

**San Francisco Ordinance No. 27-06** which took effect on July 1, 2006 enacted a new Chapter of the Environment Code and made amendments to the Building Code, the Health Code and the Police Code in order to establish a comprehensive program to effectuate the City’s goals. The text of each code is included below.

❖ **ENVIRONMENT CODE:**

- Created Chapter 14 entitled “Construction and Demolition Debris Recovery Ordinance” [see page 1, below]

❖ **BUILDING CODE:**

- Amended Section 106.3.2.2 [see page 12, below]
- Amended the title of Chapter 13 from “Energy Conservation to “Resource Conservation” [The text of this Chapter is not included below since only the title was amended]
- Added Chapter 13B entitled “Construction and Demolition Debris Recovery Program” [see page 13, below]

❖ **HEALTH CODE:**

- Added Section 288 [see page 14, below]
- Added Section 288.1 [see page 15, below]

❖ **POLICE CODE:**

- Amended Section 39-1 [see page 15, below]

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## **ENVIRONMENT CODE**

### **CHAPTER 14: CONSTRUCTION AND DEMOLITION DEBRIS RECOVERY ORDINANCE\***

Sec. 1400. Findings.

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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)

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**BUILDING CODE SECTION 106.3.2.2**

*Section 106.3.2.2. Add the following section:*

[Amended 2-7-2006 by Ord. No. 27-06]

22

106.3.2.2 Demolition. An application for a permit to demolish a building or structure shall not be deemed complete until (a) the applicant declares under penalty of perjury that every party who has a recorded interest in the property that is the subject of the application has been notified of the filing of the application. See Section 110, Table 1-L - Public Information - for fee to defray the cost of maintaining records of such declarations and other attendant costs and (b) the Department receives written notice from the Department of the Environment that the Department of the Environment has approved the applicant's waste diversion plan in accordance with Chapter 14 of the Environment Code.

Endnotes

22	This section contains a change from the original publication of the 2001 San Francisco Building Code.
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## **BUILDING CODE**

### 1 **CHAPTER 13B CONSTRUCTION AND DEMOLITION DEBRIS RECOVERY PROGRAM**

#### **SECTION 1301B — TITLE**

[Added 2-7-2006 by Ord. No. 27-06]

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

#### **SECTION 1302B — RECOVERY OF CONSTRUCTION AND DEMOLITION DEBRIS.**

[Added 2-7-2006 by Ord. No. 27-06]

Under the requirements set forth herein and in Chapter 14 of the Environment Code, all construction and demolition debris in amounts of one cubic yard or greater generated in the course of a construction or demolition project must be transported off the site by a registered transporter, unless transported by the owner of the site, and handled, processed and otherwise managed by a registered facility for recovery of the materials. All persons subject to these requirements, including an applicant for any building or demolition permit shall comply with the requirements for construction and demolition debris recovery set forth in Chapter 14 of the Environment Code.

#### **SECTION 1303B — DEFINITIONS.**

[Added 2-7-2006 by Ord. No. 27-06]

"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 from the public right-of-way; or, unless specified in Chapter 14 of the Environment Code, 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.

"Registered Transporter" or "Registered Facility" shall mean a person who holds a valid registration issued by the Director of the Department of the Environment pursuant to Chapter 14 of the Environment Code. "Transporter" does not include a person that owns and operates only vehicles with no more than two axles and no more than two tires per axle.

**SECTION 1304B — PERMIT CONDITION.**

[Added 2-7-2006 by Ord. No. 27-06]

The provisions of Chapter 14 of the Environment Code and any approvals or conditions imposed in writing by the Department of the Environment are conditions of the permit issued by the Department under section 106.1, and a violation of Chapter 14 or such approvals or conditions shall be deemed non-compliance with the permit.

**SECTION 1305B — PERMIT NOTIFICATION.**

[Added 2-7-2006 by Ord. No. 27-06]

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

Endnotes

<p>1 This section contains a change from the original publication of the 2001 San Francisco Building Code.</p>
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**HEALTH CODE SECTIONS 288 AND 288.1**

**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)

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**POLICE CODE SECTION 39-1**

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

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

(b) The Board of Supervisors finds:

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

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

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

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

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

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

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

- (i) The person, if any, in real or apparent charge and control of the premises or property involved;
- (ii) The owner of record.

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

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

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

(d) Request for Hearing; Hearing.

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

(2) Whenever administrative review is requested pursuant to this Section, the Director of Public Works shall, within five City business days of receipt of the request, notify the requestor of the date, time, and place of the administrative review hearing by certified



mail. Such hearing shall be held no later than thirty (30) calendar days after the Director receives the request, unless time is extended by mutual agreement of the affected parties.

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

(4) The hearing officer shall issue a decision including a summary of the issues and the evidence presented, and findings and conclusions, within ten (10) calendar days of the conclusion of the hearing. The hearing officer may uphold the penalty imposed by the citation, reduce the penalty, or dismiss the citation. A copy of the decision shall be served by certified mail upon the person or entity contesting the violation. The decision shall be a final administrative determination. An aggrieved party may seek judicial review of the decision pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6.

(e) Payment and Collection of Penalty.

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

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

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

(4) Where there is a nexus between the violation and property in the City owned by the violator, the Director shall further inform the violator that if the amount due is not paid

within 30 days from the date of the notice, the Director shall initiate proceedings to make the amount due and all additional authorized costs and charges, including attorneys fees. a lien on the property. Such liens shall be imposed in accordance with Chapter 10, Article XX of the Administrative Code.

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

(Added by Ord. 87-03, File No. 030482, App. 5/9/2003; amended by Ord. 27-06, File No. 051142, App. 2/16/2006)