be printing or
22 writing paper products. Such products are covered under Section 507.

23 (e) The contracting officer shall require all suppliers of printing and writing paper products
24 or services to certify the minimum content of post-consumer materials in the products to be provided in
25 the performance of a contract.

1 (f) Unless specifically provided by court rules or other legal mandates, all pre-printed City
2 forms and other pre-printed material shall be printed on double-sided pages.

3 (g) In all contracts for printing services for the City, the contract shall specify and require
4 that the contractor use paper products meeting the standards set forth in this Section, and, unless
5 inappropriate for the end use, that the contractor print the document on both sides of the paper.

6 (h) Any City department seeking the preparation and/or submission of any bid, report,
7 request for proposal, quotation or other document shall specify and require the document to be
8 submitted on paper which meets the requirements in this Chapter and printed on double-sided pages.

9 SEC. 507. PURCHASE AND USE OF PRODUCTS LISTED IN THE CPG OTHER THAN
10 PRINTING AND WRITING PAPER PRODUCTS UNDER SECTION 506.

11 (a) Except for printing and writing paper products covered under Section 506, a City
12 department (including but not limited to City departments having responsibility for drafting or
13 reviewing construction specifications) that purchases or contracts to purchase any product listed in the
14 CPG shall purchase and contract to purchase a product that meets or exceeds the RMAN for that CPG.

15 (b) City departments are not required to procure products that meet or exceed the RMAN in
16 the following circumstances: (i) the (RMAN) product is not available in a reasonable period of time;
17 (ii) the (RMAN) product would fail to meet reasonable performance standards; (iii) or the (RMAN)
18 product is only available at an unreasonable price. "Available in a reasonable period of time" means
19 that the department would receive the (RMAN) product within the needed time frame without hindering
20 productivity. "Reasonable performance standards" means a (RMAN) product that will perform the
21 desired objective without overriding any City specifications for a project. If a City department relies
22 on one of these exceptions, within two weeks of the purchase, it must file a report with the Director, in a
23 form specified by the Director, explaining the circumstances and demonstrating a good faith effort to
24 buy products that meet the RMAN.

1 (c) Each City department, including the Purchaser, shall use its best efforts to incorporate
2 the CPGs and associated RMANs into existing contracts for these products. If the City department is
3 unable to amend an existing contract, the City department is authorized to enter into another contract
4 to procure products that do comply with the RMAN, provided that the City department complies with
5 all other applicable laws. Nothing in this Chapter is or shall be interpreted to require or authorize any
6 City department to breach the terms of a contract. Each City department shall document its efforts
7 pursuant to this Subsection in a report filed with the Director, explaining the circumstances.

8 (d) Notwithstanding any other provision of this Chapter, no City department is required to
9 purchase retreaded tires for use on passenger vehicles, police, fire, ambulance or other emergency
10 vehicle used in the course of protecting the health and safety of the residents of the City.

11 (e) The contracting officer shall require all contractors vendors and suppliers of products
12 subject to this Section to certify that the product meets or exceeds the relevant RMAN.

13 (f) Wherever possible, each City department that purchases or contracts to purchase paper
14 products subject to this Section 507 shall purchase and contract to purchase paper products that are
15 processed chlorine free. City departments are not required to procure paper products that are
16 processed chlorine free under this Subsection in any of the following circumstances: (i) the product is
17 not available in a reasonable period of time; (ii) the product would fail to meet reasonable
18 performance standards; or (iii) the product is only available at an unreasonable price.

19 SEC. 508. PRODUCTS NOT LISTED IN THE CPG.

20 Wherever possible, for products which are not included in the CPGs, the City shall procure for
21 its use products containing the maximum amount of post-consumer material.

22 SEC. 509. NON-PVC PLASTICS.

23 Wherever possible, all departments shall obtain non-PVC plastics where appropriate
24 alternative products composed of non-chlorinated materials are available. City departments are not
25 required to procure non-chlorinated products in any of the following circumstances: (i) the product is

1 not available in a reasonable period of time; (ii) the product would fail to meet reasonable
2 performance standards; or (iii) the product is only available at an unreasonable price.

3 SEC. 510. ANNUAL REPORTS.

4 (a) Guidelines. Within thirty (30) days of the effective date of this Chapter and in
5 accordance with Section 511, the Director will adopt a form for annual reporting on solid waste
6 diversion. The form shall account for departments in each phase of development of a Departmental
7 Waste Assessment and Resource Conservation Plan and for transition periods.

8 (b) No later than March 1, 2001, and annually thereafter, each City department shall report
9 solid waste diversion information to the Director, on forms provided by the Director, for the prior
10 fiscal year. On and after March 1, 2003, the report shall contain information on the types and amount
11 of batteries purchased, collected from and recycled by that department for the prior fiscal year. The
12 annual report must contain a copy of any reports made under Subsections 506(c), 507(b) or (c) or
13 512(e) or (f) during the prior 12-month period.

14 (c) No later than June 1, 2001, and annually thereafter, the Director shall prepare and
15 submit a written report to the Board of Supervisors summarizing information provided by City
16 departments pursuant to Subsection (b) and describing the status of the implementation of this Chapter.
17 Among other things, the Director's report shall specifically list each City department that failed to
18 submit an annual report or otherwise conform with the requirements of this Chapter. On and after
19 June 1, 2003, the Director's report shall also contain recommendations regarding batteries and the
20 feasibility of "extended producer responsibility." Extended Producer Responsibility extends the
21 traditional responsibilities that producers and distributors have previously been assigned (i.e. worker
22 safety, prevention and treatment of environmental releases from production, financial and legal
23 responsibility for the sound management of production wastes) to include management at the post-
24 consumer stage.

25 SEC. 511. GUIDELINES.

1 (a) The Director shall act as a clearinghouse of information on recycled product
2 availability, performance, and post-consumer material content and shall assist City departments in
3 meeting compliance with the letter and spirit of this Chapter. The Director shall maintain and make
4 copies of the current CPG and RMAN and supporting documents available.

5 (b) The Director, in conjunction with the Purchaser, shall promulgate any guidelines
6 necessary or appropriate to carry out the purposes and requirements of this Chapter.

7 SEC. 512. BATTERIES.

8 (a) A City department that purchases or contracts to purchase batteries or products that
9 include or incorporate battery or battery packs, shall purchase and contract to purchase only the
10 following types of batteries and battery packs only from vendors that collect spent batteries and recycle
11 them in accordance with applicable laws:

12 (i) Rechargeable alkaline batteries

13 (ii) Rechargeable nickel metal hydride batteries, or

14 (iii) Another rechargeable battery type identified by the Director pursuant to Section 511. At
15 the request of the City department, a vendor must submit written certification and documentation that
16 collected spent batteries were recycled in accordance with applicable laws.

17 (b) A City department that purchases or contracts to purchase battery chargers shall
18 purchase and contract to purchase chargers that recharge Ni-MH batteries as well as other battery
19 types.

20 (c) Each department that purchases batteries must require in the contract that the products
21 be accompanied by detailed recycling instructions and any batteries containing cadmium, mercury,
22 lead, or other hazardous materials include a written explanation of the toxic hazards of these
23 substances in the wastestream.

1 (d) A City department that purchases or contracts to purchase products that include or
2 incorporate battery packs shall purchase and contract to purchase such products in which the batteries
3 are easily removable.

4 (e) City departments are not required to follow the specifications required in subsection (a)
5 - (d) above in the following circumstances: (i) the product or service is not available in a reasonable
6 period of time; (ii) the product or service would fail to meet reasonable performance standards; or (iii)
7 the product or service is only available at an unreasonable price. "Available in a reasonable period of
8 time" means that the department would receive the product or service within the needed time frame
9 without hindering productivity. "Reasonable performance standards" means a product or service that
10 will perform the desired objective without overriding any City specifications for a project. If a City
11 department relies on one of these exceptions, within two weeks of the purchase, it must file a report
12 with the Director, in a form specified by the Director, explaining the circumstances, the product
13 ultimately purchased and demonstrating a good faith effort to follow the specifications in subsections
14 (a) - (d). If the product purchased was a rechargeable Ni-Cd battery or battery pack, the department
15 must justify why this chemistry was necessary as opposed to rechargeable alkaline or Ni-MH.

16 (f) Each City department, including the Purchaser, shall use its best efforts in incorporate
17 the purchase of rechargeable alkaline batteries and rechargeable nickel metal hydride batteries into
18 existing contracts for these products. If the City department is unable to amend an existing contract,
19 the City department is authorized to enter into another contract to procure these products, provided
20 that the City department complies with all other applicable laws. Nothing in this Chapter is or shall be
21 interpreted to require or authorize any City department to breach the terms of a contract. Each City
22 department shall document its efforts pursuant to this subsection in a report filed with the Director,
23 explaining the circumstances.

24 (g) The contracting officer shall require all contractors, vendors and suppliers of products
25 subject to this Section to certify that the product meets or exceeds the criteria.

1 SEC. 513. PENALTY.

2 (a) Whenever any City department finds, after an investigation by the contracting officer
3 and the City Attorney, that a person or entity being considered for a contract or under contract with the
4 City has, in connection with the bidding, execution or performance of any City contract:

5 (1) Falsely represented to the City the nature or character of the products offered, used or
6 supplied under the contract; or

7 (2) Knowingly provided the City with products in violation of this Chapter, the guidelines
8 adopted pursuant to this Chapter, or contract provisions pertaining to the required use or purchase of
9 recycled products the contracting officer shall have the authority to impose such sanctions or take such
10 other actions as are designed to ensure compliance with the provisions of this Chapter.

11 (b) Measures which are available to a City department to enforce this Chapter upon finding
12 a violation pursuant to Section 513(a) include, but are not limited to the following:

13 (1) Refusal to certify the award of a contract;

14 (2) Suspension of a contract;

15 (3) Ordering the withholding of City funds due the contractor under any City contract;

16 (4) Ordering the recession of a contract based upon a material breach of contract
17 provisions or pertaining to representations made in bidding, execution or performance of the contract;

18 (5) Debarment of a bidder, proposer or contractor from eligibility for providing
19 commodities or services to the City for a period not to exceed five years, with a right to review and
20 reconsideration by the contracting City office or department upon a showing of corrective action
21 indicating violations are not likely to reoccur.

22 (c) Nothing in this Chapter shall be construed to relieve a contractor of responsibility for
23 providing a satisfactory product.

24 SEC. 514. SEVERABILITY.

1 If any part or provision of this Chapter, or the application thereof to any person or
2 circumstance is held invalid, the remainder of this Chapter, including the application of such part or
3 provision to other persons or circumstances, shall not be affected thereby and shall continue in full
4 force and effect, unless enforcement of this Chapter as so modified by and in response to such
5 invalidation would be grossly inequitable under all of the circumstances or would frustrate the
6 fundamental purposes of this Chapter. To this end, provisions of this Chapter are severable.

7 Chapter 6 [Reserved]

8 Chapter 7 Resource Efficiency Requirements

9 SEC. 700. FINDINGS AND PURPOSE.

10 The Board of Supervisors finds that:

11 (a) The planning, design, construction, and operation of the City's buildings, facilities, and
12 leaseholds can have a significant positive effect on the City's sustainability. An objective set out in the
13 Sustainability Plan for the City of San Francisco is to establish a plan for promoting resource-efficient
14 building design of the City's buildings in order to increase their efficiency, save City financial
15 resources, and to reduce the negative environmental impact of construction, demolition and operation
16 of buildings.

17 (b) According to World Watch Institute, construction, demolition and operation of buildings
18 collectively consume up to 4% of the earth's energy and other natural resources.

19 (c) San Francisco's design and building decisions have a significant impact on the prudent
20 use of the City's energy and water supplies, the cost of remediating hazardous materials conditions, the
21 health and productivity of its employees, transportation choices of city employees and members of the
22 public who visit municipal buildings, City facilities and City leaseholds, and the rate at which the City's
23 landfill capacity is depleted.

24 (d) The California Integrated Waste Management Act (commencing with Public Resources
25 Code section 40000) requires that local governments develop source reduction, reuse, recycling, and

1 composting programs to reduce the tonnage of solid waste disposed in landfills by 50 percent by the
2 year 2000. Construction, demolition, and land-clearing debris generated by public works construction
3 are among the materials targeted by San Francisco to achieve these state-mandated diversion rates.
4 Construction and demolition debris account for a significant portion of the mixed solid waste disposed
5 of at landfills.

6 (e) The lack of adequate areas for collecting and loading recyclable materials is a
7 significant impediment to diverting solid waste and creates an urgent need for state and local agencies
8 to address space allocation for solid waste source reduction, recycling, and composting activities.

9 (f) Planning and design decisions made by the City in the construction and remodeling of
10 its facilities and leaseholds can result in significant cost savings to the City over the life of such
11 facilities and leaseholds. Examples range from the San Francisco Public Utilities Commission's
12 ("PUC") estimate of \$22 million in lifetime savings over the next ten years for energy conservation
13 measures in \$1 billion worth of construction, to its estimate of \$200,000 in savings per year for
14 converting the toilet stock in City-owned buildings to low-flush toilets.

15 (g) A building that utilizes resource-efficient building principles for indoor air quality,
16 thermal comfort, natural lighting, and other ambiance factors can increase the productivity of City
17 staff. Recent studies published by Kodansha International, cited in "The Economics of Green
18 Buildings" by David Gottfried, have shown that buildings with good overall environmental quality,
19 including effective ventilation, natural or proper levels of lighting, indoor air quality, and good
20 acoustics, can increase worker productivity by six to 16 percent.

21 (h) In adopting the requirements set forth in this legislation, the Board of Supervisors
22 recognizes that while the resource-efficient building requirements may entail increased initial capital
23 expenditures, compliance with the requirements will result in substantial long-term net benefits to the
24 City's citizens and environment.

1 (i) Development of many of the specific criteria and requirements needed for resource
2 efficient buildings and construction is a highly technical and complex task that will require extensive
3 coordination on the part of various City departments. However, there are some requirements that may
4 be implemented now. It is in the best interests of the City and its residents to begin implementing a
5 resource efficiency program for City-owned facilities and leaseholds, including requirements that do
6 not require a lengthy development process, as soon as possible. To this end, this Chapter establishes
7 resource efficiency requirements for City-owned facilities and City leaseholds and a pilot program for
8 the resource-efficient construction of certain selected City construction projects. It is the intention of
9 the Board of Supervisors to amend this Chapter in the future to include more detailed technical
10 standards and procedures for implementing the standards.

11 (j) This Chapter applies the Precautionary Principle to decisions made concerning the
12 construction of City-owned buildings. Energy, water, and resource efficiency as well as indoor air
13 quality must be considered in the design and remodeling of buildings in order to create healthy work
14 spaces that minimize impacts on natural resources.

15 SEC. 701. DEFINITIONS.

16 The following terms shall have the meanings set forth below.

17 (a) "Building" means:

18 (1) Any structure used for support or shelter of any use or occupancy. "Structure" means
19 that which is built or constructed, an edifice or building of any kind, or any piece of work artificially
20 built or composed of parts joined together in some definite manner and permanently attached to the
21 ground.

22 (2) "Building" includes office buildings and other structures wherein things may be grown,
23 made or produced, kept, handled, stored or disposed of. "Building" also includes marinas, outdoor
24 recreation areas, and parking facilities.

1 (3) “Building” does not include machinery, equipment, or appliances installed for
2 manufacture or process purposes only, any construction installation that is not part of a building, or
3 any tunnel, roadway or bridge, or any vehicle or mobile equipment.

4 (b) “City Department” means any department of the City and County of San Francisco.
5 City Department does not include any other local agency or any federal or State agency, including but
6 not limited to the San Francisco School District, the San Francisco Community College District, the
7 San Francisco Redevelopment Agency and the San Francisco Housing Authority.

8 (c) “City-owned Facility” means any building owned by the City and County of San
9 Francisco. “City-owned Facility” does not include City-owned facilities or portions thereof that the
10 City leases to non- City entities, except when the City enters into a new lease or other similar
11 agreement with a new tenant executed following 90 days from the effective date of this ordinance.
12 When the City enters into a new lease with a new tenant, the City Department responsible for executing
13 the new lease may, in its sole discretion, grant a waiver from the requirements of this Chapter.

14 (d) “City Project Engineer” means that person who is in charge of site operations for a
15 given City Construction Project.

16 (e) “Commission” means the Commission on the Environment.

17 (1) “Construction Project” means any construction activity, including renovation or
18 remodeling, at a City-owned Facility, Existing City Leasehold, or New City Leasehold, for which a
19 building permit is issued at any time following 90 days after the effective date of this Chapter.

20 (g) “Department” means the Department of the Environment.

21 (h) “Director” means the Director of the Department of the Environment or his or her
22 designee.

23 (i) “Existing City Leasehold” means that portion or portions of any building that is leased
24 or otherwise occupied, but not owned, by the City and County of San Francisco or any City Department
25

1 for a term of one year or more pursuant to a written agreement that has been executed at any time up
2 until 90 days after the effective date of this ordinance.

3 (j) “New City Leasehold” means that portion or portions of any building that is leased or
4 otherwise occupied, but not owned, by the City and County of San Francisco or any City Department
5 for a term of one year or more pursuant to a written agreement that is executed or renewed at any time
6 following 90 days from the effective date of this ordinance. “New City Leasehold” does not include
7 common area portions of a building that are not exclusively leased or otherwise occupied by a City
8 department.

9 (k) “Resource-efficient Building Practices” means design, construction, renovation,
10 operation and reuse of buildings in a resource-efficient and energy-efficient manner. Resource-efficient
11 buildings and other facilities exhibit a high level of environmental, economic and engineering
12 performance, including energy and water conservation, indoor environmental quality, materials
13 efficiency, occupant health and productivity, transportation efficiency, minimized use of toxic materials
14 and minimized production of hazardous waste, deterrence to pest infestation, and reduced impact on
15 ecosystems.

16 (l) “PUC” means the Public Utilities Commission of the City and County of San Francisco.

17 (m) “Recycling area” means space allocated for collecting, storing, and loading recyclable
18 materials. Such areas shall be able to accommodate receptacles for recyclable materials.

19 SEC. 702. RESOURCE-EFFICIENT BUILDING PROGRAM.

20 (a) Establishment and Purpose. There is hereby created within the Department of the
21 Environment a Resource-Efficient Building Program. The purpose of the Resource-Efficient Building
22 Program is to:

23 (1) Assist the Director and Commission in developing goals, criteria, and strategies for
24 maximizing resource-efficient building design and operations and to make policy recommendations
25 regarding requirements for city and private resource-efficient buildings to the Board of Supervisors;

1 (2) Develop and oversee a training program in Resource-Efficient Building Practices for
2 department heads and city architects, engineers, construction managers, and building managers
3 employed by the City in order to implement the policies adopted by the Board of Supervisors;

4 (3) Coordinate with other City Departments having expertise with, or with responsibility
5 for, compliance with the requirements of this Chapter, and on achieving resource-efficient building
6 goals including, but not limited to, the Department of Public Works, the Solid Waste Management
7 Program, the PUC, and the Department of Building Inspection. These departments shall also assist the
8 Director in providing advice, assistance, outreach, and education to other City Departments
9 concerning Resource- Efficient Building Practices;

10 (4) Assess the efficacy of the Pilot Program and the Resource-Efficient Building Program
11 on both environmental and economic grounds; and

12 (5) Provide information to the general public to encourage the adoption of resource-
13 efficient building guidelines in the private sector.

14 (b) Rules and Regulations. The Commission may promulgate such regulations as may be
15 necessary from time to time to carry out the provisions of this Chapter. The Director is authorized to
16 call upon other City Departments as necessary and appropriate to assist in developing such
17 regulations. A public hearing shall be held by the Commission prior to the adoption or any amendment
18 of the regulations.

19 SEC. 703. RESOURCE EFFICIENCY REQUIREMENTS FOR CITY BUILDINGS.

20 (a) Within 90 days of the effective date of this Chapter, the Commission shall issue
21 guidelines to all City Departments to assist them in determining which of the following provisions in
22 this Chapter apply to them.

23 (b) Water Conservation Requirements for Toilets.

24 (1) This requirement applies to the following City Departments: City Departments
25 undertaking or authorizing others to undertake Construction Projects with a total projected cost of

1 \$90,000 or more at City-owned Facilities; City Departments undertaking or authorizing others to
2 undertake Construction Projects with a total projected cost of \$90,000 or more in Existing City
3 Leaseholds (but only if restrooms are included in the leasehold space and the City Department has a
4 separate metering account with the San Francisco Water Department); City Departments undertaking
5 or authorizing others to undertake construction projects with a total projected cost of \$90,000 or more
6 in New City Leaseholds (but only if restrooms are included in the leasehold space and the City
7 Department has a separate metering account with the San Francisco Water Department); City
8 Departments executing agreements for New City Leaseholds or occupying New City Leaseholds (but
9 only if restrooms are included in the leasehold space and the City Department has a separate metering
10 account with the San Francisco Water Department); City Departments occupying City-owned Facilities
11 (but only if the City department has separate metering account with the San Francisco Water
12 Department); and all City Departments purchasing toilets beginning 90 days after the effective date of
13 this ordinance.

14 (2) All City Departments listed above shall ensure that all toilets are replaced with toilets
15 that use no more than 1.6 gallons of water per flush. Replacement shall occur at the earlier of:

16 (A) The time of major remodeling, defined as when a water drainage system is substantially
17 altered, modified or renovated (as those terms are defined in San Francisco Plumbing Code Section
18 101(4) or when two or more toilets and/or urinals are replaced in a single bathroom; or

19 (B) By June 30, 2005.

20 (3) Each City Department subject to subsection (b)(1) of this Section shall be responsible
21 for the costs of compliance and for ensuring that all applicable contract documents for the replacement
22 of toilets contain the above requirement.

23 (4) To facilitate the installation of these toilets, the PUC shall:

24 (A) Negotiate and secure, within 90 days of the effective date of this Chapter, contracts with
25 one or more vendors that all City Departments may use for the purchase and installation of 1.6-gallon-

1 per-flush valves and tank toilets. The contract will include a list of toilets approved by the
2 International Association of Plumbing and Mechanical Officials. The toilets on this list shall be the
3 only toilets purchased. This list shall be updated annually by the PUC and shall be provided to all
4 heads of City Departments responsible for purchases and/or installations at City-owned Facilities or
5 leaseholds and to the Purchasing Department.

6 (B) Establish a procedure (including a fixed price) by which City Departments may contract
7 with the Department of Public Works' Bureau of Building Repair for the installation of such toilets.
8 This procedure shall be distributed to all City Departments responsible for purchases and/or
9 installations at City- owned Facilities or leaseholds within 90 days of the effective date of this Chapter.
10 It shall be updated by the PUC annually and sent to all heads of City Departments responsible for
11 purchases and/or installations at City-owned Facilities or leaseholds and to the Purchasing
12 Department.

13 (5) Between July 1, 2005, and June 23, 2007, the San Francisco Water Department shall
14 inspect all buildings subject to this requirement to ensure that all toilets have been installed as required
15 by this subsection.

16 (6) Should the Commission determine that toilets that are more water-efficient than those
17 specified in the foregoing sections exist, the Commission may, in consultation with the Water
18 Department, establish a list of other water-efficient toilets that City Departments may use.

19 (c) Water Conservation Requirements for Shower Heads.

20 (1) This requirement applies to the following City Departments: City departments
21 undertaking or authorizing others to undertake Construction Projects with a total projected cost of
22 \$90,000 or more in City-owned Facilities; City Departments undertaking or authorizing others to
23 undertake Construction Projects with a total projected cost of \$90,000 or more in Existing City
24 Leaseholds (but only if restrooms are included in the leasehold space and the City Department has a
25 separate metering account with the San Francisco Water Department); City Departments undertaking

1 or authorizing others to undertake Construction Projects with a total projected cost of \$90,000 or more
2 in New City Leaseholds (but only if restrooms are included in the leasehold space and the City
3 Department has a separate metering account with the San Francisco Water Department); City
4 Departments executing agreements for New City Leaseholds or occupying New City Leaseholds (but
5 only if restrooms are included in the leasehold space and the City Department has a separate metering
6 account with the San Francisco Water Department); City Departments occupying City-owned Facilities
7 (but only if the City Department has a separate metering account with the San Francisco Water
8 Department); and all City Departments purchasing shower heads beginning 90 days after the effective
9 date of this Ordinance.

10 (2) All City Departments listed above shall ensure that all shower heads are replaced with
11 shower heads using no more than 1.5 gallons per minute by June 30, 2005.

12 (3) Each City Department subject to subsection (c)(1) shall be responsible for the costs of
13 compliance and for ensuring that all applicable contract documents for the replacement of shower
14 heads contain the above requirement.

15 (4) To facilitate the installation of these shower heads, the PUC shall:

16 (A) Provide a list of the approved shower head brands and models to all heads of City
17 Departments responsible for purchases and/or installations at City-owned Facilities or City Leaseholds
18 and to the Purchasing Department;

19 (B) Negotiate and secure, within 90 days of the effective date of this Chapter, a contract
20 with one or more vendors for the purchase and installation by City Departments of 1.5 gallon per
21 minute shower heads; and

22 (C) Negotiate a set price for the installation of the shower heads with the Department of
23 Public Works;

1 (D) Distribute information on the price for installation, and lists of approved shower heads
2 and contract vendors to all heads of City Departments responsible for purchases and/or installations at
3 City- owned Facilities or City Leaseholds and to the Purchasing Department.

4 (5) Should the Commission determine that shower heads that are more water efficient than
5 those specified in the foregoing sections exist, the Commission may, in consultation with the Water
6 Department, establish a list of other water-efficient shower heads that City Departments may use.

7 (d) Energy Conservation.

8 (1) These requirements (or California Code of Regulations Title 24, Part 6, or subsequent
9 State standards, whichever are more stringent) shall apply in all cases except those in which a City
10 Department is not responsible for maintenance of light fixtures or exit signs.

11 (2) City Departments shall be responsible for the cost of compliance and for ensuring that
12 all applicable contract documents for the replacement and installation of light fixtures and exit signs
13 contain the following requirements:

14 (A) Exit Signs. At the time of installation or replacement of broken or non-functional exit
15 signs, all exit signs shall be replaced with light-emitting diode (L.E.D.)-type signs. Edge-lit compact
16 fluorescent signs may be used as replacements for existing edge-lit incandescent exit signs.

17 (B) Fluorescent Fixtures. At the time of installation or replacement of broken or non-
18 functional fluorescent fixtures equipped with T10 or T12 lamps, all fixtures shall be equipped with
19 electronic ballasts and T8 or more efficient lamps unless this replacement will create lighting levels at
20 the work surface that are below the standards established by the Illuminating Engineering Society.

21 (C) Exterior Light Fixtures. At the time of installation or replacement of broken or non-
22 functional exterior light fixtures, a photocell or automatic timer shall be installed to prevent lights from
23 operating during daylight hours. The existing switching capability shall be maintained. Upon written
24 request by a City Department, the Commission on the Environment may grant an exemption from the
25 requirement of this subsection where lighting is necessary during daylight hours.

1 (D) Fluorescent Fixture Ballasts. At the time of installation or replacement of the ballasts in
2 fluorescent fixtures equipped with T10 or T12 lamps, all replacement ballasts shall be electronic and
3 compatible with only T8 or more efficient lamps unless such replacement will create light levels at the
4 work surface that are below the standards established by the Illuminating Engineering Society.

5 (E) Other technologies. Should the Commission determine that light fixtures or exit signs
6 that are more energy-efficient than those specified in the foregoing sections exist, the Commission may,
7 in consultation with the Bureau of Energy Conservation within the PUC, establish a list of other
8 energy- efficient light fixtures and exit signs that City Departments may use.

9 (e) Fluorescent Lamp Recycling. Commencing 90 days after the effective date of this
10 Chapter, all fluorescent lamps discarded by City Departments shall be recycled. The Department of
11 the Environment shall establish a program for collecting and recycling discarded fluorescent tubes.

12 (f) Indoor Air Quality.

13 (1) This requirement applies to the following City Departments: City Departments
14 undertaking or authorizing others to undertake Construction Projects with a total projected cost of
15 \$90,000 or more in City-owned Facilities; City Departments undertaking or authorizing others to
16 undertake Construction Projects with a total projected cost of \$90,000 or more in Existing City
17 Leaseholds; City Departments under- taking or authorizing others to undertake Construction Projects
18 with a total projected cost of \$90,000 or more in New City Leaseholds; City Departments occupying an
19 Existing City Leasehold (if the City is responsible for managing the Existing City Leasehold); City
20 Departments executing agreements for New City Leaseholds or occupying New City Leaseholds (if the
21 City is responsible for managing the New City Leasehold); and City Departments occupying City-
22 owned facilities (if the City department is responsible for managing the City-owned facility.)

23 (2) Maintenance. Within 90 days of the effective date of this Chapter, the Department shall
24 provide informational guidelines for the development of indoor air quality maintenance plans to all
25

1 City Departments identified above. The guidelines shall include, at a minimum, guidance and
2 recommendations on the following:

3 (A) A schedule and procedures for thorough cleaning of finishes, furniture and fixtures in
4 order to remove and reduce the growth of organisms hazardous to human health at the time of delivery
5 and regularly after installation.

6 (B) A schedule and procedures for inspecting and maintaining mechanical systems,
7 including heating, ventilation and air conditioning systems (hereinafter "HVAC" systems).

8 (C) A schedule and procedures for inspecting for mold and/or mildew contamination in
9 porous building materials, fixtures and furnishing, including provisions for the complete removal and
10 replacement of such materials where it is determined by inspection that the materials have become
11 contaminated by mold and/or mildew.

12 (D) A commitment to using cleaners and polishes with minimal effects on indoor air quality.

13 (3) Within 90 days of the development of guidelines pursuant to subsection (f)(2), all City
14 Departments identified in Subsection (f)(1) shall develop and implement indoor air quality maintenance
15 plans.

16 (4) Pollutant Source Control.

17 (A) Reduction of Health Hazards from Microbial Contaminants. Commencing 90 days after
18 the effective date of this Chapter, all City Departments undertaking or authorizing others to undertake
19 Construction Projects with a total projected cost of \$90,000 or more in City-owned Facilities, New City
20 Leaseholds, and Existing City Leaseholds shall include in their contracts for construction projects
21 provisions requiring:

22 (i) Prevention of Moisture Contamination. Building materials that are intended to be kept
23 dry before, during and following installation (e.g., fabrics, carpeting, drywall, ceiling tiles, and
24 insulation) shall be protected from moisture prior to, during, and after installation.

1 (ii) Removal of Building Materials Contaminated by Moisture. If, in the judgment of the
2 City Project Engineer, any building material that is intended to be kept dry before, during and after
3 installation has become wet, such material shall be removed immediately from the job site, disposed of
4 in accordance with this Chapter, and replaced. It shall be the responsibility of the relevant contractor
5 or subcontractor to monitor the storage of such materials to ensure that they remain dry and to remove
6 and dispose of such materials if they become wet.

7 (iii) Determination by Independent Industrial Hygienist. On Construction Projects with a
8 total construction cost exceeding \$1,000,000, if any building material that is intended to be kept dry
9 becomes, in the judgment of the subcontractor or the City Project Engineer, contaminated by moisture,
10 the City's project manager shall obtain an assessment by an independent industrial hygienist to assess
11 the extent of contamination and supervise the containment and removal of moisture-contaminated
12 materials. Where the hygienist determines that moisture contamination has occurred, the contractor
13 responsible for causing or allowing the contamination to occur shall be responsible for the costs of the
14 hygienist's services and the costs for removal and replacement of the contaminated materials. Should
15 no moisture contamination be found, the City shall be responsible for the costs of the hygienist's
16 services.

17 (B) Elimination or Encapsulation of Fibrous Insulation Materials. The use of exposed
18 fibrous duct insulation material in Construction Projects shall be prohibited. If the design of a
19 Construction Project requires the use of fibrous insulation material, such material shall be
20 encapsulated to minimize mold and/or mildew growth and emissions of volatile organic compounds
21 into the habitable space.

22 (g) Storage of Recyclables.

23 (1) This requirement applies to the following City Departments: City Departments
24 undertaking or authorizing others to undertake Construction Projects at City-owned Facilities; City
25 Departments undertaking or authorizing others to undertake Construction Projects in Existing City

1 Leaseholds; City Departments undertaking or authorizing others to undertake Construction Projects in
2 New City Leaseholds; City Departments executing agreements for New City Leaseholds or occupying
3 New City Leaseholds; and City Departments occupying City-owned Facilities (but only if the City-
4 owned Facility was acquired at least 90 days after the effective date of the Ordinance.)

5 (2) All City Departments identified above shall ensure that adequate, accessible, and
6 convenient recycling areas are provided within the City-owned Facility or leasehold, and that all
7 applicable contract documents contain this requirement. The minimum allowable recycling area shall
8 be not less than the space allocated for the storage of refuse.

9 (3) The requirement set forth in subsection (g)(2) of this Section to provide adequate
10 recycling areas shall apply to Construction Project(s) for which funds have been appropriated on or
11 after the effective date of this Chapter for:

12 (i) A single alteration which is subsequently performed that adds to or modifies 20 percent
13 or more of the existing floor area of the project; or

14 (ii) Multiple alterations which are conducted within a twelve-month period which
15 collectively add to or modify 20 percent or more of the existing floor area of the project.

16 (4) Any cost associated with recycling areas pursuant to this subsection shall be the
17 responsibility of the party or parties who are responsible for the cost of any alterations to
18 accommodate their occupancy.

19 SEC. 704. CONSTRUCTION AND DEMOLITION DEBRIS MANAGEMENT.

20 This requirement applies to all construction projects with a total projected cost of \$90,000 or
21 more at City-owned facilities and new and existing city leaseholds. All City departments shall ensure
22 that each construction project subject to this Chapter shall minimize construction and demolition
23 debris disposal in accordance with the following requirements:

24 (a) Construction and Demolition Debris Management Plan. The contract between the City
25 Department and the contractor shall require the contractor responsible for demolition to:

1 (1) Conduct a site assessment to estimate the types of materials that will be generated by
2 demolition at the site that are anticipated to be feasible and practical for reuse and recycling, and

3 (2) Complete a plan as set forth in subparagraph (b) describing the procedures for disposal,
4 reuse or recycling.

5 (b) Plan Requirements. The contract between the City Department and the contractor shall
6 require that:

7 (1) After award of the contract and prior to commencement of the demolition, the City
8 Project Engineer shall meet with the contractor to develop a plan for managing construction and
9 demolition debris to enable the City and the contractor to develop a mutual understanding regarding
10 recycling and reuse.

11 (2) The contractor shall prepare and submit to the City Project Engineer a written
12 construction and demolition debris management plan. The construction and demolition debris
13 management plan shall include, but not be limited to, the following information:

14 (A) Contractor and project identification information;

15 (B) Procedures to be used for debris management;

16 (C) A listing of the materials to be reused, recycled, or landfilled;

17 (D) An estimate of the quantities to be reused, recycled, or landfilled; and

18 (E) The names and locations of reuse and recycling facilities or sites.

19 (3) The construction and demolition debris management plan is subject to the approval of
20 the City Project Engineer.

21 (c) Recycling of Construction and Demolition Debris. The contract between the City
22 department and the contractor shall require that:

23 (1) The contractor shall develop and implement procedures to reuse and recycle materials
24 to the greatest extent feasible based upon the contract, the construction and demolition debris
25 management plan, the estimated quantities of materials, and the availability of recycling facilities.

1 (2) The contractor shall develop and implement programs for on-site or off-site recycling of
2 source-separated materials, including asphalt, concrete, concrete block, and rocks; dirt and sand,
3 metals (ferrous and non-ferrous); wood; green materials (e.g., tree trimmings) and other materials as
4 appropriate, such as red clay brick, corrugated cardboard, and wall board; mixed debris; and
5 salvageable items. Prior to delivering materials, the contractor shall familiarize itself with the
6 specifications for acceptance of construction and demolition materials at recycling facilities.

7 (3) Approval of the contractor's construction and demolition debris management plan by the
8 City Project Engineer shall not relieve the contractor of the duty to comply with any other applicable
9 laws regulating control or disposal of solid waste or other pollutants.

10 (d) Summary of Diversion; Disposal. The contract between the City Department and the
11 contractor shall require that:

12 (1) With each application for progress payment, the contractor shall submit a summary of
13 construction and demolition debris diversion and disposal, quantifying all materials generated at the
14 work site and disposed of in Class III Landfills, as defined in Title 27 CCR 20260, or diverted from
15 disposal through recycling. Failure to submit supporting documentation in the form of weight slips or
16 other similar proof shall render the application for progress payment incomplete and delay progress
17 payment.

18 (2) The contractor shall be responsible for transporting and disposing of materials that
19 cannot be delivered to a source-separated or mixed materials recycling facility to a transfer station or
20 disposal facility that can accept the materials in accordance with state law. No solid waste shall be
21 burned, buried or otherwise disposed of on the project site.

22 (e) Revenue. Revenues or other savings obtained from recycled or reused materials shall
23 accrue to the City Department or the contractor as negotiated between them and embodied in the
24 contract.

25 SEC. 705. EXEMPTIONS.

1 Exemptions may be granted by the Director from any requirement imposed by Sections 703 or
2 704 of this Chapter if, due to specific circumstances, compliance would defeat the intent of this Chapter
3 or create an unreasonable burden on the project or department. Such requests shall be submitted in
4 writing and shall include documentation of the circumstances and burdens at issue.

5 SEC. 706. REPORT TO THE BOARD OF SUPERVISORS.

6 Within three years of the effective date of this Chapter, the Resource-Efficient Building
7 Program, in consultation with affected City Departments and with input from interested members of the
8 public, shall submit to the Board of Supervisors a report on the effects of this Chapter, including but
9 not limited to the following:

- 10 (1) An assessment of whether this Chapter has achieved its stated goals; and
- 11 (2) Recommended changes, if any, to this Chapter.

12 SEC. 707 RESOURCE-EFFICIENT PILOT PROJECTS.

13 (a) Establishment and Purpose. The Board of Supervisors hereby establishes a pilot
14 program for the design and construction of new Resource-efficient City Buildings. In order to carry
15 out this program, there is hereby created an inter-agency Resource-Efficiency Design Task Force,
16 which will consist of one representative from each of the following:

- 17 (1) The Department of the Environment;
- 18 (2) The Bureau of Architecture within the Department of Public Works;
- 19 (3) The Customer Service Bureau within the PUC;
- 20 (4) The Bureau of Energy Conservation within the PUC;
- 21 (5) The Bureau of Construction Management within the Department of Public Works;
- 22 (6) The Solid Waste Management Program within the Department of the Environment; and
- 23 (7) The Department of Building Inspection.

1 In addition, up to three other departments with building projects being considered by the pilot program
2 may each have a representative on the Task Force. The selection of these additional representatives
3 shall be at the discretion of the Director.

4 (b) Applicability. The pilot program for design, construction, and Commissioning of
5 Resource-efficient Pilot Projects ("Pilot Projects") shall apply to all projects approved by the Bureau
6 of Architecture in accordance with Subsection (e).

7 (c) Commissioning Guidelines. To ensure that Pilot Projects perform as designed and that
8 building systems and equipment are installed and operate as specified, the Bureau of Architecture
9 within the Department of Public Works shall adopt Commissioning guidelines within 90 days of the
10 effective date of this Chapter.

11 (d) Pilot Project Identification. If any Construction Projects are currently planned by the
12 following City Departments, within 90 days of the effective date of this Chapter, such City
13 Departments, assisted and advised by the Bureau of Architecture, shall identify in writing to the
14 Director at least one of those construction projects that the City Department plans to fund within the
15 next two fiscal years commencing after the effective date of this ordinance that may be a suitable
16 candidate for designation as a Pilot Project:

17 (1) San Francisco International Airport;

18 (2) Department of Public Health;

19 (3) Department of Human Services;

20 (4) Department of Parking and Traffic;

21 (5) Department of Real Estate;

22 (6) Department of Public Transportation;

23 (7) Fire Department;

24 (8) Mayor's Treasure Island Project Office;

25 (9) Police Department;

1 (10) Public Utilities Commission;

2 (11) Recreation and Park Department;

3 (12) San Francisco Public Library;

4 (13) War Memorial and Performing Arts Center, Asian Art Museum of San Francisco, and
5 Fine Arts Museum of San Francisco;

6 (14) Port of San Francisco;

7 (15) Sheriffs Department..

8 (e) Pilot Project Selection.

9 (1) Within six months of the effective date of this Section, the Bureau of Architecture, in
10 consultation with the Resource-Efficiency Design Task Force, shall select a minimum of one to three
11 proposed Pilot Projects for the Pilot Program for Fiscal Year 1999-2000.

12 (2) By June 1, 2000, the Bureau of Architecture, in consultation with the Resource-
13 Efficiency Design Task Force, shall select additional projects for Fiscal Year 2000-2001 for a total of
14 five to seven projects for the Pilot Program.

15 (3) Pilot Projects shall be selected and designed in order to demonstrate innovative
16 construction techniques, building materials, landscaping techniques, and/or other building systems
17 addressing the following pilot demonstration goals:

18 (A) Improved energy efficiency;

19 (B) Consideration of energy generation by passive solar or other renewable source;

20 (C) Improved water conservation;

21 (D) Healthy indoor air quality;

22 (E) Adequate storage and collection of recyclables;

23 (F) Environmentally sensitive landscaping, including planting of drought-resistant native
24 plants and design for landscape maintenance using integrated pest management;

25

1 (G) Procurement of building materials with minimal impact on indoor air quality,
2 maximized recycled product content, and future recycling potential;

3 (H) Building design features that discourage pest infestation, such as sloping ledges to
4 discourage the roosting of pigeons and easy-to-clean floor surfaces to discourage dust mites and other
5 insects;

6 (I) Stormwater management;

7 (J) Water pollution prevention; and

8 (K) Wastewater recycling.

9 The design documents shall be submitted to the Bureau of Architecture and shall include
10 consideration and a description of the total environmental and economic costs and benefits associated
11 with the pilot project.

12 (f) Compliance with Resource-Efficiency Requirements. All Pilot Projects must comply
13 with the Resource-Efficiency Requirements established by this Chapter relating to water conservation
14 requirements for toilets and shower heads, energy conservation for light fixtures and exit signs, indoor
15 air quality, storage space for recyclables, and construction and demolition debris management.

16 (g) Commissioning.

17 (1) "Commissioning" means the process of verification by the Commissioning Team (as
18 defined in 707(g)(3)) that designated equipment and systems are installed properly and able to perform
19 according to design specifications and operational needs. Commissioning shall not include routine
20 inspections performed by the Department of Building Inspection.

21 (2) Designers of systems specified in subsection (6) shall have responsibility to monitor
22 performance of the designated systems for a period to coincide with the warranty of the equipment
23 designated, or, for a system with multiple warranties for components, for the longest component
24 warranty. The designer shall prepare a commissioning plan for evaluation and certification of the
25

1 systems' performance before and after occupancy based on guidelines established by the Bureau of
2 Architecture.

3 (3) The City Project Engineer for each Pilot Project shall form a Commissioning Team
4 consisting of representatives of the Bureau of Architecture, the design team, the general contractor and
5 subcontractors for systems to be Commissioned, the building owner, the building manager or operator,
6 and the anticipated building user.

7 (4) The Commissioning Team shall be responsible for oversight of the Commissioning
8 process and preparation of the Commissioning Report based on guidelines established by the Bureau of
9 Architecture.

10 (5) Projects Subject to Commissioning. All City Departments responsible for executing
11 contracts for Pilot Projects shall ensure that the applicable contract documents contain a
12 Commissioning requirement in their budget and contract documents whenever the total construction
13 costs of a Pilot Project, for any one system or combination of systems listed in subsection (g)(6),
14 exceeds ninety thousand dollars (\$90,000.00). Pilot Projects at Existing City Leaseholds in which the
15 City leasehold does not include the entire building shall not be subject to the Commissioning
16 requirements.

17 (6) Systems Subject to Commissioning. The following systems shall be subject to the
18 requirements of this section: mechanical systems (including HVAC); lighting systems; energy
19 management systems; and renewable energy equipment.

20 (7) Specifications Required in Contract. For any project subject to the requirements of this
21 Section, the construction contract documents shall provide performance standards for resource
22 efficiency as set forth in Section 703.

23 (8) Commissioning Procedures and Standards. The Commissioning Team shall conduct
24 Commissioning of the system(s) in accordance with regulations to be adopted by the Bureau of
25 Architecture. Such regulations shall include, at a minimum:

1 (A) HVAC Systems. A requirement that, prior to certification, the Commissioning
2 team determine that the project meets generally accepted industry standards, including but not limited
3 to ASHRAE Standard Guideline 1-1989, Guideline for Commissioning HVAC Systems or subsequent
4 versions of that guideline.

5 (B) Ventilation. A requirement that, prior to certification, the Commissioning team
6 determine that ventilation is sufficient for the occupant and equipment load projected for the building
7 and meets ASHRAE Standard 62-1989, Ventilation for Acceptable Indoor Air Quality; or subsequent
8 versions of that standard.

9 (C) Lighting. A requirement that, prior to certification, the Commissioning team determine
10 that lighting systems meet Illuminating Engineering Society and California Code of Regulations Title
11 24, Part 6, standards and meet performance as well as prescriptive standards.

12 (D) Other Systems. A requirement that, prior to certification, the Commissioning team
13 determine that other building systems, including elevators, plumbing, fire management systems, and
14 telecommunications systems meet appropriate industry standards, to be determined by the Bureau of
15 Architecture.

16 (E) Procedures for Commissioning. The Commissioning guidelines shall provide
17 procedures for certification, which may include applying to the Bureau of Architecture for a certificate
18 of compliance, within a given time-frame. The guidelines may also contain procedures for conducting
19 a walk-through, obtaining a compliance statement, applying for a certificate of compliance, and
20 obtaining issuance of a certificate of compliance from the Bureau of Architecture.

21 (h) Pilot Project Funding.

22 (I) Each revenue-generating City Department shall, to the extent possible, fund its Pilot
23 Projects from its own revenue. The total costs of a pilot project shall be determined by the Bureau of
24 Architecture, in conjunction with the Task Force, based upon the design documents submitted by the
25 City department to the Bureau of Architecture pursuant to Section 707(e).

1 (2) City Departments that are attempting to obtain voter approval for the issuance of debt to
2 finance a potential Pilot Project shall ensure that, to the extent allowed by law, all applicable bond
3 documents allow the use of bond proceeds to finance the Pilot Project and, to the extent applicable, the
4 Pilot Project Program as set forth in this subsection.

5 (3) City Departments that are unable to fund their Pilot Projects for FY 1999-2000 by
6 revenue generated by the City Department shall submit requests for funding from the General Fund to
7 the Board of Supervisors.

8 (4) The Department of the Environment shall identify additional public and private sector
9 funding sources for Pilot Projects.

10 (5) The Bureau of Architecture, in conjunction with the Task Force, shall submit a funding
11 request for any unfunded pilot projects for FY 2000-2001 to the Capital Improvement Advisory
12 Committee ("CAC"). The deadline for the funding requests to the CAC for the FY 2000-2001 pilot
13 projects shall be January 31, 2000.

14 (i) Reports to Board of Supervisors. Within three years of the effective date of this Chapter,
15 the Bureau of Architecture, in consultation with the Resource-Efficiency Design Task Force and
16 participating City Departments and with input from interested members of the public, shall submit to
17 the Board of Supervisors a report on the effects of this Section, including but not limited to, the
18 following:

19 (1) An evaluation of the environmental, health and/or economic benefits of the Pilot
20 Projects;

21 (2) A proposed system of criteria for evaluating the resource-efficiency of future City
22 Construction Projects, including standardized methods for calculating the cost/benefits of resource-
23 efficient design and construction techniques;

24 (3) Proposed new standards for resource-efficient design or construction of future City
25 Construction Projects;

1 (4) An assessment of whether this Section has achieved its stated goals; and

2 (5) Recommended changes, if any, to this section.

3 Chapter 8 Tropical Hardwood and Virgin Redwood Ban

4 SEC. 800. FINDINGS.

5 The Board of Supervisors hereby finds and declares that:

6 (1) The world's equatorial tropical rainforests are the Earth's oldest and richest terrestrial
7 ecological systems. The tropical rainforests are home to half of all the Earth's plant and animal species
8 as well as thousands of indigenous tribal peoples.

9 (2) The tropical rainforests are being destroyed worldwide, through commercial logging,
10 burning and overcutting, at a rate of 50,000 acres per day, and this rate is accelerating.

11 (3) Over ¼ of all rainforest destruction results from logging of the rainforests to support the
12 international trade in tropical hardwoods.

13 (4) The United States is the third largest importer of tropical hardwoods.

14 (5) Deforestation of the tropical rainforests has been scientifically linked to atmospheric
15 imbalance and global warming, known as the Greenhouse Effect, caused by increased concentrations
16 of CO2 in the global atmosphere. The effects of global warming include drought, floods, melting of the
17 polar ice caps and changes in weather patterns worldwide.

18 (6) Destruction of the rainforest at the current rate results in the endangerment and
19 extinction of 30 species of plant and animal life each day and a consequent loss of genetic diversity
20 invaluable to the production of medicines and food products.

21 (7) Tropical rainforest deforestation causes the displacement of indigenous tribal peoples,
22 many of whom have never before been contacted by the modern world. Displacement results in the
23 death of these people and destruction of their culture, and loss of their intimate knowledge of
24 commercial, medicinal and nutritional uses of rainforest species, which is often superior to that of any
25 western-trained scientist.

1 (8) It is critical to the survival of the planet that the United States and other industrialized
2 nations take immediate measures to curb consumption of tropical hardwoods in order to halt the
3 deforestation of the rainforests and to avert irreversible global environmental destruction.

4 (9) Virgin redwood forests are an ancient and irreplaceable part of our State and national
5 heritage that should be preserved for future generations.

6 (10) Virgin redwood forests provide the only surviving habitat for rare species such as the
7 marbled murrelet and the northern spotted owl. In addition, these forests protect the streams that
8 provide the increasingly rare habitat of dwindling numbers of salmon and steelhead.

9 (11) Only four percent of the virgin redwood forests originally found in the United States
10 remain in existence, and these forests are under threat of destruction through commercial logging.

11 (12) Prohibiting the City and County's use of tropical hardwoods, tropical hardwood wood
12 products, virgin redwood and virgin redwood wood products will contribute to a necessary reduction in
13 the demand for these products. Such a prohibition would not create shortages of building supplies for
14 the City, inasmuch as many acceptable non-tropical hardwood equivalents and non-virgin redwood
15 equivalents are available.

16 (13) Many non-tropical hardwood equivalents are grown domestically in the United States. A
17 prohibition on the City's use of tropical woods would therefore stimulate domestic business and create
18 jobs for American timber workers.

19 (14) Under this Article the City and County of San Francisco wishes to exercise its power to
20 make economic decisions involving its own funds as a participant in the marketplace and to conduct its
21 own business as a municipal corporation to ensure that purchases and expenditures of public monies
22 are made in a manner consistent with sound environmental policies and practices. The City enacts this
23 Article to prohibit the use, requisition or purchase, directly or indirectly, by any City or County
24 department or agency, of any tropical hardwoods or tropical hardwood wood products as well as
25 virgin redwood or virgin redwood wood products.

1 (15) This Chapter applies the Precautionary Principle to the selection of lumber and wood
2 products used in City operations in order to protect tropical and old-growth forest ecosystems.

3 SEC. 801. DEFINITIONS.

4 As used in this Article, the following words and phrases shall have the meanings indicated
5 herein:

6 “City” or “City and County” shall mean the City and County of San Francisco, or any
7 department, board, commission or agency thereof.

8 “City funds” shall mean all monies or other assets received and managed by, or which are
9 otherwise under the control of, the Treasurer, and any notes, bonds, securities, certificates of
10 indebtedness or other fiscal obligations issued by the City and County.

11 “Commodities” shall include, but not be limited to, goods, commodities, materials, supplies and
12 equipment.

13 “Contract” shall mean an agreement for public works or improvements to be performed, or for
14 goods or services to be purchased or grants to be provided, at the expense of the City and County or to
15 be paid out of monies deposited in the treasury or out of trust monies under the control of or collected
16 by the City and County.

17 “Contracting officer” shall mean that officer or employee of the City and County authorized
18 under the Charter, the Administrative Code or the Municipal Code, to enter into a contract on behalf of
19 the City and County. “Contracting officer” shall include the Mayor, each department head or general
20 manager and other employees of the City and County authorized to enter into contracts on behalf of the
21 City and County.

22 “Doing business in the City and County” shall mean entering into or seeking to enter into a
23 contract with the City and County.

24 “Non-tropical hardwood equivalents” shall mean any and all hardwood other than virgin
25 redwood that grows in any geographically temperate regions, as defined by the U.S. Forest Service,

1 and is equivalent to tropical hardwood in density, texture, grain, stability or durability. Non-tropical
2 hardwoods, the use or purchase of which shall be preferred under this Article, shall include, but not be
3 limited to the following species:

4	<u>Scientific Name</u>	<u>Common Name</u>
5	<u>Fraxinus americana</u>	<u>Ash</u>
6	<u>Tilia americana</u>	<u>Basswood</u>
7	<u>Fagus grandifolia</u>	<u>Beech</u>
8	<u>Betula papyrifera</u>	<u>Birch</u>
9	<u>Juglans cinera</u>	<u>Butternut</u>
10	<u>Prunus serotina</u>	<u>Cherry</u>
11	<u>Populus spp.</u>	<u>Cottonwood</u>
12	<u>Taxodium distichum</u>	<u>Cypress</u>
13	<u>Pseudotsuga menziesii</u>	<u>Douglas Fir</u>
14	<u>Ulmus spp.</u>	<u>Elm</u>
15	<u>Nyssa sylvatica</u>	<u>Black Gum</u>
16	<u>Liquidambar styraciflua</u>	<u>Red Gum</u>
17	<u>Celtis laevigata</u>	<u>Hackberry</u>
18	<u>Tsuga heterophylla</u>	<u>West Hemlock</u>
19	<u>Hicoria spp.</u>	<u>Hickory</u>
20	<u>Acer saccharum</u>	<u>Sugar Maple</u>
21	<u>Acer spp.</u>	<u>Soft Maple</u>
22	<u>Quercus spp.</u>	<u>Red Oak</u>
23	<u>Quercus spp.</u>	<u>White Oak</u>
24	<u>Hicoria spp.</u>	<u>Pecan</u>
25	<u>Pinus ponderosa</u>	<u>Ponderosa Pine</u>

1 Pinus spp. Yellow So. Pine

2 Liriodendron tulipifera Yellow Poplar

3 Picea sitchensis Sitka Spruce

4 Platanus occidentalis Sycamore

5 Juglas nigra Black Walnut

6 “Non-virgin redwood equivalents” shall mean any and all wood or wood product (including,
7 but not limited to, wood from the species scientifically classified as “sequoia sempervirens”) that is not
8 a tropical hardwood or a tropical hardwood wood product and is equivalent to virgin redwood in
9 density, texture, grain, stability or durability.

10 “Purchaser” shall mean the Purchaser of the City and County or any authorized representative
11 of that official.

12 “Tropical hardwood” shall mean any and all hardwood, scientifically classified as
13 angiosperme, that grows in any tropical moist forest. Tropical hardwoods, the use or purchase of
14 which shall be governed by this Article, shall include, but not be limited to, the following species:

15 Scientific Name Common Name

16 Vouacapoua americana Acapu

17 Pericopsis elata Afrormosia

18 Shorea almon Almon

19 Peltogyne spp. Amaranth

20 Guibourtia ehie Amazaque

21 Aningeria spp. Aningeria

22 Dipterocarpus grandiflorus Apitong

23 Ochroma lagopus Balsa

24 Virola spp. Banak

25 Anisoptera thurifera Bella Rosa

1	<u>Guibourtia arnoldiana</u>	<u>Benge</u>
2	<u>Detarium Senegalese</u>	<u>Boire</u>
3	<u>Guibourtia demeusil</u>	<u>Bubinga</u>
4	<u>Prioria copaifera</u>	<u>Cativo</u>
5	<u>Antiaris africana</u>	<u>Chenchen</u>
6	<u>Dalbergia retusa</u>	<u>Concobolo</u>
7	<u>Cordia spp.</u>	<u>Cordia</u>
8	<u>Diospyros spp.</u>	<u>Ebony</u>
9	<u>Aucoumea klaineana</u>	<u>Gaboon</u>
10	<u>Chlorophora excelsa</u>	<u>Iroko</u>
11	<u>Acacia koa</u>	<u>Koa</u>
12	<u>Pterygota macrocarpa</u>	<u>Koto</u>
13	<u>Shorea negrosensis</u>	<u>Red Lauan</u>
14	<u>Pentacme contorta</u>	<u>White Lauan</u>
15	<u>Shorea polysperma</u>	<u>Tanguile</u>
16	<u>Terminalia superba</u>	<u>Limba</u>
17	<u>Aniba duckei</u>	<u>Louro</u>
18	<u>Khaya ivorensis</u>	<u>African Mahogany</u>
19	<u>Swietenia macrophylla</u>	<u>American Mahogany</u>
20	<u>Tieghemella heckelii</u>	<u>Makore</u>
21	<u>Distemonanthus</u>	
22	<u>benthamianus</u>	<u>Movingui</u>
23	<u>Pterocarpus soyauxii</u>	<u>African Paduak</u>
24	<u>Pterocarpus angolensis</u>	<u>Angola Paduak</u>
25	<u>Aspidosperma spp.</u>	<u>Peroba</u>

1	<u>Peltogyne spp.</u>	<u>Purpleheart</u>
2	<u>Gonystylus spp.</u>	<u>Ramin</u>
3	<u>Dalbergia spp.</u>	<u>Rosewood</u>
4	<u>Entandrophragma</u>	
5	<u>cylindricum</u>	<u>Sapele</u>
6	<u>Shorea philippinensis</u>	<u>Sonora</u>
7	<u>Tectona grandis</u>	<u>Teak</u>
8	<u>Lovoa trichilioides</u>	<u>Tigerwood</u>
9	<u>Milletia laurentii</u>	<u>Wenge</u>
10	<u>Microberlinia brazzavillensis</u>	<u>Zebrawood</u>

11
 12 “Tropical rainforests” shall mean any and all forests classified by the scientific term “tropical
 13 moist forests,” the classification determined by the equatorial region of the forest and average rainfall.

14 “Tropical hardwood wood products” shall refer to any wood products which are composed, in
 15 whole or in part, of tropical hardwood.

16 “Virgin redwood wood products” shall refer to any wood products which are composed, in
 17 whole or in part, of virgin redwood.

18 “Virgin redwood” shall mean wood from the species scientifically classified as “sequoia
 19 sempervirens” including but not limited to wood that is graded “clear heart” or “clear all heart” (or
 20 any successor or equivalent terms) under lumber industry grading standards, unless such wood is
 21 either:

22 (a) Reclaimed or recycled; or

23 (b) Certified as sustainably harvested redwood by a certification organization that bases its
 24 standards on the principles and criteria of the United States Forest Stewardship Council.

25

1 “Wood products” shall refer to any wood products, wholesale or retail, in any form, including
2 but not limited to veneer, plywood, furniture, cabinets, paneling, mouldings, doorskins, joinery, or
3 sawnwood. As used herein, the following words and phrases shall have the meanings indicated herein:

4 (1) “Doorskin” shall mean a thin sheet of wood which is glued onto the frame of a door to
5 form the face of the door.

6 (2) “Moulding” shall refer to decorative wood used around window and doorframes,
7 ceilings, and corners.

8 (3) “Paneling” shall mean any thin sheet or sheets of attractive wood, intended to be used
9 as wall covering, including any sheet consisting of a veneer glued onto some backing material.

10 (4) “Particle board” shall mean any wood sheet or board created by compressing wood
11 chips and particles from logs, trees or industrial residue.

12 (5) “Plywood” shall mean any wood sheet created by gluing together thinner sheets
13 (veneers) of any species.

14 (6) “Sawnwood” shall mean lumber or any form of wood which is sawn or chipped
15 lengthwise in either a rough or smooth cut.

16 (7) “Veneer” shall mean a very thin slice of wood, between 1/16 inch to 1/125 inch in
17 width, used in plywood, paneling, furniture exterior, and doorskins.

18 SEC. 802. CONTRACTS FOR SERVICES.

19 (a) Prohibited Transactions.

20 (1) The City and County shall not enter into or renew any contract with any person or entity
21 for the provision of services, the performance of which calls for the use of any tropical hardwood,
22 tropical hardwood wood product, virgin redwood or virgin redwood wood product.

23 (2) In the case of any bid proposal or solicitation, request for bid or proposal or contract
24 for the construction of any public work, building maintenance or improvement for or on behalf of the
25

1 City and County, the City shall not require or permit the use of any tropical hardwood, tropical
2 hardwood wood product, virgin redwood or virgin redwood wood product.

3 (3) Every bid proposal, solicitation, request for bid or proposal and contract for the
4 construction of any public work, building maintenance or improvement shall contain a statement that
5 any bid, proposal or other response to a solicitation for bid or proposal which proposes or calls for the
6 use of any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood
7 wood product in performance of the contract shall be deemed nonresponsive.

8 (b) Nonapplicability; Findings; Alternates.

9 (1) With respect to tropical hardwood and tropical hardwood wood products, Section 802
10 shall not apply to bid packages advertised and made available to the public or any competitive and
11 sealed bids received by the City entered into prior to December 6, 1990. With respect to virgin redwood
12 and virgin redwood wood products, Section 802 shall not apply to bid packages advertised and made
13 available to the public or any competitive and sealed bids received by the City entered into prior to
14 September 1, 1997.

15 (2) With respect to tropical hardwood and tropical hardwood wood products, Section 802
16 shall not apply to any amendment, modification or renewal of a contract, which contract was entered
17 into prior to December 6, 1990, where such application would delay timely completion of a project or
18 involve an increase in the total monies to be paid by the City and County under that contract. With
19 respect to virgin redwood and virgin redwood wood products, Section 802 shall not apply to any
20 amendment, modification or renewal of a contract, which contract was entered into prior to September
21 1, 1997, where such application would delay timely completion of a project or involve an increase in
22 the total monies to be paid by the City and County under that contract.

23 (3) The provisions of Section 802 shall not apply where the contracting officer finds that:
24
25

1 (A) No person or entity doing business in the City and County is capable of performing the
2 contract using acceptable non-tropical hardwood equivalents or non-virgin redwood equivalents, as
3 the case may be, in each case as defined under Section 801; or

4 (B) The inclusion or application of such provisions will violate or be inconsistent with the
5 terms or conditions of a grant, subvention or contract with an agency of the State of California or the
6 United States or the instructions of an authorized representative of any such agency with respect to any
7 such grant, subvention or contract;

8 (C) The use of tropical hardwoods, tropical hardwood wood products, virgin redwood or
9 virgin redwood wood products, as the case may be, is deemed necessary for purposes of historical
10 restoration and there exists no available acceptable non-tropical wood equivalent or non-virgin
11 redwood equivalent, as the case may be.

12 SEC. 803. PURCHASE OR OTHER ACQUISITION OF COMMODITIES.

13 (a) Prohibited Transactions.

14 (1) The City and County shall not purchase or obtain for any purpose any tropical hardwoods,
15 tropical hardwood wood products, virgin redwood or virgin redwood wood products, wholesale or
16 retail, in any form.

17 (b) Exceptions. This Section 803 shall not apply to:

18 (1) With respect to tropical hardwood and tropical hardwood wood products, any contract
19 entered into prior to December 6, 1990; or

20 (2) With respect to virgin redwood and virgin redwood wood products, any contract entered
21 into prior to September 1, 1997; or

22 (3) The purchase of any tropical hardwood or tropical hardwood product for which there is
23 no acceptable non-tropical hardwood equivalent; or

24 (4) The purchase of any virgin redwood or virgin redwood wood product for which there is
25 no acceptable non-virgin redwood equivalent; or

1 (5) Where the contracting officer finds that no person or entity doing business in the City
2 and County is capable of providing acceptable non-tropical hardwood equivalents or non-virgin
3 redwood equivalents, as the case may be, sufficient to meet the City's contract requirements; or

4 (6) Where the inclusion or application of such provisions will violate or be inconsistent with
5 the terms or conditions of a grant, subvention or contract with an agency of the State of California or
6 the United States or the instructions of an authorized representative of any such agency with respect to
7 any such grant, subvention or contract.

8 SEC. 804. CONTRACT CONDITIONS.

9 (a) All contracts involving wood or wood products entered into by any department of the
10 City and County shall include as a material condition to that contract the following paragraph in the
11 contract:

12 "Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San
13 Francisco Environment Code, Contractor shall not provide any items to the City in performance of this
14 contract which are tropical hardwoods, tropical hardwood wood products, virgin redwood or virgin
15 redwood wood products."

16
17 (b) Every contract shall also contain a statement urging companies not to import, purchase,
18 obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin
19 redwood or virgin redwood wood product. This Subsection (b) shall not apply to contracts with public
20 entities for the provision of water or power and related services.

21 SEC. 805. RULES AND REGULATIONS.

22 (a) The Purchaser shall promulgate any rules and regulations necessary or appropriate to
23 carry out the purposes and requirements of this ordinance. Each department, board and commission of
24 the City and County shall cooperate with, and provide in writing to, the Purchaser, all information
25 necessary for the Purchaser to promulgate such rules and regulations.

1 (b) All contracts shall incorporate this Article by reference whenever applicable and shall
2 provide that the failure of any bidder or contractor to comply with any of its requirements shall be
3 deemed a material breach of contract.

4 SEC. 806. PUBLIC RECORDS.

5 Any and all documents and reports prepared pursuant to the requirements of this ordinance
6 shall be made available for public inspection upon proper request, except those prepared for purposes
7 of litigation.

8 SEC. 807. PENALTY.

9 (a) Whenever any department of the City and County discovers, after an investigation by the
10 contracting officer and the City Attorney, that a person or entity being considered for a contract or
11 under contract with the City and County has, in connection with the bidding, execution or performance
12 of any City contract (1) falsely represented to the City and County the nature or character of the wood
13 products offered, used or supplied under the contract, or (2) provided the City with tropical hardwood,
14 tropical hardwood wood products, virgin redwood or virgin redwood wood products in violation of this
15 ordinance, the rules and regulations adopted pursuant to this ordinance, or contract provisions
16 pertaining to the prohibition against the use or purchase of tropical hardwood, tropical hardwood
17 wood products, virgin redwood or virgin redwood wood products, the contracting officer shall have the
18 authority to impose such sanctions or take such other actions as are designed to ensure compliance
19 with the provisions of this ordinance which shall include, but are not limited to:

20 (1) Refusal to certify the award of a contract;

21 (2) Suspension of a contract;

22 (3) Ordering the withholding of funds due the contractor under any contract with the City
23 and County;

24 (4) Ordering the revision of a contract based upon a material breach of contract provisions
25 or pertaining to representations made in bidding, execution or performance of the contract;

1 (5) Disqualification of a bidder or contractor from eligibility for providing commodities or
2 services to the City and County for a period not to exceed five years, with a right to review and
3 reconsideration by the contracting City office or department after two years upon a showing of
4 corrective action indicating violations are not likely to reoccur.

5 (b) All contracts shall provide that in the event any bidder or contractor fails to comply in
6 good faith with any of the provisions of this Article the bidder or contractor shall be liable for
7 liquidated damages in an amount equal to the bidder's or contractor's net profit under the contract, or
8 five percent of the total amount of the contract dollars whichever is greatest. All contracts shall also
9 contain a provision whereby the bidder or contractor acknowledges and agrees that the liquidated
10 damages assessed shall be payable to the City and County upon demand and may be set off against any
11 monies due to the bidder or contractor from any contract with the City and County of San Francisco.

12 SEC. 808. IMPLEMENTATION REPORTS.

13 The Purchaser shall provide written reports on the implementation of this ordinance to the
14 Board of Supervisors (1) at the first Board of Supervisors meeting held six months after this Article has
15 taken effect; and (2) semiannually thereafter. Each department, board and commission of the City and
16 County shall cooperate with, and provide in writing to, the Purchaser, whichever is appropriate, all
17 information necessary for the Purchaser to prepare such reports.

18 SEC. 809. SEVERABILITY.

19 If any section, subsection, clause, phrase or portion of this Article is for any reason held invalid
20 or unconstitutional by any court or federal or State agency of competent jurisdiction, such portion shall
21 be deemed a separate, distinct and independent provision and such holding shall not affect the validity
22 of the remaining portions thereof.

23 Chapter 9 Ban on Purchase of Motor Vehicle Fuel Containing MTBE

24 SEC. 900. FINDINGS.

25 The Board of Supervisors makes the following findings:

1 (a) In response to a report on the "Health and Environmental Assessment of Methyl
2 Tertiary-Butyl Ether (MTBE)" prepared by the University of California, Governor Davis issued
3 Executive Order D-5-99 requiring the California Energy Commission, in consultation with the
4 California Air Resources Board, to develop a timetable by July 1, 1999, for the removal of methyl
5 tertiary-butyl ether (MTBE) from gasoline sold in the State of California at the earliest possible date
6 but not later than December 31, 2002.

7 (b) Under this Chapter, the City and County of San Francisco wishes to exercise its power
8 to make economic decisions involving its own funds as a participant in the marketplace and to conduct
9 its own business as a municipal corporation to ensure that purchases and expenditures of public
10 monies are made so as to encourage the marketing of non-MTBE gasoline.

11 (c) This Chapter applies the Precautionary Principle to the selection of fuels used in the
12 City fleet to minimize negative impacts on groundwater and human health.

13 SEC. 901. DEFINITIONS.

14 Except as otherwise stated, the terms used in this Chapter shall have the following meaning:

15 (a) "City" or "City and County" shall mean the City and County of San Francisco, or any
16 department, board, commission or agency thereof.

17 (b) "Commodities Contract" shall mean an agreement for goods, supplies, materials, or
18 equipment to be purchased at the expense of the City.

19 (c) "Contracting Officer" shall mean that officer or employee of the City and County
20 authorized under the Charter, the Administrative Code or the Municipal Code to enter into a
21 Commodities Contract on behalf of the City and County. "Contracting Officer" shall include the
22 Mayor, each department head or general manager and other employees of the City and County
23 authorized to enter into contracts on behalf of the City and County.

24 (d) "Contractor" shall mean any person who enters into a Commodities Contract for the
25 provision of Motor Vehicle Fuel to the City.

1 (e) "Motor Vehicle" shall mean a vehicle that is self-propelled.

2 (f) "Motor Vehicle Fuel" shall mean any substance which can be used as an energy source
3 to power Motor Vehicles. Motor Vehicle Fuel shall include but is not limited to gasoline and diesel
4 fuel.

5 (g) "MTBE" shall mean the chemical commonly known as methyl tertiary-butyl ether.

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

8 SEC. 902. PROHIBITING PURCHASE OF MTBE-CONTAINING MOTOR VEHICLE FUEL.

9 (a) From the effective date of this Chapter, the City shall not enter into any new
10 Commodities Contracts allowing for the purchase of Motor Vehicle Fuel that contains MTBE.

11 (b) From the effective date of this Chapter, the City shall not modify any existing
12 Commodities Contract for the purchase of Motor Vehicle Fuel containing MTBE to extend its term.

13 (c) From the effective date of this Chapter, all Commodities Contracts entered into by the
14 City for the purchase of Motor Vehicle Fuel shall require the purchased Motor Vehicle Fuel to be free
15 of MTBE.

16 SEC. 903. CONTACT REQUIREMENTS.

17 Every Commodities Contract for Motor Vehicle Fuel entered into by City shall provide the
18 following:

19 (a) Contractor agrees that it is not and will not be supplying any Motor Vehicle Fuel to City
20 that contains MTBE.

21 (b) Failure to comply with the foregoing requirement shall constitute a material breach by
22 Contractor of the terms of the Commodities Contract. Such failure shall be determined by the City in
23 its sole discretion.

24 (c) In the event that Contractor is found to be in breach of this provision, Contractor shall
25 be liable for liquidated damages in an amount equal to the Contractor's net profit under the

1 Commodities Contract, or five percent of the total amount of the contract dollars, whichever is greater.
2 Such liquidated damages shall be payable upon demand, and may be withheld from monies owed to
3 Contractor under the Commodities Contract.

4 (d) Nothing in this section shall be construed to limit any other remedies available at law to
5 City.

6 SEC. 904. ADMINISTRATION AND ENFORCEMENT.

7 Whenever the City and County discovers, after an investigation by the Contracting Officer and
8 the City Attorney, that a person or entity being considered for a Commodities Contract or under a
9 Commodities Contract with the City and County has, in connection with the bidding, execution or
10 performance of any Commodities Contract (1) falsely represented to the City and County the nature or
11 character of the Motor Vehicle Fuel offered to or supplied under the Commodities Contract to the City,
12 or (2) provided the City with Motor Vehicle Fuel containing MTBE in violation of this ordinance, the
13 rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining to the
14 prohibition against providing MTBE-containing Motor Vehicle Fuel to the City, the Contracting
15 Officer shall have the authority to impose such sanctions or take such other actions as are designed to
16 ensure compliance with the provisions of the ordinance which shall include, but are not limited to:

17 (a) Refusal to certify the award of a Commodities Contract;

18 (b) Termination or Suspension of the Commodities Contract;

19 (c) Ordering the withholding of funds due the Contractor under any Commodities Contract
20 with the City and County;

21 (d) Ordering the revision of a Commodities Contract based upon a material breach of
22 contract provisions or pertaining to representations made in bidding, execution or performance of the
23 Commodities Contract;

24 (e) Disqualification of the Contractor from eligibility for providing commodities or other
25 services to the City and County for a period not to exceed five years.

1 SEC. 905. SEVERABILITY.

2 If any section, subsection, clause, phrase or portion of this Chapter is for any reason held
3 invalid or unconstitutional by any court or federal or State agency of competent jurisdiction, such
4 portion shall be deemed a separate, distinct and independent provision and such holding shall not
5 affect the validity of the remaining portions thereof.

6 SEC. 906. EFFECTIVE DATE.

7 This legislation shall become effective on January 1, 2002. The Board of Supervisors
8 encourages all city contracting officers to comply with and implement this legislation as far in advance
9 of the effective date as is possible.

10 Chapter 10 Transportation of Aggregate Materials

11 SEC. 1000. FINDINGS.

12 The Board of Supervisors finds and declares the following:

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

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

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

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

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

23 (f) Under this Chapter, the City and County of San Francisco wishes to exercise its power
24 to make economic decisions involving its own funds as a participant in the marketplace and to conduct
25 its own business as a municipal corporation to ensure that its activities do not increase the amount of

1 particulate matter present in residential and other ecologically sensitive areas. The City enacts this
2 Chapter to require City Departments and City contractors to cover their loads when transporting dirt
3 and other aggregate materials in the City.

4 (g) This Chapter applies the Precautionary Principle to the determination of best
5 management practices when transporting aggregate materials for City construction projects to
6 minimize negative impacts on air quality and human health.

7 SEC. 1001. DEFINITIONS.

8 For the purposes of this chapter, the following definitions shall apply to the terms used herein.

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

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

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

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

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

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

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

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

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

1 SEC. 1002. COVERING OF AGGREGATE MATERIALS REQUIRED.

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

7 SEC. 1003. CONTRACT REQUIREMENTS.

8 As of the effective date of this Chapter, when the City enters into a contract or extends the terms
9 of an existing contract, the contract shall obligate the Contractor to the following terms and
10 conditions:

11 (a) Contractor agrees that it shall comply with the requirements of Section 1002 of this
12 Chapter and agrees to include the requirements of Section 1002 in any subcontract which may involve
13 the transportation of aggregate material.

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

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

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

23 SEC. 1004. ENFORCEMENT.

24 Whenever the contract awarding authority discovers, after an investigation, that a contractor
25 and/or subcontractor has violated the requirements of Sections 1002 and/or 1003 of this Chapter, the

1 contracting awarding authority or her or his designee shall have the authority to impose such sanctions
2 or take such other actions as are designed to ensure compliance with the provisions of this Chapter
3 which shall include, but are not limited to:

4 (a) Termination or suspension of the contract;

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

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

10 SEC. 1005. SEVERABILITY.

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

15 Chapter 11 Reserved

16 Chapter 12 Urban Forest Council

17 Sec. 1200. PURPOSE - URBAN FOREST COUNCIL.

18 (a) It is the intent of the Board of Supervisors to form an Urban Forest Council that will
19 protect the community interest and ensure that San Francisco realizes the full range of tree benefits
20 into the future. The Board also intends to replace any existing tree advisory bodies that the Board of
21 Supervisors has created through legislation.

22 (b) The purpose of the Council is to guide the stewardship of San Francisco's trees by
23 promoting a healthy and sustainable urban forest that benefits all San Franciscans while ensuring
24 public health and safety.

25 (c) To meet this purpose, the Council shall work with all the affected stakeholders to:

- 1 (1) Develop and adopt a comprehensive urban forest plan;
- 2 (2) Educate the public on urban forest issues;
- 3 (3) Develop and adopt tree care standards;
- 4 (4) Identify funding and staffing needs and opportunities for urban forest programs;
- 5 (5) Report on the state of the urban forest;
- 6 (6) Help secure and encourage commitment of adequate resources for tree programs; and
- 7 (7) Facilitate coordination among agencies with tree management responsibilities.
- 8 (d) This Chapter applies the Precautionary Principle to the management of trees in San
- 9 Francisco by emphasizing public participation, preservation, and expansion of the urban forest.

10 Sec. 1201. SCOPE OF AUTHORITY.

- 11 (a) The Council's scope of authority is limited to the territorial boundaries of the City and
- 12 County of San Francisco.
- 13 (b) The Council shall consider issues as they relate to trees on property managed by
- 14 government agencies, non-profit organizations, and private property owners.
- 15 (c) In order to effectively address the whole of the urban forest, the Council also shall
- 16 consider issues as they relate to trees on private property.
- 17 (d) The Council's scope of authority is completely advisory and educational in nature. The
- 18 Council will have no authority to legislate.

19 Sec. 1202. COUNCIL COMPOSITION AND ADMINISTRATION.

- 20 (a) Council members will be drawn from the full range of urban forest stakeholders
- 21 including city agencies, non-profit organizations, and the business community. The Council shall be
- 22 composed of fifteen (15) voting members as follows:
- 23 (1) Five (5) from municipal agencies with representatives from:
- 24 (a) Director of the Department of Public Works;
- 25 (b) General Manager of the Recreation and Park Department;

- 1 (c) Director of the Planning Department;
- 2 (d) Director of the San Francisco Redevelopment Agency; and
- 3 (e) General Manager of the Public Utilities Commission.
- 4 (2) The Board of Supervisors shall appoint eight (8) members:
- 5 (a) One (1) member from an educational organization involved with tree
- 6 management;
- 7 (b) One (1) representative of the tree management profession (International Society
- 8 of Arboriculture, American Society of Landscape Architects, etc.);
- 9 (c) One (1) member from the Golden Gate National Recreation Area;
- 10 (d) Two (2) members from non-profit organizations involved in urban forest or other
- 11 environmentally-related issues; and
- 12 (e) Three (3) members at large.
- 13 (3) The Mayor shall appoint two (2) members:
- 14 (a) One (1) member from the tree care industry with a tree management professional
- 15 affiliation and
- 16 (b) One (1) member at large.
- 17 (b) Council members shall serve for two years. Members can serve successive terms if re-
- 18 appointed by the body originally appointing the Council member. Council members serve at the will of
- 19 the body that appoints each Council member as specified above. The body that appoints Council
- 20 members also may appoint at-large members to serve any unfilled Council positions.
- 21 (c) The Council shall meet at least once every other month.
- 22 (d) The Council shall establish its own operating procedures, which, at a minimum, shall
- 23 meet the public notice, meeting, voting, agenda and other procedural requirements set forth in local
- 24 law.
- 25

1 (e) Subcommittees shall be created to adequately address other special areas of concern on
2 an as needed basis.

3 (f) The Department of the Environment, with adequate funding to assist the Council in
4 carrying out its mission, shall provide professional and administrative staff to the Council.

5 (g) All members of the Council shall serve without compensation.

6 Sec. 1203. RESPONSIBILITIES.

7 (a) The Council's responsibilities shall include, but not be limited to, the following:

8 (1) Advise the Mayor, Board of Supervisors, city departments and commissions on urban
9 forest concerns;

10 (2) Review project plans for major publicly-sponsored developments and civic
11 improvements and changes to the public right-of-way as they may impact trees. Based on its review,
12 the Council shall make recommendations regarding these projects to the Planning Department and
13 other affected agencies;

14 (3) Establish criteria for a landmark/heritage tree program to provide for the protection of
15 valuable trees on public and private property. The program shall propose administrative procedures
16 and a tree removal appeal process for landmark/heritage trees;

17 (4) Adopt guidelines for protecting trees during project design and construction;

18 (5) Encourage early and continuous public participation in urban forest projects and
19 programs that includes consideration of neighborhood interests;

20 (6) Facilitate the cooperative interaction of tree-related activities among various city, State,
21 and federal agencies, as well as among businesses, public utilities, non-profit organizations, and the
22 public;

23 (7) Notify and involve public agencies when issues relate to trees on lands under their
24 jurisdiction;

25

1 (8) Provide at designated Council meetings for a regular forum that follows an agenda of
2 scheduled topics for public discussion of urban forest issues;

3 (9) Assist with the formulation of legislation and policies that affect trees;

4 (10) Serve as a clearinghouse for information related to the urban forest through the
5 Department of the Environment;

6 (11) Prepare the plans and reports as set forth in this legislation; and

7 (12) Assist agencies with tree management responsibilities in their efforts to incorporate and
8 follow the urban forest plan guidelines, best management practices, and other Council
9 recommendations and policies.

10 Sec. 1204. URBAN FOREST PLAN.

11 (a) To assure well-guided stewardship of San Francisco's trees, the Council shall develop
12 and adopt a long-term comprehensive plan that sets policy for the management of the City's public and
13 private trees. This Urban Forest Plan shall be developed in consultation with affected City agencies
14 and with input from interested members of the public.

15 (1) The planning process for such Plan shall include an assessment of the current condition
16 of the urban forest and create a vision and goals that incorporate community values on urban forest
17 stewardship.

18 (2) The Planning process also shall include consideration of and referral to existing plans
19 that relate to trees, including, but not limited to, plans for reforestation of parks and plans for street
20 trees.

21 (3) The Plan shall include strategies and activities for achieving the envisioned urban
22 forest. It shall include specific guidance to agencies and the public in developing education programs,
23 establishing continuous and consistent tree care practices, identifying funding priorities and
24 opportunities, and assuring that all needs of the urban forest are recognized and addressed.

1 (b) The Council shall oversee periodic updates to the Plan and evaluate the effectiveness of
2 agencies in reaching the Plan's goals.

3 (c) Prior to adoption of the Plan or amendment thereto, the Council shall forward the plan
4 and amendments to affected city agencies for review.

5 (d) The Council shall work with the Planning Department and the Department of the
6 Environment to incorporate elements of the Urban Forest Plan into the City's General Plan.

7 (e) The Council shall work with the Recreation and Park Department and the Department
8 of the Environment to incorporate elements of the Urban Forest Plan into the Recreation and Park
9 Department's forestation plans.

10 Sec. 1205. PUBLIC EDUCATION AND OUTREACH.

11 (a) To improve management by individual property owners and those who provide tree
12 services to property owners, the Council shall assist with education programs. The Council shall
13 design education programs for the public and tree care professionals to inform and gain public support
14 for urban forest programs.

15 (b) The Council shall promote trees as essential infrastructure with inherent value to the
16 City of San Francisco. As infrastructure, trees will require consideration when designing and
17 engineering public and private development projects.

18 (c) The Council shall promote an understanding of San Francisco's urban forest as habitat
19 for the wild animals that make up a significant part of San Francisco's natural heritage.

20 (d) The Council's outreach shall include, but not be limited to, the following:

21 (1) Fostering an understanding of the value of trees;

22 (2) Promoting public understanding of City tree programs and laws;

23 (3) Working with the media to bring urban forest concerns and information to the public;

24 (4) Facilitating presentations, programs, and other outreach to property owners and the
25 business and corporate community; and

1 (5) Promoting special events such as a citywide Arbor Day.

2 Sec. 1206. BEST MANAGEMENT PRACTICES.

3 (a) In an effort to establish and maintain a healthy and sustainable urban forest and ensure
4 public health and safety, the Council shall develop and adopt tree care best management practices for
5 public and private trees. The practices for tree maintenance shall focus on the protection of trees from
6 premature death and irreversible damage caused by improper or inadequate tree maintenance.

7 (b) The Council shall develop the best management practices in consultation with affected
8 City agencies and with input from interested members of the public. The Council's evaluation of such
9 practices shall incorporate an analysis of the projected costs for implementation of the practices. The
10 best management practices shall include, but not be limited to, the following:

11 (1) Species selection;

12 (2) Planting practices;

13 (3) Young tree care;

14 (4) Tree pruning and maintenance; and

15 (5) Tree removal.

16 (c) The Council, with the assistance of the Board of Supervisors, shall urge and encourage
17 City, State, and federal agencies, as well as private property owners and tree care companies working
18 in San Francisco, to adhere to the Council's management practices and tree care standards.

19 Sec. 1207. FUNDING ASSESSMENT.

20 (a) The Board of Supervisors shall make efforts to provide adequate funding for the
21 Department of the Environment's support of the Council.

22 (b) In the event funding is not allocated by the City and County of San Francisco for staffing
23 the Council, the Council shall pursue funds for any shortfall in the necessary staffing and support
24 activities and additional funds for any other project it deems necessary to implement this legislation.

1 (c) To ensure that adequate resources are available for tree management and that public
2 funding is used wisely, the Council shall:

3 (1) Review urban forest program budget priorities and make recommendations about urban
4 forest funding requirements to the Mayor, Board of Supervisors, and affected city departments and
5 commissions;

6 (2) Investigate and pursue funding options for various urban forest activities;

7 (3) Assist agencies and organizations in securing funding for urban forest programs;

8 (4) Apply for and accept grants for public agency or privately sponsored urban forest
9 programs pursuant to the procedures in the Administrative Code; and

10 (5) Determine whether there are opportunities to improve efficiency and eliminate possible
11 redundancies among managing agencies through city-wide coordination of tree operations.

12 Sec. 1208. STAFFING SUPPORT AND RESPONSIBILITIES.

13 (a) A coordinator from the Department of the Environment shall staff the Council. The
14 coordinator's responsibilities shall include, but not be limited to, the following:

15 (1) Fundraising;

16 (2) Developing and drafting guidelines for adoption;

17 (3) Preparing staff and annual reports;

18 (4) Coordinating with other agencies; and

19 (5) Develop an annual city-wide tree management budget for local governmental agencies.

20 (b) The coordinator is essential in order to implement the intent of this legislation.

21 Sec. 1209. REPORTING RESPONSIBILITY.

22 (a) The Council shall report to the Board of Supervisors and Mayor by September 1st of
23 each year regarding the state of the urban forest. The report shall contain a review the quality of
24 urban forest stewardship and an assessment of how well public agencies and other urban forest
25

1 managers are implementing the Urban Forest Plan. The report shall include, but not be limited to, the
2 following:

3 (1) Condition of the urban forest, species composition, and other tree stand characteristics;

4 (2) Summary of urban forest activities, such as total number of trees, number of trees
5 removed, and number of trees planted on private lands and under the jurisdictions of public agencies
6 and non-profit organizations.

7 (3) Analysis of the adherence to the Urban Forest Plan;

8 (4) Analysis of the adherence to the best management practices;

9 (5) The Council's public education and outreach projects;

10 (6) Notable achievements in urban forest;

11 (7) The status of funding for urban forest programs; and

12 (8) Proposals for tree care guidelines or changes to adopted tree care programs or plans.

13 (b) City agencies and any non-profit organizations that accept city funding shall report to
14 the Council regarding the trees they manage, the extent to which their management plans correspond
15 to the Urban Forest Plan, and implementation of the best management practices. The Council shall
16 receive the report no later than June 30 of each year. Other public entities also are urged to submit
17 reports to the Council regarding the trees that they manage.

18 (c) City agencies that do not adhere to the policies, guidelines, or standards outlined in the
19 Urban Forest Plan or best management practices shall explain their reasoning at a public hearing
20 before the Council.

21 (d) Within ninety (90) days of the Council's establishment, the Council shall adopt
22 procedures to address the public hearing process specified in Subsection (c) above.

23 Chapter 13 Arsenic-Treated Wood

24 Sec.1300. FINDINGS AND PURPOSE.

25 The Board of Supervisors finds and declares that:

1 (a) Preservative-treated wood containing arsenic poses potential health risks to children in
2 San Francisco who are potentially exposed to arsenic, a known human carcinogen, by playing on City
3 wooden playground and park equipment. Studies conducted in California, Connecticut and Florida
4 suggest that arsenic leaches from preservative-treated wood containing arsenic and can end up on
5 children's hands and in their mouths.

6 (b) California Health and Safety Code Section 115775 requires that play structures
7 constructed with preservative-treated wood containing arsenic be adequately sealed every two years.

8 (c) Preservative-treated wood containing arsenic poses potential human health and
9 environmental risks through the release of arsenic during manufacture, installation, and disposal of
10 wood.

11 (d) There are a variety of alternatives to preservative-treated wood containing arsenic
12 compounds readily available throughout California.

13 (e) Preservative-treated wood is also used for saltwater immersion environments for
14 structures such as pilings and piers, but until such time as a viable alternative is available, best
15 management practices should be followed for these uses.

16 (f) Under this Chapter, the City and County of San Francisco wishes to exercise its power
17 to make economic decisions involving its own funds as a participant in the marketplace and to conduct
18 its own business as a municipal corporation to ensure that purchases and expenditures of public
19 monies are made in a manner consistent with its policies.

20 (g) This Chapter applies the Precautionary Principle to the selection and maintenance of
21 pressure treated wood used to build City structures such as buildings, decks, fences, and play
22 equipment by banning the use of arsenic-containing wood preservatives and requiring protective
23 sealing of existing structures.

24 Sec.1301. DEFINITIONS.

25 Whenever used in this Chapter, the following terms shall have the meanings set forth below.

1 (a) "Preservative-treated wood containing arsenic" shall mean wood treated with a
2 preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including but
3 not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative,
4 or ammoniacal copper arsenate preservative.

5 (b) "City Department" shall mean any department of the City and County of San Francisco.
6 City Department does not include any other local agency or any federal or State agency, including but
7 not limited to the San Francisco Unified School District, the San Francisco Community College
8 District, the San Francisco Redevelopment Agency, and the San Francisco Housing Authority.

9 (c) "Commission" shall mean the Commission on the Environment provided for by San
10 Francisco Charter Section 4.118.

11 (d) "Contract" means a binding written agreement, including, but not limited to a contract,
12 lease, permit, license or easement between a person, firm, corporation or other entity, including a
13 governmental entity, and a City Department for the purchase of preservative-treated wood.

14 (e) "Contractor" shall mean an individual, trust, firm, joint stock company, corporation,
15 partnership, and governmental entities, to the extent allowable by law, that enters into a Contract with
16 a City Department.

17 (f) "Department" shall mean the San Francisco Department of the Environment provided
18 for by San Francisco Charter Section 4.118.

19 (g) "Saltwater immersion" shall mean a pressure-treated wood that is used for construction
20 purposes or facilities that are partially or totally immersed in saltwater.

21 Sec. 1302. ENVIRONMENTALLY PREFERABLE ALTERNATIVES.

22 No later than March 30, 2003, the Department shall identify, prepare and adopt, at a public
23 meeting, a list of environmentally preferable alternatives to preservative-treated wood containing
24 arsenic. The list shall include information on specific wood preservatives, appropriate applications for
25 each preservative, costs, product availability and any other pertinent information.

1 Sec. 1303. PURCHASE OF ALTERNATIVES.

2 Except as provided in this Section, after June 30, 2003, each City Department entering into a
3 new Contract or extending the term of an existing Contract for the purchase of preservative-treated
4 wood products, and each Contractor purchasing preservative-treated wood products on behalf of the
5 City, shall only purchase such products from the list of alternatives adopted by the Department
6 pursuant to Section 1302 of this Chapter. A City Department or Contractor that purchases
7 preservative-treated wood containing arsenic for saltwater immersion shall be exempt from this
8 Section.

9 Sec. 1304. EXEMPTIONS.

10 (a) On or after June 30, 2003, a City Department or Contractor may apply to the
11 Department for an exemption from the ban on the purchase of preservative-treated wood containing
12 arsenic imposed by Section 1303. The application for an exemption shall be filed on a form specified
13 by the Department. The Department may grant the exemption upon a finding that the City Department
14 or Contractor has:

15 (1) Made a good-faith effort to purchase an alternative on the list adopted by the
16 Department pursuant to Section 1302 of this Chapter; or has demonstrated that the alternative is not
17 economically viable for the proposed use or is not practical in limited circumstances; and

18 (2) Developed a best management practice, including a plan for minimizing leaching or
19 contact with human skin, if the exemption is granted.

20 Sec. 1305. REPLACING EXISTING STRUCTURES; MANAGEMENT PROGRAM.

21 (a) No later than June 30, 2003, each City Department who owns or maintains playground
22 equipment that is constructed with preservative-treated wood containing arsenic, where contact with
23 human skin is likely, shall (i) take an inventory of such structures and develop a timeline and cost
24 analysis for replacing these structures with non-wood alternatives or with alternatives on the list
25 adopted by the Department pursuant to Section 1302 of this Chapter; (ii) develop a written

1 management program for preservative-treated wood containing arsenic, including best management
2 practices, schedules and protocols for testing for leaching of arsenic and chromium, sealing and
3 posting of warning language where contact with human skin is likely and update this program on a
4 regular basis; and (iii) provide the Department with copies of these documents.

5 (b) No later than June 30, 2003, each City Department who owns or maintains park
6 structures other than playground equipment, including benches and picnic tables, that are constructed
7 with preservative-treated wood containing arsenic, where contact with human skin is likely, shall
8 develop a plan to inventory and manage, including sealing and replacement, such structures and
9 submit that plan to the Department.

10 (c) No later than June 30, 2003, each City Department that owns or maintains facilities not
11 addressed in Sections (a) or (b) above that are constructed with preservative-treated wood containing
12 arsenic and where frequent contact with human skin is likely, shall take an inventory of its facilities and
13 submit a plan to seal or replace such facilities. Each City Department subject to this Section shall
14 provide the Department with a copy of the inventory and plan.

15 Sec. 1306. REPORT TO COMMISSION.

16 No later than September 30, 2003, the Department shall report to the Commission on the
17 progress of the programs and mandates directed by this Chapter. The report, at a minimum, shall
18 include the following information:

19 (a) A list of the alternatives to preservative-treated wood containing arsenic pursuant to
20 Section 1302.

21 (b) A list of City Departments and Contractors requesting an exemption to this Chapter.

22 (c) A summary of the reports submitted to the Department pursuant to Section 1305.

23 (d) Any other information deemed relevant to eliminating the risk of exposure to
24 preservative-treated wood containing arsenic.

25 Sec. 1307. REPORT TO BOARD OF SUPERVISORS.

1 No later than June 30, 2005, the Commission shall report to the Board of Supervisors on the
2 progress of the programs and mandates directed by this Chapter.

3 Sec. 1308. DISPOSAL.

4 All City departments shall dispose of preservative-treated wood containing arsenic in an
5 approved landfill and shall not make preservative-treated wood containing arsenic available for re-use,
6 incineration or for use as wood chips or mulch.

7 Sec. 1309. CITYWIDE BAN.

8 No later than June 30, 2003, the Department of Building Inspection and the Department shall
9 investigate and report to the Commission on the possibility of imposing a citywide ban on the sale,
10 purchase and installation of preservative-treated wood containing arsenic. At a minimum, the report
11 shall contain an assessment of the legality, feasibility and cost implications of imposing a citywide ban.

12 Sec. 1310. GUIDELINES.

13 The Department may issue guidelines, after a public meeting, to assist City Departments in the
14 implementation of this Chapter.

15 SECTION 3. Pursuant to Planning Code section 340, the Board of Supervisors
16 requests that, within 90 days after the effective date of this ordinance, the Planning
17 Commission initiate amendments to the General Plan to incorporate the Precautionary
18 Principle.

19 SECTION 4. SEVERABILITY.

20 In the event that a court or agency of competent jurisdiction holds that a federal or state
21 law, rule or regulation invalidates any clause, sentence, paragraph or section of this ordinance
22 or the application thereof to any person or circumstances, it is the intent of the Board of
23
24
25

1 Supervisors that the court or agency sever such clause, sentence, paragraph or section so
2 the that remainder of this ordinance shall remain in effect.

3

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

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8 By: _____
9 Rona H. Sandler
Deputy City Attorney

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