

ATTACHMENT F

3333 California Street

San Francisco Environment Code

Chapter 14: Construction and Demolition Debris Recover Ordinance

Chapter 19: Mandatory Recycling and Composting Ordinance

San Francisco Health Code

Section 288 Construction and Demolition Debris

CHAPTER 14: CONSTRUCTION AND DEMOLITION DEBRIS RECOVERY ORDINANCE*

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***Editor's Note:**

Ordinance 27-06, File No. 051142, Approved February 16, 2006, from which Chapter 14 of this Code derives, shall take effect on July 1, 2006.

SEC. 1400. FINDINGS.

The Board of Supervisors finds and declares the following:

- A. People who live in, work in or visit San Francisco generate 1.8 million tons of solid waste annually with more than half of these materials recovered through waste prevention, recycling and composting.
- B. The State of California through its California Integrated Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the state divert 50% of discarded materials (base year 1990) from landfill. Every city and county in California, including the City, could face fines up to \$10,000 a day for not meeting the above mandated goal.
- C. The Source Reduction and Recycling Element (SRRE) for San Francisco adopted by the Board of Supervisors in 1992, recognized the importance of recovering wood, metals, and inerts from construction and demolition activities in order to meet the state mandated waste reduction goal.
- D. The Board of Supervisors adopted Resolution No. 679-02 setting a goal of 75% diversion from landfill by 2010 and promoting the highest and best use of recovered materials and authorizing the Commission on the Environment to adopt a zero waste goal, which it set as 2020.
- E. The Green Building Ordinance, Chapter 7 of the Environment Code, establishes LEED™ Silver level as the standard for all City building projects, which can include the goal of diverting 75% of construction and demolition debris from landfill for each project.
- F. There are facilities both within the City and in nearby surrounding areas that can effectively reuse, recycle or otherwise recover the constituent elements of the materials generated by construction and demolition activity and thereby divert such materials from landfill.
- G. Construction and demolition waste recovery programs reduce the amount of materials generated and hauled to landfill, decrease worker exposure to hazards, improve worker safety, reduce truck trips and traffic

and improve air quality, thereby enhancing the health, safety and welfare of San Franciscans.

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

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

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1401. DEFINITIONS.

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

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

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

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

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

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

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

(g) "Person" shall mean a natural person, a firm, joint stock company, business concern, association, partnership or corporation or governmental entity, including the City and County of San Francisco and its departments, boards and commissions for projects within the geographic boundaries of the City, and its or their successors or assigns.

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

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

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

(k) "Transporter" shall mean a person that transports construction and demolition debris as defined in this Chapter. "Transporter" does not include a person that owns the property at which the construction and

demolition debris was generated.

(l) "Vehicle" shall mean a vehicle used to transport construction and demolition debris as those terms are defined in this Chapter.

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1402. REQUIREMENTS.

(a) Except as provided in this Chapter, no person, other than the owner of the property where the construction and demolition debris was generated, may transport and no person may process construction and demolition debris unless that person has a registration from the Department as provided in this Chapter. Except as provided in this Chapter, all construction and demolition debris, regardless of transport or volume, must be processed at a registered facility.

(b) A person conducting full demolition of an existing structure must submit a waste diversion plan to the Director which provides for a minimum of 65% diversion from landfill of construction and demolition debris, including materials source separated for reuse or recycling which would otherwise not be subject to this Chapter. The plan may propose to use facilities and transporters that are not registered under this Chapter. The waste diversion plan must be submitted to the Director at the time the person applies for a demolition permit from the Department of Building Inspection and must include the following information: a list of all material types and volumes anticipated from the demolition; the market or destination for each material; the estimated recovery rate (diversion from landfill) by material or market; and the anticipated transporter for each material type. The Director shall make a determination as to the adequacy of the plan within five (5) business days and shall notify the Department of Building Inspection of its decision.

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1403. RESERVED.

SEC. 1404. REGISTRATION REQUIREMENT FOR FACILITIES AND TRANSPORTERS.

(a) A person subject to Section 1402 shall apply for a registration by filing with the Director an application form prescribed by the Director, which contains the following information, and the information set forth in Section 1405.

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

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

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

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

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

(e) If the Director determines that the application form is complete, the Director shall issue a registration containing the following minimum information: a reference to the general terms and conditions specified in Section 1406; the name and address of the registrant, the name and address of the facility (if applicable); the effective and expiration date of the registration; and a registration number assigned by the Director.

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1405. REGISTRATION CRITERIA.

The owner of the facility or the transporter shall include the following information in the application form described in Section 1404.

(a) For Facilities.

(i) The facility meets an overall minimum recovery rate of 65 percent for construction and demolition debris (based on the most recent month), which may include materials used as ADC or bio-mass conversion, provided that the facility can demonstrate that the use as ADC or bio-mass conversion is the highest and best use. The recovery rate will be determined by the total quantity of materials delivered to established recycling and composting markets divided by the total quantity received by the registered facility. Highest and best use for ADC does not include ADC which is generated by intentional crushing or grinding of construction and demolition debris that has not been processed to remove wood, metal, wallboard, glass and other materials for which markets or uses other than ADC are available. Consistent with this section, the Director shall adopt regulations pursuant to Section 1412 to specify how the recovery rate will be calculated and when ADC or bio-mass conversion is considered to be the highest and best use of a particular material.

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

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

(iv) The facility agrees to submit annual reports to the Director on forms and by dates specified by the Director pursuant to Section 1412. The reports must include, with respect to San Francisco materials only, the following information; the total quantity of material received at the registered facility, the breakdown of all of the specific recycled commodities, the end use of the recycled commodity (reuse, recycling, composting, ADC, bio-mass conversion) landfill destination for residuals, and the recovery ratio for the report period by processing area.

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

(vi) The facility agrees to comply with the provisions of this Chapter; provide documentation to support the information in the application form, including the Section 1404(b) certification, to the Director upon request; and allow the Director to make inspections of the facility in order to verify the information in the application form and required reports.

(b) For Transporters.

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

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

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

(iv) The owner of the vehicle agrees to comply with the provisions of this Chapter; provide documentation to support the information in the application form, including the Section 1404(b) certification, to the Director upon request; and allow the Director to make inspections of vehicles in order to verify the information in the application form and reports.

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1406. GENERAL TERMS AND CONDITIONS FOR REGISTERED FACILITIES AND TRANSPORTERS.

The following terms and conditions shall apply to each registration:

(a) A registration is valid for two years.

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

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

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

(d) A registration is not transferable.

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

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

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

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1407. TRADE SECRETS.

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

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

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

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

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

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1408. RESERVED.

SEC. 1409. LIST OF REGISTERED FACILITIES AND REGISTERED

TRANSPORTERS.

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1410. ENFORCEMENT.

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

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

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

(d) A final decision of the Director to suspend a registration may be appealed to the Board of Appeals in the manner prescribed in Article 1 of the San Francisco Business and Tax Regulations Code. Any person who fails to appeal the Director's decision to the Board of Appeals within the time specified may not challenge a decision or final order of the Director in any judicial proceedings brought to enforce the decision or order or for other remedies. Within ninety (90) days of the decision of the Board of Appeals, a person may file with a Court of competent jurisdiction a petition for writ of mandate to review the Board of Appeals decision, provided that the responsible party has exhausted its administrative remedies. Any person who fails to file a petition within this 90-day period may not challenge a decision or final order of the Board of Appeals in any judicial proceedings brought to enforce the decision or order or for other remedies. Section 1094.5 of the California Code of Civil Procedure shall govern any proceedings conducted pursuant to this Section. In all proceedings pursuant to this Section, the Court shall affirm the Board of Appeal's decision if it is based upon substantial evidence in the whole record. This Section does not prohibit the Court from granting any appropriate relief within its jurisdiction.

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

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

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

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1411. REPORTS.

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1412. FORMS, REGULATIONS AND GUIDELINES.

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

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

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1413. COST OF IMPLEMENTATION.

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1414. RESERVED.

SEC. 1415. DISCLAIMER OF LIABILITY.

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1416. DUTIES ARE DISCRETIONARY.

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1417. SEVERABILITY.

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

invalid or unconstitutional without regard to whether any portion of this Chapter would be subsequently declared invalid or unconstitutional.

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

CHAPTER 19:

MANDATORY RECYCLING AND COMPOSTING

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SEC. 1901. TITLE.

This Chapter shall be entitled "Mandatory Recycling and Composting".

(Added by Ord. 10009, File No. 081404, App. 6/23/2009)

SEC. 1902. DEFINITIONS.

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

- (a) "Adequate Refuse Collection Service" means that a dwelling or commercial property is serviced by a Collector for recyclables, compostables, and trash, and that the level of service is sufficient to contain the refuse generated at that dwelling or commercial property.
- (b) "City" means the City and County of San Francisco.
- (c) "Collection" means taking physical possession of and removing discarded material from the place of generation for subsequent off-site management of that material.
- (d) "Collection Container" means the receptacle that is provided, designated and serviced by the collector for the collection of recyclables, compostables or trash.
- (e) "Collector" means a person, firm or corporation licensed and permitted to collect refuse by the Director of Public Health pursuant to the provisions of the Refuse Collection and Disposal Ordinance adopted November 8, 1932, as amended, and any other collectors of discarded material not excluded under that ordinance.
- (f) "Commercial Property" means a parcel or any portion of real property where refuse is generated that is not a dwelling, including schools, institutions, and City properties.
- (g) "Compostable" means any material that can be broken down into, or otherwise become part of, usable compost (e.g., soil-conditioning material) in a safe and timely manner as accepted in San Francisco's compostables collection program, such as food scraps, soiled paper and plant trimmings. Compostable materials can also include disposable plastic food service ware and bags if labeled "Compostable", in accordance with the Food Service Waste Reduction Ordinance (No. 295-06) and Department of the Environment regulations for easy identification, meeting the ASTM Standard Specification (D6400) for compostable plastics, and consistent with State labeling law (California Public Resources Code Section 42359) that any plastic bag or food container labeled "Compostable" must meet the ASTM Standard Specification for compostable plastics.
- (h) "Construction and Demolition Debris" means building materials generated from construction and demolition activities including, but not limited to, fully-cured asphalt, concrete, brick, rock, soil, lumber, gypsum wallboard, cardboard and other associated packaging, roofing material, ceramic tile, carpeting, fixtures, plastic pipe, metals, tree stumps, and other vegetative matter resulting from land clearing and

landscaping for construction, deconstruction, demolition or land developments. Hazardous waste, as defined in California Health and Safety Code Sections 25100 et seq., is not construction and demolition debris for purposes of this Chapter.

(i) "Customer" means any person being served food from a food vendor or event.

(j) "Department" means the San Francisco Department of the Environment.

(k) "Designated" means clearly labeled and color-coded for a material type, such as labeled blue receptacles for recyclables, green for compostables and black for trash.

(l) "Director" means the Director of the Department of the Environment or his or her designee.

(m) "Disposable Food Service Ware" means all containers, bowls, plates, trays, carton, cups, lids, straws, forks, spoons, knives, napkins and other items that are designed for one-time use for serving food.

(n) "Dwelling" means a residence, flat, apartment, or other facility, used for housing one or more persons.

(o) "Event" means any function that serves food and is permitted through any agency, including, but not limited to, the Department of Parking and Traffic, the Recreation and Park Department, the Port of San Francisco or, to the extent permitted by law, the National Park Service.

(p) "Food Vendor" means any and all sales outlets, stores, shops, vehicles or other places of business located or operating in the city that operate primarily to sell or convey foods or beverages to consumers, and stores that sell food or beverages in combination with a gasoline station.

(q) "Janitor" means the person who is hired by owners and managers of commercial properties and their contractors to process refuse on-site before it leaves the premises.

(r) "Manager" means the authorized agent for the owner of a building, structure or property, who is responsible for the day-to-day operation of said building, structure or property.

(s) "Multifamily Property" means a property that includes multiple residential households and has a single account with collector(s) for recyclables, compostables and trash.

(t) "Person" means a natural person (including a resident, employee, or visitor), a firm, business concern, association, partnership, corporation or governmental entity, including the City and County of San Francisco and its departments, boards and commissions, and successors or assigns.

(u) "Public Trash Container" means any receptacle installed by a public agency at a sidewalk, park or other public area and that is not under the control, unless otherwise required by this Chapter, of a multifamily or commercial property, food vendor or event manager.

(v) "Recyclable" means any material that can be sorted and reconstituted, for the purpose of using the altered form in the manufacture of a new product, as accepted in San Francisco's recycling collection program, such as paper, bottles and cans. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

(w) "Refuse" has the meaning set forth in the Refuse Collection and Disposal Ordinance adopted November 8, 1932, as amended, and includes recyclables, compostables, and trash, but not construction and demolition debris or hazardous waste, all as defined in this Chapter.

(x) "Source Separate" means to divide refuse at the place of discard generation, prior to collection, into separate containers that are designated for recyclables, compostables or trash.

(y) "Transfer Station" means a facility that is permitted under Health Code Section 294 to receive discarded materials and transport them to a landfill for disposal.

(z) "Trash" means material that is designated for landfill disposal by the collector and does not include either recyclable or compostable materials. The term "trash" does not include hazardous waste, as defined in California Health and Safety Code Sections 25100 et seq., or construction and demolition debris as defined in this Chapter.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

SEC. 1903. SOURCE SEPARATION OF REFUSE REQUIRED.

All persons in San Francisco must source separate their refuse into recyclables, compostables and trash, and place each type of refuse in a separate container designated for disposal of that type of refuse. No person may mix recyclables, compostables or trash, or deposit refuse of one type in a collection container designated for another type of refuse, except as otherwise provided in this Chapter.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

SEC. 1904. REQUIREMENTS FOR OWNERS OR MANAGERS OF

MULTIFAMILY AND COMMERCIAL PROPERTIES.

(a) Owners or managers of multifamily or commercial properties must provide Adequate Refuse Collection Service to the tenants, employees, contractors, and customers of the properties.

(b) Owners or managers of multifamily or commercial properties must supply appropriate containers, placed in an appropriate location, to make source separation of refuse convenient for the tenants, employees, contractors, and customers of the properties. The containers must:

(1) Be of appropriate number and size in light of the recyclable, compostable, and trash quantities reasonably anticipated to be generated at the location;

(2) Bear appropriate signage and be color coded to identify the type of refuse to be contained—blue for recyclables, green for compostables, and black for trash—and meet any additional design criteria established by the Department by regulation; and,

(3) Be placed as close together as possible, to provide equally convenient access to users.

(c) Owners or managers of multifamily or commercial properties must provide information and/or training for new tenants, employees and contractors, including janitors on how to source separate recyclables, compostables and trash, and must re-educate existing tenants, employees and contractors at least once a year.

(d) Owners and managers of commercial properties or their contractors will work with on-site janitors to create effective source separation programs as a means of achieving compliance, meeting citywide diversion goals, and achieving the diversion or disposal rate reported annually to the State of California.

(e) New construction or expansion of multifamily or commercial properties may be subject to Department of Building Inspection requirements, such as Administrative Bulletin 088 and Building Code Chapter 13, Section 1304C, to provide adequate space for recyclables and compostables, which includes requiring any chute systems to keep compostables, recyclables and trash separate.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

SEC. 1905. REQUIREMENTS FOR OWNERS OR MANAGERS OF FOOD VENDORS AND EVENTS.

(a) Owners or managers of food vendors and events must provide Adequate Refuse Collection Service to their employees, contractors and customers.

(b) Owners or managers of food vendors and events must supply appropriate containers, placed in appropriate locations, to make source separation of recyclables, compostables, and trash convenient for the employees, contractors, and customers of the food vendors and events. The containers must:

(1) Be of appropriate number and size in light of the recyclable, compostable, and trash quantities reasonably anticipated to be generated at the location;

(2) Bear appropriate signage and be color coded to identify the type of refuse to be deposited—blue for recyclables, green for compostables, and black for trash—and meet any additional design criteria established by the Department by regulation; and,

(3) Be placed as close together as possible to provide equally convenient access to users.

(c) Owners or managers of food vendors and events must provide information and/or training for new tenants, employees, and contractors, including janitors on how to source separate recyclables, compostables, and trash, and must re-educate existing tenants, employees, and contractors at least once a year.

(d) Food vendors that provide disposable food ware must have at least one container each for recyclables, compostables and trash for use by customers and visitors, placed inside near a main exit, unless that food vendor does not use disposable food ware for on-site consumption and serves minimal to go orders per day, but not including any to go orders delivered to residents by a delivery service. Food vendors meeting the requirements of this Section are exempt from the requirement of Public Works Code Section 173 to place "a litter receptacle outside each exit." Multiple food vendors that provide disposable food service ware and share a common eating area may share an appropriate number, size, and placement of containers for recyclables, compostables and trash for convenient use by customers or visitors.

(e) Food vendors and events must not put any fats, oils or grease in trash collection containers.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

SEC. 1906. REQUIREMENTS FOR REFUSE COLLECTORS, TRANSFER STATIONS, AND PROCESSING FACILITIES.

(a) All collectors must appropriately designate the collection containers they provide to customers for source separation of recyclables, compostables and trash. The containers must:

- (1) Bear appropriate signage that allows users to clearly and easily identify which containers to use for recyclables, compostables or trash;
- (2) Be color-coded—blue for recyclables, green for compostables and black for trash; and,
- (3) Bear the name of the collector to whom the container belongs.

(b) (1) If a collector finds materials that are not the correct type as designated for that container, such as recyclables or compostables in a trash container, or trash in a compostables or recyclables container, the collector then must leave a tag on the container identifying the incorrect materials.

(2) If the collector continues to find incorrect materials in a collection container after the collector has left a previous tag for that customer and that type of container, the collector must leave another tag on the container identifying the incorrect materials and send a written notice to the person who subscribes for that collection service.

(3) If the collector continues to find incorrect materials in a collection container after the collector has already left two or more tags for that customer and that type of container, the collector may refuse to empty the container, subject to California Code of Regulations Title 14, Section 17331, or as determined by the Director of Public Health or his or her designee. If the container is not emptied, the collector must leave a tag and send a written notice to the person who subscribes for the collection service, identifying the incorrect materials and describing what action must be taken for the materials to be collected; provided, however, that a collector may not refuse on this basis to empty containers from multifamily or commercial properties with multiple tenants and joint account collection service.

(4) The collector shall, upon request, provide to the Director a list of the names and addresses of those persons who have received tags or notices or whose containers have not been emptied due to non-compliance with this Chapter, or copies of the tags or notices issued by the collector. The collector shall also provide to the Director, upon request, a list of the names, addresses, and service levels of the collector's customers and any additional information required by the Director.

(c) Within 90 days of the end of each calendar year, each collector must submit to the Department, on a form specified by the Director, an annual report of all tons collected by material type and to whom the material was sent.

(d) No person may deliver recyclables or compostables, including those mixed with trash, to a landfill or transfer station for the purpose of having those materials landfilled, except as follows:

(1) A collector may drop off recyclables or compostables at the San Francisco transfer station for landfill if the transfer station has agreed to provide to the Director, upon request, audits of collection vehicles for a specified period going forward in time. The transfer station's audit shall report the quantity of recyclables or compostables, stated as estimated tons per load or as a percentage of the loads, deposited at the transfer station by collection vehicles specifically identified in the request over a reasonable period of time occurring after the request.

(2) A processing facility that sorts and reconstitutes recyclables for the purpose of using the altered form in the manufacture of a new product or turns compostables into usable and marketable compost (e.g., soil-conditioning) material may send to a landfill a minor portion of those materials that constitutes unmarketable processing residuals, if the processing facility provides to the Director, upon request, audits of specific collection vehicles for a specific period going forward in time, of the quantities of recyclables or compostables sent to the landfill from the processing facility.

(e) No person may deliver trash from the city, including trash mixed with recyclables or compostables, to a processing facility, unless the processing facility has agreed to provide to the Director, upon request, audits of collection vehicles for a specified period going forward in time. The processing facility's audit shall report the quantity of trash, stated as estimated tons per load or as a percentage of the loads, deposited at the processing facility by collection vehicles specifically identified in the request over a reasonable period of time occurring after the request.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

SEC. 1907. REQUIREMENT TO SUBSCRIBE TO REFUSE COLLECTION SERVICE.

Owners of residential, multifamily or commercial properties, events or other facilities that generate refuse

must subscribe to and pay for Adequate Refuse Collection Service, and provide an accessible location for sufficient levels of service with collector(s) for source separated recyclables, compostables and trash, except as otherwise provided in this Chapter. Owners of such properties are responsible for any failure to subscribe to or pay for sufficient levels of refuse collection service. The Director of Public Health, pursuant to Health Code Article 6, as amended, shall enforce requirements for adequate and continuous refuse collections services.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

SEC. 1908. ENFORCEMENT.

(a) The Director and his or her designee may administer all provisions of this Chapter and enforce those provisions by any lawful means available for such purpose, except as otherwise provided in this Chapter.

(b) To the extent permitted by law, the Director may inspect any collection container, collection vehicle load, or receiving facility for collected trash, recyclables or compostables.

(c) Except as otherwise provided in this Chapter, the Director of the Department of Public Health or his or her designee may impose administrative fines for violations of those provisions of this Chapter, or of rules and regulations adopted pursuant to this Chapter, that pertain to the jurisdiction of the Department of Public Health.

(d) Except as otherwise provided in this Chapter, the Director of Public Works or his or her designee may impose administrative fines for violations of those provisions of this Chapter, or of any rule or regulation adopted pursuant to this Chapter, that pertain to the jurisdiction of the Department of Public Works.

(e) San Francisco Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as amended, is hereby incorporated in its entirety and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter; provided, however, that:

(1) The Director of Public Works or the Director of Public Health may adopt regulations providing for lesser penalty amounts than those provided in Administrative Code Section 100.5;

(2) The fine for any violation at a dwelling or commercial property that generates less than one cubic yard of refuse per week may not initially exceed \$100; and,

(3) No person who is the owner, tenant, manager, employee, contractor, or visitor of a multifamily or of a multi-tenant commercial property shall be subject to fines or penalties for violation of Section 1903 (but will remain subject to such enforcement for violations of section 1904 and other sections of the Ordinance), unless and until the Director of the Department of the Environment has adopted specific regulations setting out the liability of such persons. The Director shall not adopt such regulations prior to July 1, 2011.

(f) The City shall use administrative penalties collected under this Chapter, including recovery of enforcement costs, to fund implementation and enforcement of this Chapter. Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

SEC. 1909. FORMS, REGULATIONS AND GUIDELINES.

(a) After public notice and a public hearing, the Director may adopt necessary forms, regulations, and guidelines to implement this Chapter.

(b) The Department shall provide assistance regarding compliance with this Chapter.

(c) The Department shall provide information on its website regarding what materials are accepted as recyclables, compostables, and trash under this Chapter.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

SEC. 1910. EXCEPTIONS

(a) A property owner or manager may seek a waiver from the Director of all or portions of this Chapter, if the applicant submits documentation, using a form specified by the Director and including a signed affidavit under penalty of perjury, that shows that the property does not have adequate storage space for containers for recyclables, compostables or trash. In cases where after on-site verification space limitations are determined to exist, the Director shall evaluate the feasibility of sharing containers for recyclables, compostables or trash with contiguous properties, and, where feasible, requiring container sharing in lieu of providing a waiver.

(b) Except as otherwise required by the Director, a collector may drop-off compostables or recyclables at the San Francisco transfer station that have been collected from public trash containers. The Director may

require public trash containers to have a recyclables receptacle attached.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

SEC. 1911. DISCLAIMER OF LIABILITY.

The degree of protection required by this Chapter is considered to be reasonable for regulatory purposes. The standards set forth in this Chapter are minimal standards and do not imply that compliance will ensure safe handling of recyclables, compostables or trash. This Chapter shall not create liability on the part of the City, or any of its officers or employees for any damages that result from reliance on this Chapter or any administrative decision lawfully made in accordance with this Chapter. All persons handling discarded materials within the City should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this Chapter, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officer and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

SEC. 1912. DUTIES ARE DISCRETIONARY.

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

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

SEC. 288. CONSTRUCTION AND DEMOLITION DEBRIS.

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 288.1. PENALTY.

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

(Added by Ord. 27-06, File No. 051142, App. 2/16/2006)