

1 [Hunters Point Shipyard – Health Code]

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3 **Ordinance adding Article 31 to the Health Code and amending sections 659, 1120.1 and**  
4 **1227 of the Health Code to establish special restrictions for activities on the Hunters**  
5 **Point Shipyard to address potential residual contamination and to authorize the**  
6 **Department of Public Health to implement these restrictions, and impose penalties, ~~and~~**  
7 **charge fees to defray the costs of implementation; and making environmental findings.**

8 Note: Additions are *single-underline italics Times New Roman*;  
9 deletions are *strikethrough italics Times New Roman*.  
10 Board amendment additions are double underlined.  
11 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. Findings.

14 A. In conjunction with Ordinances \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ on file  
15 with the Clerk of the Board of Supervisors in File Nos. \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_,  
16 this ordinance enacts a new program to protect human health and safety and the environment  
17 at the former Hunters Point Shipyard during and after development and to facilitate  
18 redevelopment as envisioned in the Hunters Point Shipyard Redevelopment Plan through  
19 enacting additional prerequisites to obtaining certain City permits.

20 B. In accordance with the actions contemplated herein, this Board adopted  
21 Resolution No. \_\_\_\_\_, concerning findings pursuant to the California Environmental  
22 Quality Act (California Public Resources Code sections 21000 et seq.). Said Resolution is on  
23 file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated  
24 herein by reference.

25 Section 2. The San Francisco Health Code is hereby amended by adding Article 31, to  
read as follows:

1           Sec. 3100. Hunters Point Shipyard.

2           Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and  
3 declares as follows:

4           A. This ordinance is designed to protect human health and safety and the environment at  
5 the former Hunters Point Shipyard during and after development and to facilitate redevelopment as  
6 envisioned in the Hunters Point Shipyard Redevelopment Plan, which the Board of Supervisors adopted  
7 in 1997, and its Environmental Impact Report.

8           B. The United States designated Hunters Point Shipyard as a U.S. Naval Shipyard in 1945.  
9 The United States Environmental Protection Agency (EPA) placed the Hunters Point Shipyard on the  
10 National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and  
11 Liability Act (CERCLA) in 1989. The U.S. Navy divided the site into six parcels designated Parcels A-  
12 F for purposes of remediation.

13           C. The U.S. Navy issued a CERCLA Record of Decision (ROD) for Parcel A which was  
14 approved by the EPA, the California Department of Toxic Substances Control (DTSC), and the San  
15 Francisco Bay Region Regional Water Quality Control Board (RWQCB) in November 1995. The ROD  
16 concluded that "no action" was needed to cleanup Parcel A. Effective April 5, 1999, EPA removed  
17 Parcel A from the National Priorities List after EPA and the State of California found that all  
18 appropriate responses under CERCLA had been implemented, that no further cleanup is appropriate  
19 for Parcel A and that the remedial actions conducted on Parcel A remain protective of public health,  
20 welfare, and the environment.

21           D. On September 1, 2004, the Navy issued a draft final Finding of Suitability to Transfer  
22 (FOST) for Parcel A. On September 30<sup>th</sup> and October 6<sup>th</sup> and 7<sup>th</sup> 2004, respectively, the EPA, DTSC  
23 and the RWQCB concurred with the Navy's FOST. The Navy signed the FOST on October 14, 2004.  
24 The FOST for Parcel A contains requirements for certain notices, restrictions and covenants to be  
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1 included in the deed for Parcel A. These notices, restrictions and covenants are also referred to as  
2 "institutional controls" and are binding on all successive owners of any portion of Parcel A.

3 E. On December 3, 2004, the Navy transferred portions of Parcel A to the San Francisco  
4 Redevelopment Agency.

5 Sec. 3101. Definitions.

6 In addition to the general definitions applicable to this Code, whenever used in this Article, the  
7 following terms shall have the meanings set forth below:

8 (a) "Applicant" means a person applying for any of the following authorizations for  
9 subsurface activities on portions of the Hunters Point Shipyard subject to this Ordinance: (i) any  
10 building or grading permit that involves the disturbance of at least 50 cubic yards (38.23m<sup>3</sup>) of soil; (ii)  
11 any permit pursuant to the Public Works Code that involves the disturbance of at least 50 cubic yards  
12 (38.23m<sup>3</sup>) of soil; (iii) any improvement plan pursuant to Division 3 of the Subdivision Code that  
13 involves the disturbance of at least 50 cubic yards (38.23m<sup>3</sup>) of soil; (iv) any permit to operate or  
14 approval to close an underground tank pursuant to Sections 1120 and 1120.1 of the Health Code that  
15 involves the disturbance of at least 50 cubic yards (38.23m<sup>3</sup>) of soil; or (v) any well construction or  
16 destruction permit pursuant to section 659 of the Health Code. An Applicant does not include a person  
17 applying for a permit for the sole purpose of conducting environmental characterization.

18 (b) "Director" means the Director of the San Francisco Department of Public Health or the  
19 Director's designee.

20 (c) "GIS" is a geographic information system for the Hunters Point Shipyard. The GIS is a  
21 computer-based system containing site-specific environmental information.

22 (d) "Improvement Plan" means an improvement plan as required under the Subdivision  
23 Map Act, California Government Code Sections 66410 et seq.

24 (e) "Parcel A" means that parcel or parcels of land of the Hunters Point Shipyard as  
25 indicated on the Map filed with the Recorder of the City and County of San Francisco on December 3,

1 2004 situated in the City and County of San Francisco, that was transferred to the San Francisco  
2 Redevelopment Agency by the U.S. Navy.

3 (f) "Prescribed Subsurface Activity Area" means the specific location and horizontal and  
4 vertical extent of the proposed disturbance, excavation, grading or other subsurface activity defined  
5 using coordinates compatible with the GIS to the extent feasible.

6 Sec. 3102. Applicability of Article.

7 (a) Applicants must comply with this Article. The Department of Public Works (for any permit  
8 or improvement plan subject to this Article), the Department of Building Inspections (for building and  
9 grading permits) and the Department of Health (for underground tanks permits and approvals and  
10 water well permits) shall inform the Director whenever a permit or improvement plan application is  
11 submitted for Hunters Point Shipyard and shall refer Applicants to the Director. The Director shall  
12 determine the applicability of this Article to the permit application or improvement plan and shall  
13 implement and enforce the provisions of this Article. If the Director determines that a permit or  
14 improvement plan is subject to the provisions of this Article, the permit or improvement application  
15 shall not be deemed complete until the Applicant has complied with the requirements of this Article or  
16 shall be conditioned upon compliance with this Article as specified herein.

17 (b) Any person that obtains environmental sampling data shall submit that data to the  
18 Director in a form acceptable to the Director.

19 (c) The following sections of this Article apply:

20 All Parcels Section 3100 et seq.

21 Parcel A Section 3120 et seq.

22 Parcel B Section 3130 et seq.

23 Parcel C Section 3140 et seq.

24 Parcel D Section 3150 et seq.

25 Parcel E Section 3160 et seq.

1           Parcel F Section 3170 et seq.

2           (d) Prior to applying for a permit or improvement plan any person that desires to comply  
3 with this ordinance may enter into a voluntary agreement with the Director. The voluntary agreement  
4 shall be signed as to form by the City Attorney and shall require the person to comply with the  
5 substantive requirements of this Article and any regulations adopted by the Director; require payment  
6 of fees as provided in Section 3108; and provide for Director notification to the relevant department  
7 that the person has complied with this Article.

8           (e) Compliance with this Article does not relieve any person of compliance with any  
9 applicable federal, state, regional or local law, and does not take the place of compliance with any  
10 requirement of any regulatory agency that has jurisdiction to enforce any legal requirement that this  
11 Article is intended to address.

12           Sec. 3103. Reports by Director. The Director shall monitor compliance with this Article and  
13 provide an annual summary of compliance with this Article to the Board of Supervisors.

14           Sec. 3104. General Welfare; NonAssumption of Liability. The degree of protection required  
15 by this Article is considered to be reasonable for regulatory purposes. This Article shall not create  
16 liability on the part of the City, or any of its officers or employees for any damages that result from  
17 reliance on this Article or any administrative decision lawfully made in accordance with this Article.  
18 All persons handling hazardous materials within the City should be and are advised to determine to  
19 their own satisfaction the level of protection desirable to ensure no unauthorized release of hazardous  
20 materials.

21           In undertaking to require Applicants to comply with this Article, the City and County of San  
22 Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it  
23 imposing on itself or on its officers and employees, any obligation for breach of which it is liable for  
24 money damages to any person who claims that such breach proximately caused injury.

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1 All inspections specified or authorized in this Article shall be conducted at the discretion of the  
2 City and nothing in this Article shall be construed as requiring the City to conduct any such inspection  
3 nor shall any actual inspection made imply a duty to conduct any other inspection.

4 Sec. 3105. Construction on City Property.

5 All departments, boards, commissions and agencies of the City and County of San Francisco  
6 that authorize construction or improvements on land under their jurisdiction under circumstances  
7 where no building, grading, street use or other permit or approval is required pursuant to the San  
8 Francisco Municipal Codes shall adopt rules and regulations to insure that the procedures set forth in  
9 this Article are followed. The San Francisco Redevelopment Agency and the departments of Public  
10 Health, Public Works, and Building Inspection shall assist other departments, boards, commissions and  
11 agencies to ensure that these requirements are met.

12 Sec. 3106. Former Landfill Disposal Areas. Upon receipt of a site evaluation report from an  
13 Applicant, the Director, in consultation with the Local Enforcement Agency and the California  
14 Integrated Waste Management Board, shall determine whether the Prescribed Subsurface Activity Area  
15 is subject to the provisions of the California Integrated Waste Management Act (Cal. Public Resources  
16 Code §40000 et seq.) as amended, relating to development on or near a former landfill disposal site.

17 (a) For any Prescribed Subsurface Activity Area or portion thereof that is subject to such  
18 provisions, the Director shall require the Local Enforcement Agency to approve proposed land uses  
19 and determine any necessary protective measures or requirements to the extent necessary to comply  
20 with California Code of Regulations, Title 27, Chapter 3, Subchapter 4, Article 6 (Section 20917 et  
21 seq.) and Subchapter 5 (Section 20950 et seq.), as amended.

22 (b) For any Prescribed Subsurface Activity Area or portion thereof that is located within  
23 1,000 feet of a former landfill disposal site, but which is not subject to the above-referenced provisions  
24 of the California Integrated Waste Management Act, the Director shall review any proposed structures  
25 to ensure that the construction or use of the structure will not pose a threat to public health and safety

1 or the environment. In making this determination, the Director shall consider the potential for adverse  
2 impacts on public health and safety and the environment, taking into account the following: the  
3 amount, nature and age of solid waste in the landfill disposal area; current and projected gas  
4 generation; effectiveness of existing controls; proximity of the proposed land uses to landfill disposal  
5 area; and other relevant geographic or geologic features. Based on these factors, the Director shall  
6 determine whether the structure must be designed and constructed in accordance with the following  
7 measures or requirements (or other design providing an equivalent degree of protection against gas  
8 migration into the structure): installation of a geomembrane or equivalent system with low  
9 permeability to landfill gas between the concrete floor slab of the structure and subgrade; installation  
10 of a permeable layer of open graded material of clean aggregate with a minimum thickness of 12  
11 inches between the geomembrane and the subgrade or slab; installation of a geotextile filter to prevent  
12 the introduction of fines into the permeable layer; installation of perforated venting pipes, designed to  
13 operate without clogging, within the permeable layer; construction of a venting pipe with the ability to  
14 be connected to an induced draft exhaust system; installation of automatic methane gas sensors within  
15 the permeable gas layer, and inside the structure to trigger an audible alarm when methane gas  
16 concentrations are detected; and/or appropriate periodic methane gas monitoring, including  
17 monitoring inside structures, with reporting requirements and a contingency and mitigation plan.

18 For purposes of this section, "structures" shall include: buildings, subsurface vaults, utilities or  
19 any other buildings or areas where potential gas buildup would be of concern.

20 (c) If the Director determines under subsections (a) or (b) of this Section that protective  
21 measures or requirements are necessary, the Director shall inform the relevant department in writing  
22 that such measures or requirements must become conditions of the permit or improvement plan.

23 Sec. 3107. Rules and Regulations.

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1 (a) Pursuant to the procedures specified in Section 1170 of the Health Code, the Director  
2 may adopt rules, regulations and guidelines, including maps, necessary or appropriate to implement  
3 this Article.

4 (b) Pursuant to section 3107(a), the Director may subject additional geographic areas to  
5 the requirements of this ordinance where those additional areas exhibit the same underlying conditions  
6 and will be subject to the same restrictions as areas already subject to this ordinance.

7 (c) Regulations promulgated by the Health Commission shall be maintained in the Office of  
8 the Clerk of the Board of Supervisors.

9 (d) The Director shall maintain and update the GIS as site data is received pursuant to this  
10 Article and provide public access to the GIS.

11 (e) The Director shall maintain for public distribution a map that reflects the boundaries of  
12 each Parcel of the Hunters Point Naval Shipyard. The map shall include former landfill disposal sites  
13 and a line representing the 1,000 foot perimeter from those sites. For Parcel A, the Director shall  
14 adopt a map showing historic fill areas and utility lines existing prior to the date of transfer of Parcel A  
15 from Navy ownership.

16 Sec. 3108. Reserved. Fees.

17 ~~—————The Director is authorized to charge the following fees to defray the costs of~~  
18 ~~document processing and review, consultation with Applicants, and administration of this~~  
19 ~~Article: for fiscal year 2004-2005: (1) an initial fee of \$511.00 upon submission of the site~~  
20 ~~evaluation report; and (2) an additional fee of \$137.00 per hour for document processing and~~  
21 ~~review and applicant consultation exceeding three hours or portion thereof payable on an~~  
22 ~~ongoing basis; for fiscal year 2005-2006: (1) an initial fee of \$514.00; and (2) an additional fee~~  
23 ~~of \$145.00 per hour exceeding three hours or portion thereof; for fiscal year 2006-2007: (1) an~~  
24 ~~initial fee of \$539.00; and (2) an additional fee of \$153.00 per hour exceeding three hours or~~  
25 ~~portion thereof. Beginning with fiscal year 2007-2008, no later than April 15 of each year, the~~

1 Controller shall adjust the fees provided in this Article to reflect changes in the relevant  
2 Consumer Price Index, without further action by the Board of Supervisors. In adjusting the  
3 fees, the Controller may round these fees up or down to the nearest dollar, half-dollar or  
4 quarter-dollar. The Director shall perform an annual review of the fees scheduled to be  
5 assessed for the following fiscal year and shall file a report with the Controller no later than  
6 May 1st of each year, proposing, if necessary, an adjustment to the fees to ensure that costs  
7 are fully recovered and that fees do not produce significantly more revenue than required to  
8 cover the costs of operating the program. The Controller shall adjust fees when necessary in  
9 either case.

10 Sec. 3109. Violations.

11 In addition to any other provisions of this Article, fraud, willful misrepresentation, or any  
12 willfully inaccurate or false statement in any report required by this Article shall constitute a violation  
13 of this Article.

14 Sec. 3110. Enforcement Actions. The Director shall have authority to administer and enforce  
15 all provisions of this Article and may enforce the provisions of this Article by any lawful means  
16 available for such purpose, including taking any action authorized pursuant to Article 21, Sections  
17 1133(a) - (d), (f), and (h) – (i) of the Health Code.

18 Sec. 3111. Reserved.

19 Sec. 3112. Remedies Not Exclusive.

20 Remedies under this Article are in addition to and do not supersede or limit any and all other  
21 remedies, civil or criminal.

22 Sec. 3120. Parcel A Institutional Controls. An Applicant must comply with institutional  
23 controls included in the deed conveying ownership of Parcel A from the United States Navy to the San  
24 Francisco Redevelopment Agency pursuant to the final FOST for Parcel A to the extent such  
25 institutional controls apply to activities authorized by a permit or improvement plan subject to this

1 Article. The Director will advise the relevant department of the specific requirement pursuant to the  
2 deed; require compliance with the institutional controls as a condition of the permit or improvement  
3 plan; and coordinate with the relevant department to monitor and enforce compliance with such  
4 institutional controls.

5 Sec. 3121. Parcel A Site Evaluation and Site Mitigation.

6 (a) An Applicant must submit the following, satisfactory to the Director, as further specified  
7 in regulations adopted by the Director: (i) site evaluation report; (ii) dust control plan; (iii) disposal  
8 plan (if applicable); (iv) health and safety plan; (v) stormwater and erosion control plan; and (vi) a  
9 determination of whether additional information is necessary to adequately characterize the Prescribed  
10 Subsurface Activity Area. The plans required by (ii)-(v) must be specific to the activities to be  
11 conducted under a permit or improvement plan.

12 The Director shall review the site evaluation report and advise the Applicant on whether  
13 additional information is necessary to adequately characterize the Prescribed Subsurface Activity Area  
14 as follows:

15 (1) Tier I Areas. If a portion of a Prescribed Subsurface Activity Area has been used  
16 continuously only for residential purposes or is not located on historic fill (as defined in a map  
17 maintained by the Director pursuant to Section 3107(e)) or is not or has not been underlain by utility  
18 lines (as defined on a map maintained by the Director pursuant to Section 3107(e)), and, in any case,  
19 there is no evidence that hazardous substances are present, no additional information or sampling will  
20 be necessary with respect to such portions of the Prescribed Subsurface Activity Area. The Director  
21 shall provide the Applicant and the relevant department with written notification that the Applicant has  
22 complied with the requirements of this Article as to such portions, and must comply with the plans  
23 listed in subsection (a)(ii)-(v) and all laws applicable to soil removal and off-site disposal.

24 (2) Tier II Areas. In portions of Prescribed Subsurface Activity Areas other than those  
25 described as Tier I, if the Director determines that such portions are adequately characterized, the

1 Director shall provide the Applicant and the relevant department with written notification that the  
2 Applicant has complied with the requirements of this Article as to such portions, and must comply with  
3 the plans listed in subsection (a)(ii) –(v) and all laws applicable to soil removal and off-site disposal.  
4 If the Director determines that additional information is necessary to adequately characterize portions  
5 of the Prescribed Subsurface Activity Area, the Applicant must submit a proposed scope of work for a  
6 supplemental site evaluation in accordance with regulations adopted by the Director. Upon approval  
7 of the scope of work by the Director, the Applicant shall implement the scope of work and prepare a  
8 supplemental site evaluation report summarizing the new information.

9 (A) If the supplemental site evaluation report shows that there is no existing  
10 contamination that exceeds the screening criteria established by the Director by regulation, the  
11 Director shall provide the Applicant and the relevant department with written notification that the  
12 Applicant has complied with the requirements of this Article, and must comply with the plans listed in  
13 subsection (a)(ii)-(v) and all laws applicable to soil removal and off-site disposal.

14 (B) If the supplemental site evaluation report shows that there is existing  
15 contamination that exceeds the screening criteria established by the Director and the Applicant wishes  
16 to retain that soil in the Prescribed Subsurface Activity Area or elsewhere within Parcel A, the  
17 Applicant must prepare and submit to the Director a risk evaluation report and a site mitigation plan  
18 demonstrating that the property can still be used for unrestricted residential purposes consistent with  
19 the FOST. The site mitigation plan must include the plans listed in subsection (a)(ii)-(v) and may  
20 include a deed notice, provided that any notice is consistent with use for unrestricted residential  
21 purposes. The Director must review and approve the risk evaluation report and the site mitigation  
22 plan. Upon approval of these documents, the Director shall provide the Applicant and the relevant  
23 department with written notification that the Applicant has complied with the requirements of this  
24 Article, and must comply with the site mitigation plan and all laws applicable to soil removal and off-  
25 site disposal.

1 (b) If the Director finds that the Applicant intends to remove soil from the Prescribed  
2 Subsurface Activity Area and dispose of that soil off-site, then the Director shall find that, as to that  
3 soil, no additional information is necessary and shall provide the Applicant and the relevant  
4 department with written notification that the Applicant has complied with the requirements of this  
5 Article, and must comply with the plans listed in subsection (a)(ii)-(v) and all laws applicable to soil  
6 removal and off-site disposal.

7 (c) Upon completion of the activity authorized by the permit or improvement plan, the  
8 Applicant shall submit a closure report to the Director including: additional information or data  
9 obtained, including information on unanticipated conditions; correcting any information previously  
10 submitted; and certifying implementation of the plans listed in subsection (a)(ii)-(v), any applicable risk  
11 management or site mitigation plan and all laws applicable to soil removal.

12 Sec. 3130. Parcel B [Reserved]

13 Sec. 3140. Parcel C [Reserved]

14 Sec. 3150. Parcel D [Reserved]

15 Sec. 3160. Parcel E [Reserved]

16 Sec. 3170. Parcel F [Reserved]

17 Sec. 3180. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or  
18 phrase of this Article or any part thereof, is for any reason held to be unconstitutional or invalid or  
19 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or  
20 effectiveness of the remaining portions of this Section or any part thereof. The Board of Supervisors  
21 hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence,  
22 clause or phrase thereof irrespective of the fact that any one or more sections, subsections,  
23 subdivisions, paragraphs, sentences, causes or phrases be declared unconstitutional or invalid or  
24 ineffective.

1 Section 3. The San Francisco Health Code is hereby amended by amending section  
2 659, to read as follows:

3 Sec. 659. Use of water wells; permits.

4 (a) It shall be unlawful for any person, firm or corporation to maintain or use any  
5 well for the purpose of drawing therefrom water intended for drinking, industrial or irrigation or  
6 agricultural purposes without first obtaining from the Department of Public Health a permit to  
7 do so; or to use any well after receiving notice from said Department to close or fill it. For well  
8 permits in Hunters Point Shipyard Parcel A, such permit application shall not be deemed complete  
9 until the department receives written notification from the Director that the applicant has complied  
10 with all provisions of Article 31 that are required to be met prior to permit issuance.

11 (b) Whenever it shall appear to the satisfaction of the Department of Public Health  
12 that any well, the water of which is used for domestic purposes, drinking, industrial or irrigation  
13 or agricultural purposes, or has become polluted or contaminated, or in anywise rendered  
14 unsafe for domestic or drinking, industrial, irrigation or agricultural purposes or has become  
15 otherwise prejudicial to health and safety or dangerous to life, said Department of Public  
16 Health shall give to the owner or his agent, lessee, tenant, or other person in charge of such  
17 well, written notice to close and to fill it within a time to be specified in such notice. If such  
18 notice be not complied with, the Department of Public Health shall cause such well to be  
19 closed and filled up at the cost and expense of the owner thereof.

20 (c) Any person, firm or corporation who constructs, reconstructs, repairs, destroys  
21 or converts any water well shall comply with Article 31 and the Water Well Standards of the  
22 State of California, Department of Water Resources and San Francisco County.

23 Section 4. The San Francisco Health Code is hereby amended by amending section  
24 1120.1, to read as follows:

25 Sec. 1120.1. Application for permit.

1 (a) Any person that is required to obtain one or more UST permits shall obtain the  
2 permits by filing application forms required by the Department, paying the required permit fee  
3 and demonstrating compliance with this Article and Article 31 if the permit is for a site located in  
4 Hunters Point Shipyard Parcel A as determined by inspection of the UST by the Department. For  
5 permits in the area of San Francisco subject to the requirements of Article 31, such permit application  
6 shall not be deemed complete until the department receives written notification from the Director that  
7 the applicant has complied with all provisions of Article 31 that are required to be met prior to permit  
8 issuance.

9 (b) Any person required to obtain a UST permit shall submit the information  
10 required by the Department, Article 31 and Chapters 6.7 and 6.75 of the California Health and  
11 Safety Code (commencing with Section 25280) and implementing regulations adopted by the  
12 State Water Resources Control Board and the Health Commission. No permit shall be granted  
13 to the owner or operator of a UST unless the applicant demonstrates compliance with this  
14 Article and its implementing regulations, Article 31 and all applicable provisions of Chapters  
15 6.7 and 6.75 of the California Health and Safety Code (commencing with Section 25280) and  
16 implementing regulations, as the law and regulations may be amended.

17 (c) All modifications, repairs, closures and removals of USTs shall require approval  
18 of the Department, compliance with this Article and its implementing regulations, compliance  
19 with Article 31 if the approval is for a site in Hunters Point Shipyard Parcel A, compliance with  
20 applicable provisions of Chapters 6.7 and 6.75 of the California Health and Safety Code  
21 (commencing with Section 25280) and its implementing regulations, and payment of  
22 applicable fees. Any person who performs unauthorized modifications, repairs, removals or  
23 closures, or fails to schedule a site inspection with the Department prior to performing such  
24 work shall be assessed additional fees and a site investigation fee, if a site investigation is  
25 required, as a penalty. The amount of the additional fees and site investigation fee is specified

1 in Section 1176. A person assessed such fees may appeal the amount of the fee levied by  
2 requesting a Director's hearing pursuant to Section 1137.

3 (d) No permit may be granted pursuant to this Article until the Department has  
4 inspected the UST and unless the applicant has corrected any Code violations cited by the  
5 Department; the applicant has furnished all requested information and paid the required  
6 permit fees; and the applicant demonstrates to the satisfaction of the Director of Health, by the  
7 submission of appropriate plans and other required information, that the design and  
8 construction of the UST meets all applicable City, State and federal laws and regulatory  
9 requirements.

10 (e) Each permit shall include requirements that the person reimburse the City for  
11 extraordinary costs, in addition to applicable permit fees, for inspection and monitoring,  
12 administration, incidental expenses and cleanup and remediation costs resulting from  
13 releases of hazardous substances or failure by the permittee to handle hazardous substances  
14 in accordance with the requirements of this Article. Permits shall not be renewed unless all  
15 such costs have been paid to the City.

16 Section 5. The San Francisco Health Code is amended by amending section 1227 to  
17 read as follows:

18 Sec. 1227. Known hazardous waste site; Hunters Point Shipyard Parcel A.

19 (a) If the soil sampling and analysis report or site history indicates that the property  
20 is listed on the National Priorities List or the list of California Hazardous Substances Account  
21 Act release sites, the applicant shall provide to the Director certification or verification from the  
22 appropriate federal or State agency that any site mitigation required by the federal or State  
23 agency has been completed and complete the certification procedure set forth in Section  
24 1229. Certification by a competent State or federal agency that mitigation measures have  
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1    been properly completed shall constitute a conclusive determination and shall be binding  
2    upon the Director.

3           (b) Applicants' activities on Parcel A of the Hunters Point Shipyard, as defined in Article  
4    31, are governed by Article 31 of the Health Code and not by this Article.

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

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

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