

1 [Construction and Demolition Debris Recovery.]

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3 **Ordinance amending the Building Code by adding Section 106.3.2.6; amending the**  
 4 **Health Code by adding Sections 288 and 288.1; and amending the Environment Code**  
 5 **by adding Chapter 13, entitled Construction and Demolition Debris Recovery**  
 6 **Ordinance, to establish a comprehensive program to require the recovery rather than**  
 7 **landfill disposal of construction and demolition debris generated in San Francisco by**  
 8 **prohibiting disposal of such debris with garbage; imposing requirements and**  
 9 **conditions in building permits; establishing a program to register construction and**  
 10 **demolition debris transporters and processing facilities; and establishing enforcement**  
 11 **mechanisms including penalties.**

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

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

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

17 A. San Francisco is committed to protecting the public health, safety, welfare and  
 18 environment. This requires commitment that our air, water and land be healthy and safe.  
 19 The construction and demolition of buildings used for housing, recreation and commerce is  
 20 elemental to public well being, but can also result in the generation of pollution and the waste  
 21 of natural resources. In order for our City to reduce waste, preserve resources and protect  
 22 public health during building construction and demolition, the Board of Supervisors intends to  
 23 require debris from building projects to be recovered.

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

4           Section 2. The San Francisco Building Code is hereby amended by adding Section  
5 106.3.2.6, to read as follows:

6           SEC. 106.3.2.6 RECOVERY OF CONSTRUCTION AND DEMOLITION DEBRIS.

7           Under the requirements set forth herein and in Chapter 13 of the Environment Code, all  
8 construction and demolition debris generated in the course of a construction or demolition project  
9 subject to a permit pursuant to Section 106.1 of the Building Code must be transported off the site by a  
10 registered transporter, unless transported by the permittee, and handled, processed and otherwise  
11 managed by a registered facility for recovery of the materials. An applicant for any building permit  
12 shall comply with the requirements for construction and demolition debris recovery set forth in Chapter  
13 13 of the Environment Code.

14           SEC. 106.3.2.6.1 DEFINITIONS.

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

1 "Registered Transporter " or "Registered Facility" shall mean a person who holds a valid  
2 registration issued by the Director of the Department of the Environment pursuant to Chapter 13 of the  
3 Environment Code. "Transporter" does not include a person that owns and operates only vehicles with  
4 no more than 2 axles and no more than 2 tires per axle.

5 SEC. 106. 3.2.6.2 PERMIT CONDITION.

6 The provisions of Chapter 13 of the Environment Code and any approvals or conditions  
7 imposed in writing by the Department of the Environment are conditions of the permit issued by the  
8 Department, and a violation of Chapter 13 or such approvals or conditions shall be deemed non-  
9 compliance with the permit.

10 SEC. 106.3.2.6.3 PERMIT NOTIFICATION.

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

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

15 SEC. 288. CONSTRUCTION AND DEMOLITION DEBRIS. No commercial establishment,  
16 dwelling, householder or other person or entity, including the City and County of San Francisco, shall  
17 place out for regular refuse collection any construction and demolition debris. Unless otherwise  
18 required by Chapter 13 of the Environment Code or acceptable in an on-site residential or commercial  
19 recycling or composting collection program, construction and demolition debris must be disposed of at  
20 a construction and demolition debris facility registered pursuant to Chapter 13 of the Environment  
21 Code. For purposes of this section, construction and demolition debris means building materials and  
22 solid waste generated by construction and demolition activities, including but not limited to: fully-  
23 cured asphalt, concrete, brick, rock, soil, lumber, gypsum wallboard, cardboard and other associated  
24 packaging, roofing material, ceramic tile, carpeting, fixtures, plastic pipe, metals, tree stumps, and  
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1 other vegetative matter resulting from land clearing and landscaping for construction, deconstruction,  
2 demolition or land developments. Construction and demolition debris does not include any refuse  
3 regulated under the 1932 Refuse Collection and Disposal Initiative Ordinance or sections of the  
4 Municipal Code that implement the provisions of that ordinance. Hazardous waste, as defined in  
5 California Health and Safety Code section 25100 et seq., as amended, is not construction and  
6 demolition debris for purposes of this section.

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

9 SEC. 288.1. PENALTY. Any person, firm or corporation violating any of the provisions of  
10 Section 288 of this Article shall be guilty of an infraction and, upon conviction thereof, shall be  
11 punished for the first offense by a fine of not less than \$80 nor more than \$100; and for a second  
12 offense by a fine of not less than \$150 nor more than \$200; and for each additional offense by a fine of  
13 not less than \$250 nor more than \$500. In the alternative, any person, firm or corporation violating  
14 any of the provisions of Section 288 of this Article may be assessed an administrative penalty not to  
15 exceed \$300 for each violation. Such penalty shall be assessed, enforced and collected in accordance  
16 with Section 39-1 of the Police Code.

17 Section 5. The San Francisco Environment Code is hereby amended by adding  
18 Chapter 13, which shall be entitled Construction and Demolition Debris Recovery Ordinance,  
19 and to read as follows:

20 SEC. 1300. FINDINGS. The Board of Supervisors finds and declares the following:

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

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1 B. The State of California through its California Integrated Waste Management Act of  
2 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the state divert 50% of  
3 discarded materials (base year 1990) from landfill. Every city and county in California, including the  
4 City, could face fines up to \$10,000 a day for not meeting the above mandated goal.

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

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

11 E. The Green Building Ordinance, Chapter 7 of the Environment Code, establishes  
12 LEED™ Silver level as the standard for all City building projects and includes the goal of diverting  
13 75% of construction and demolition debris from landfill for each project.

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

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

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

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

7 J. In keeping with the Precautionary Principle, codified in Chapter 1 of the Environment  
8 Code, this Chapter requires proper handling of construction debris as a deterrent to unsafe and  
9 wasteful practices. In this way, the City will create and maintain a healthy, viable environment for  
10 current and future generations, and will become a model of sustainability.

11 SEC. 1301. DEFINITIONS. For the purposes of this Chapter, the following words have the  
12 following meanings:

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

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

20 (c) "Construction and Demolition Debris" shall mean building materials and solid waste  
21 generated from construction and demolition activities, including, but not limited to, fully-cured asphalt,  
22 concrete, brick, rock, soil, lumber, gypsum wallboard, cardboard and other associated packaging,  
23 roofing material, ceramic tile, carpeting, fixtures, plastic pipe, metals, tree stumps, and other  
24 vegetative matter resulting from land clearing and landscaping for construction, deconstruction,

1 demolition or land developments. This term does not include refuse regulated under the 1932 Refuse  
2 Collection and Disposal Initiative Ordinance or sections of the Municipal Code that implement the  
3 provisions of that ordinance. Hazardous waste, as defined in California Health and Safety Code  
4 section 25100 et seq., as amended, is not Construction and Demolition Debris for purposes of this  
5 Chapter.

6 (d) "Department" shall mean the San Francisco Department of the Environment.

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

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

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

14 (h) "Person" shall mean a natural person, a firm, joint stock company, business concern,  
15 association, partnership or corporation, its or their successors or assigns, or agents. A governmental  
16 entity may also be a "person" for purposes of obtaining a registration for a facility.

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

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

22 (k) "Transporter" shall mean a person that transports construction and demolition debris.  
23 "Transporter" does not include a person that owns and operates only vehicles with no more than 2  
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1 axles and no more than 2 tires per axle. "Transporter" does not include a permittee transporting  
2 Construction and Demolition debris from the permitted site.

3 (l) "Vehicle" shall mean a vehicle used to transport construction and demolition debris,  
4 other than a vehicle with not more than two axles and not more than two tires per axle. A vehicle with  
5 not more than two axles and not more than two tires per axle is not subject to this Chapter.

6 SEC. 1302. APPLICABILITY OF CHAPTER.

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

9 (b) Except as provided in this Chapter, no person, other than the permittee, may transport  
10 and no person may process construction and demolition debris from a project subject to Section 106.1  
11 of the Building Code unless that person has a registration from the Department as provided in this  
12 Chapter.

13 SEC. 1303. REQUIREMENTS FOR PERMITTEES.

14 All construction and demolition debris generated in the course of a project subject to a permit pursuant  
15 to section 106.1 of the Building Code, if transported, must be transported off the site by a registered  
16 transporter, unless transported by the permittee, and must be handled, processed and otherwise  
17 managed for recovery at a registered facility.

18 SEC. 1304. REGISTRATION REQUIREMENT FOR FACILITIES AND TRANSPORTERS.

19 (a) A person subject to Section 1302 shall apply for a registration by filing with the Director  
20 an application form prescribed by the Director, which contains the following information, and the  
21 information set forth in Section 1305.

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

3 (ii) For transporters of construction and demolition debris: the name and address of the  
4 person who owns the vehicle(s); a statement that the vehicle(s) and each operator has all permits,  
5 authorizations or licenses and any insurance required by any local, state or federal agency to operate  
6 the vehicle(s). An owner of a vehicle may obtain a single registration covering all vehicles and all  
7 debris boxes or other containers, provided that each vehicle is clearly and prominently marked as  
8 belonging to that owner (with the name of the business entity). The owner of the vehicle(s) is  
9 responsible for compliance by any operator of a vehicle owned by that person being used to transport  
10 construction and demolition debris.

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

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

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

17 (e) If the Director determines that the application form is complete, the Director shall issue  
18 a registration containing the following minimum information: a reference to the general terms and  
19 conditions specified in Section 1306; the name and address of the registrant, the name and address of  
20 the facility (if applicable); the effective and expiration date of the registration; and a registration  
21 number assigned by the Director.

22 SEC. 1305. REGISTRATION CRITERIA. The owner of the facility or the transporter shall  
23 include the following information in the application form described in Section 1304.

24 (a) For Facilities.

1       (i) The facility meets an overall minimum recovery rate of 65 percent for construction and  
2 demolition debris (based on the most recent month), which may include materials used as ADC or bio-  
3 mass conversion, provided that the facility can demonstrate that the use as ADC or bio-mass  
4 conversion is the highest and best use. The recovery rate will be determined by the total quantity of  
5 materials delivered to established recycling and composting markets divided by the total quantity  
6 received by the registered facility. Highest and best use for ADC does not include ADC which is  
7 generated by intentional crushing or grinding of construction and demolition debris that has not been  
8 processed to remove wood, metal, wallboard, glass and other materials for which markets or uses other  
9 than ADC are available. Consistent with this section, the Director shall adopt regulations pursuant to  
10 Section 1312 to specify how the recovery rate will be calculated and when ADC or bio-mass conversion  
11 is considered to be the highest and best use of a particular material.

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

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

16       (iv) The facility agrees to submit annual reports to the Director on forms and by dates  
17 specified by the Director pursuant to Section 1312. The reports must include, with respect to San  
18 Francisco materials only, the following information: the total quantity of material received at the  
19 registered facility, the breakdown of all of the specific recycled commodities, the end use of the  
20 recycled commodity (reuse, recycling, composting, ADC, bio-mass conversion) and the recovery ratio  
21 for the report period by processing area.

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

3 (vi) The facility agrees to comply with the provisions of this Chapter; provide documentation  
4 to support the information in the application form, including the Section 1304(b) certification, to the  
5 Director upon request; and allow the Director to make inspections of the facility in order to verify the  
6 information in the application form and required reports.

7 (b) For Transporters.

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

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

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

15 (iv) The owner of the vehicle agrees to comply with the provisions of this Chapter; provide  
16 documentation to support the information in the application form, including the Section 1304(b)  
17 certification, to the Director upon request; and allow the Director to make inspections of vehicles in  
18 order to verify the information in the application form and reports.

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

23 SEC. 1306. GENERAL TERMS AND CONDITIONS FOR REGISTERED FACILITIES  
24 TRANSPORTERS. The following terms and conditions shall apply to each registration:

- 1       (a) A registration is valid for two years.
- 2       (b) Each registrant must submit a registration renewal on a form specified by the Director  
3 thirty (30) days prior to the expiration date of the registration. Except as provided in this subsection, if  
4 a registrant submits a properly completed renewal form thirty (30) days prior to the expiration date,  
5 the current registration will continue in full force and effect until the Director issues a registration or  
6 all administrative and judicial appeals have been exhausted or the time for appeal has expired. A  
7 person may not renew a registration during a period of suspension, either by filing a renewal form or  
8 by operation of law. At the end of the suspension period, the person may apply for a registration.
- 9       (c) All records required to be kept by registered facilities and transporters shall be kept for  
10 at least three (3) years.
- 11       (d) A registration is not transferable.
- 12       (e) A registration does not take the place of any license required by state, federal or local  
13 law nor does compliance with the requirements of this Chapter relieve any party of compliance with  
14 any other applicable State, federal or local law.
- 15       (f) A copy of proof of registration shall be prominently displayed at any registered facility  
16 and kept in a registered vehicle.
- 17       (g) Within thirty (30) days of a change of any of the information required on a registration  
18 or renewal form, a registrant must file an amendment to the registration on a form prescribed by the  
19 Director.
- 20       (h) Each registrant must notify the Director, in writing, within twenty-four (24) hours of the  
21 time a permit, authorization or license required by any local, state or federal agency to operate the  
22 facility or vehicle terminates, expires or is revoked or suspended.

23       SEC. 1307. TRADE SECRETS.

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1 (a) If a person believes that any information required to be reported or disclosed by this  
2 Chapter contains a trade secret, the person shall provide the information to the Director and shall  
3 notify the Director in writing of that belief, detailing the basis of the belief as to each specific item of  
4 information the person claims is a trade secret. For purposes of this Chapter, "trade secret" shall have  
5 the same meaning as it has under state law. The person designating information as a trade secret shall  
6 specify a name and street address for notification purposes and shall be responsible for updating such  
7 information. The Director shall not disclose any properly substantiated trade secret which is so  
8 designated by a person except as required by this Chapter or as otherwise required by law.

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

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

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

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

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

10 SEC. 1308. RESERVED.

11 SEC. 1309. LIST OF REGISTERED FACILITIES AND REGISTERED TRANSPORTERS.

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

16 SEC. 1310. ENFORCEMENT

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

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

3 (c) Suspension of registration. Whenever the Director finds that information in a person's  
4 application, registration or any required report is inaccurate, a person does not have the appropriate  
5 permits, authorizations or licenses to operate the registered facility or vehicle, or that a person is  
6 violating or has violated this Chapter or the terms of a registration, the Director may issue an order  
7 suspending the registration as provided in this Section. The Director's order to suspend must include a  
8 written statement of the reasons for the suspension and must provide the person with an opportunity to  
9 respond in writing before the order becomes effective. The order shall provide the effective date and  
10 end date of the suspension. The suspension period will be no more than: one (1) month for the first  
11 violation; six (6) months for the second; and twelve months (12) for any subsequent violations. The  
12 Director's decision shall be final.

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

18 Within ninety (90) days of the decision of the Board of Appeals, a person may file with a Court  
19 of competent jurisdiction a petition for writ of mandate to review the Board of Appeals decision,  
20 provided that the responsible party has exhausted its administrative remedies. Any person who fails to  
21 file a petition within this 90-day period may not challenge a decision or final order of the Board of  
22 Appeals in any judicial proceedings brought to enforce the decision or order or for other remedies.  
23 Section 1094.5 of the California Code of Civil Procedure shall govern any proceedings conducted  
24 pursuant to this Section. In all proceedings pursuant to this Section, the Court shall affirm the Board

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1 of Appeal's decision if it is based upon substantial evidence in the whole record. This Section does not  
2 prohibit the Court from granting any appropriate relief within its jurisdiction.

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

5 (i) Civil Penalties. Any person who violates this Chapter shall be civilly liable to  
6 the City and County of San Francisco for a civil penalty in an amount not to exceed one-thousand  
7 dollars (\$1,000) for each day in which the violation occurs. Each day that such violation continues  
8 shall constitute a separate violation. For a second violation of the Chapter, the civil penalty will be not  
9 less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) for each day  
10 in which the violation occurs. In determining civil penalties, the court shall consider the extent of harm  
11 caused by the violation(s), the nature and persistence of the violation(s), the length of time over which  
12 the violation(s) occur(s), the frequency of past violations, any action taken to mitigate the violation,  
13 and the financial burden to the violator.

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

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



1           SEC. 1311. REPORTS . Within two (2) years of the effective date of this Chapter, the  
2 Director shall report to the Commission on the Environment on the results of this ordinance, including  
3 the quantity recovered from landfill, and any recommended amendments of the ordinance.

4           SEC. 1312. FORMS, REGULATIONS AND GUIDELINES.

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

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

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

14           SEC. 1313. COST OF IMPLEMENTATION.

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

18           SEC. 1314. ACTIVITIES ON CITY PROPERTY.

19           All departments, boards, commissions and agencies of the City and County of San Francisco  
20 that authorize construction or improvements on land under their jurisdiction under circumstances  
21 where no permit needs to be obtained pursuant to the San Francisco Building Code shall adopt rules  
22 and regulations to ensure that construction and demolition debris is recovered and procedures as set  
23 forth in this Chapter and Health Code section 288 are followed. The Directors of the Department of the

1 Environment and Building Inspection shall assist the departments, boards, commissions and agencies  
2 to ensure that these requirements are met.

3 SEC. 1315. DISCLAIMER OF LIABILITY. The degree of protection required by this Chapter  
4 is considered to be reasonable for regulatory purposes. The standards set forth in this Chapter are  
5 minimal standards and do not imply that compliance will ensure proper handling of construction and  
6 demolition debris. This Chapter shall not create liability on the part of the City, or any of its officers or  
7 employees for any damages that result from reliance on this Article or any administrative decision  
8 lawfully made in accordance with this Chapter. All persons handling construction and demolition  
9 debris within the City should be and are advised to conduct their own inquiry as to the handling of such  
10 materials. In undertaking the implementation of this Chapter, the City is assuming an undertaking only  
11 to promote the general welfare. It is not assuming, nor is it imposing on its officer and employees, an  
12 obligation for breach of which it is liable in money damages to any person who claims that such breach  
13 proximately caused injury.

14 SEC. 1316. DUTIES ARE DISCRETIONARY. Subject to the limitations of due process and  
15 applicable requirements of State or federal laws, and notwithstanding any other provisions of this Code  
16 whenever the words “shall” or “must” are used in establishing a responsibility or duty of the City, its  
17 elected or appointed officers, employees or agents, it is the legislative intent that such words establish a  
18 discretionary responsibility or duty requiring the exercise of judgement and discretion.

19 SEC. 1317. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this  
20 Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent  
21 jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The  
22 Board of Supervisors hereby declares that it would have passed this Chapter and each and every  
23 section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard  
24 to whether any portion of this Chapter would be subsequently declared invalid or unconstitutional.

1           Section 6. This ordinance shall take effect 120 (one hundred and twenty) days after  
2 adoption by the Board of Supervisors.

3           Section 7. If any section, subsection, sentence, clause, or phrase of this ordinance is  
4 for any reason held to be invalid or unconstitutional by a decision of any court of competent  
5 jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter.  
6 The Board of Supervisors hereby declares that it would have passed this ordinance and each  
7 and every section, subsection, sentence, clause, or phrase not declared invalid or  
8 unconstitutional without regard to whether any portion of this ordinance would be  
9 subsequently declared invalid or unconstitutional.

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

By: \_\_\_\_\_  
Rona H. Sandler  
Deputy City Attorney