

1 [Mandatory Recycling and Composting.]

2

3 **Ordinance amending the San Francisco Environment Code by adding Chapter 18,**
 4 **Sections 1801 through 1814, entitled "Mandatory Recycling and Composting**
 5 **Ordinance," amending the San Francisco Public Works Code by amending Section 173,**
 6 **and amending the San Francisco Health Code by amending Sections 291, 291.1, 291.2,**
 7 **291.4, 291.5, 291.15, and 293.1, all to: (1) require all persons located in San Francisco to**
 8 **separate recyclables, compostables and landfilled trash and participate in recycling**
 9 **and composting programs; (2) provide enforcement mechanisms and penalties for**
 10 **violations; (3) set an operative date; and (4) ensure that all properties subscribe to**
 11 **refuse collection service; and making environmental findings.**

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

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

16

17 Section 1. **Findings.** The Board of Supervisors finds and declares:

18 1. The City and County of San Francisco has a duty to protect the natural
 19 environment, the economy, and the health of its citizens.

20 2. The California Integrated Waste Management Act of 1989 requires cities and
 21 counties to reduce, reuse and recycle (including composting) solid waste generated in the
 22 state to the maximum extent feasible before any incineration or landfill disposal of waste, to
 23 conserve water, energy and other natural resources, and to protect the environment.

24 3. The California Integrated Waste Management Act of 1989 mandates that each local
 25 jurisdiction in the state divert 50% of discarded materials from landfill. Every city and county

1 in California could face fines up to \$10,000 a day for not meeting the 50% diversion goal. In
2 2001, the California Integrated Waste Management Board adopted a Strategic Directive
3 statewide zero waste goal.

4 4. The State of California regulates hazardous waste (e.g., paint, batteries, electronics)
5 and sets management standards, including banning landfill disposal of hazardous waste, to
6 protect public health and the environment, and conserve natural resources. As a result,
7 services to collect and recycle hazardous waste materials include more than 100
8 neighborhood drop-off sites throughout the city for various materials, a year-round facility that
9 accepts all materials, and an appointment-based home pick-up service.

10 5. For each ton of municipal waste landfilled, about 71 tons of waste have been
11 created “upstream” from the mining, manufacturing and distribution of materials in the product
12 lifecycle, resulting in significant resource depletion, pollution and climate-changing impacts.

13 6. Organic or compostable waste that is buried in in the anaerobic conditions of
14 landfills creates methane gas along with the leaching of toxins. Methane gas is at least 21
15 times as potent as carbon dioxide in changing the planet’s climate. Twenty percent of San
16 Francisco’s planned reductions in climate-changing emissions come from diverting additional
17 solid waste from landfill.

18 7. The Board of Supervisors has adopted goals of 75% diversion from landfill by 2010
19 and zero waste to landfill or incineration by 2020. This policy includes urging greater
20 consumer responsibility, including mandatory participation in diversion programs.

21 8. People who live in, work in, or visit San Francisco generate over 2 million tons of
22 solid waste annually. While the city has an overall landfill diversion rate of 70% (as reported
23 to the State), most residents and businesses divert closer to 50% through recycling and
24
25

1 composting, resulting in over 660,000 tons per year of material from San Francisco being
2 landfilled in 2006.

3 9. Growth in the rate of landfill diversion in San Francisco has leveled off in recent
4 years, with an increase of less than 1% from 2005 to 2006, and continued voluntary diversion
5 participation alone will not likely enable the City to meet its 75% diversion goal by 2010.

6 10. San Francisco's agreement with the Altamont Landfill in Alameda County provides
7 for waste disposal of up to 15 million tons. At the end of 2007, nearly 12 million tons of this
8 contract capacity had been used, leaving about 3 million tons of capacity remaining. At the
9 current disposal rate at the Altamont Landfill there are about 5 years left (until 2013) on the
10 City's landfill contract. Increased diversion will extend the life of this landfill contract with its
11 favorable low disposal costs, while any new landfill contract will likely increase disposal costs
12 and subsequently trash collection rates in San Francisco.

13 11. After years of voluntary, convenient, nation-leading, award-winning programs and
14 outreach and financial incentives, a comprehensive study found that 36% of what San
15 Francisco sends to landfills is compostable (primarily food scraps) and 31% is recyclable
16 (mostly paper), and this breakdown essentially applies to all sectors (residential, commercial
17 and City government).

18 12. There are facilities in the City and surrounding areas that can effectively reuse,
19 recycle, compost or otherwise process and market most materials discarded in San Francisco
20 and thereby divert such materials from landfill while creating jobs.

21 13. Many state and local governments have mandated recycling of various materials
22 and composting of yard trimmings, or conversely banned them from landfill, resulting in
23 significant increases in waste diversion.

24

25

1 14. State legislation that would have mandated owners or managers of multifamily
2 buildings to provide recycling collection for their tenants was vetoed by the Governor because,
3 as he stated, local jurisdictions already have the authority to mandate this participation locally.

4 15. The Board of Supervisors passed a mandatory Construction and Demolition Debris
5 Recovery Ordinance (No. 27-06), effective July 1, 2006, which helped divert more than 26,000
6 additional tons from landfill in its first year of implementation.

7 16. In keeping with the Precautionary Principle, codified in Chapter 1 of the
8 Environment Code, this Chapter requires diversion of recyclable or compostable materials
9 from landfill for beneficial use as a deterrent to unsafe and wasteful practices. In this way, the
10 City will create and maintain a healthy, viable environment for current and future generations,
11 and will become a model of sustainability.

12
13 Section 2. The San Francisco Environment Code is hereby amended by adding
14 Chapter 18, Sections 1801 through 1814, to read as follows:

15 **SEC. 1801. TITLE.**

16 *This Chapter shall be entitled “Mandatory Recycling and Composting”.*

17
18 **SEC. 1802. DEFINITIONS.**

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

20 *(a) “City” means the City and County of San Francisco.*

21 *(b) “Collection” means taking physical possession of and removing discarded material from*
22 *the place of generation for subsequent off-site management of that material.*

23 *(c) “Collection Container” means the receptacle that is provided, designated and serviced by*
24 *the collector for the collection of recyclables, compostables or trash.*

1 (d) “Collector” means the person, firm or corporation licensed and permitted to collect refuse
2 by the Director of Public Health pursuant to the provisions of the Refuse Collection and Disposal
3 Ordinance adopted November 8, 1932, as amended, and any other collectors of discarded material not
4 excluded under that ordinance.

5 (e) "Commercial Property" means a parcel or any portion of real property where refuse is
6 generated that is not a dwelling, including schools, institutions, and City properties.

7 (f) “Compostable” means any material that can be broken down into, or otherwise become
8 part of, usable compost (e.g., soil-conditioning material) in a safe and timely manner as accepted in
9 San Francisco's compostables collection program, such as food scraps, soiled paper and plant
10 trimmings. Compostable materials can also include disposable plastic food service ware and bags if
11 labeled “Compostable”, in accordance with the Food Service Waste Reduction Ordinance (No.
12 295-06) and Department of the Environment regulations for easy identification, meeting the ASTM
13 Standard Specification (D6400) for compostable plastics, and consistent with State labeling law
14 (California Public Resources Code Section 42359) that any plastic bag or food container labeled
15 “Compostable” must meet the ASTM Standard Specification for compostable plastics.

16 (g) “Construction and Demolition Debris” means building materials generated from
17 construction and demolition activities including, but not limited to, fully-cured asphalt, concrete, brick,
18 rock, soil, lumber, gypsum wallboard, cardboard and other associated packaging, roofing material,
19 ceramic tile, carpeting, fixtures, plastic pipe, metals, tree stumps, and other vegetative matter resulting
20 from land clearing and landscaping for construction, deconstruction, demolition or land developments.
21 Hazardous waste, as defined in California Health and Safety Code Sections 25100 et seq., is not
22 construction and demolition debris for purposes of this Chapter.

23 (h) “Customer” means any person being served food from a food vendor or event.

24 (i) “Department” means the San Francisco Department of the Environment.

1 (j) “Designated” means clearly labeled and color-coded for a material type, such as labeled
2 blue receptacles for recyclables, green for compostables and black for trash.

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

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

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

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

12 (o) “Food Vendor” means any and all sales outlets, stores, shops, vehicles or other places of
13 business located or operating in the city that operate primarily to sell or convey foods or beverages to
14 consumers.

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

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

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

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

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

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

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

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

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

16
17 **SEC. 1803. SOURCE SEPARATION OF REFUSE REQUIRED.**

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

1 **SEC. 1804. REQUIREMENTS FOR OWNERS OR MANAGERS OF MULTIFAMILY AND**
2 **COMMERCIAL PROPERTIES.**

3 (a) Owners or managers of multifamily or commercial properties must provide source
4 separated collection of recyclables, compostables and trash to the tenants, employees, contractors, and
5 customers of the properties.

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

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

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

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

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

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

1 **SEC. 1805. REQUIREMENTS FOR OWNERS OR MANAGERS OF FOOD VENDORS AND**
2 **EVENTS.**

3 (a) Owners or managers of food vendors and events must provide source separated collection
4 of recyclables, compostables and trash to their employees, contractors and customers.

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

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

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

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

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

20 (d) Food vendors that provide disposable food ware must have at least one container each for
21 recyclables, compostables and trash for use by customers and visitors, placed inside near a main exit.
22 Food vendors meeting the requirements of this Section are exempt from the requirement of Public
23 Works Code Section 173 to place “a litter receptacle outside each exit.” Multiple food vendors that
24 provide disposable food service ware and share a common eating area may share an appropriate
25

1 number, size, and placement of containers for recyclables, compostables and trash for convenient use
2 by customers or visitors.

3 (e) Food vendors and events must not put any fats, oils or grease in trash collection containers.
4

5 **SEC. 1806. REQUIREMENTS FOR REFUSE COLLECTORS, TRANSFER STATIONS, AND**
6 **PROCESSING FACILITIES.**

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

9 (1) Bear appropriate signage that allows users to clearly and easily identify which
10 containers to use for recyclables, compostables or trash;

11 (2) Be color-coded—blue for recyclables, green for compostables and black for trash;
12 and,

13 (3) Bear the name of the collector to whom the container belongs.

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

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

22 (3) If the collector continues to find incorrect materials in a collection container after
23 the collector has already left two or more tags for that customer and that type of container, the
24 collector may refuse to empty the container, subject to California Code of Regulations Title 14,
25

1 Section 17331, or as determined by the Director of Public Health or his or her designee. If the
2 container is not emptied, the collector must leave a tag and send a written notice to the person who
3 subscribes for the collection service, identifying the incorrect materials and describing what action
4 must be taken for the materials to be collected; provided, however, that a collector may not refuse on
5 this basis to empty containers from multifamily or commercial properties with multiple tenants and
6 joint account collection service.

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

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

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

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

23 (2) A processing facility that sorts and reconstitutes recyclables for the purpose of using
24 the altered form in the manufacture of a new product or turns compostables into usable and marketable
25

1 compost (e.g., soil-conditioning) material may send to a landfill a minor portion of those materials that
2 constitutes unmarketable processing residuals, if the processing facility provides to the Director, upon
3 request, audits of specific collection vehicles for a specific period going forward in time, of the
4 quantities of recyclables or compostables sent to the landfill from the processing facility.

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

11
12 **SEC. 1807. REQUIREMENT TO SUBSCRIBE TO REFUSE COLLECTION SERVICE.**

13 Owners of residential, multifamily or commercial properties, events or other facilities that
14 generate refuse must subscribe to, pay for, and provide an accessible location for sufficient levels of
15 service with collector(s) for source separated recyclables, compostables and trash, except as otherwise
16 provided in this Chapter. Owners of such properties are responsible for any failure to subscribe to or
17 pay for sufficient levels of refuse collection service. The Director of Public Health, pursuant to Health
18 Code Article 6, as amended, shall collect from owners for non-payment of refuse collections services.

19
20 **SEC. 1808. ENFORCEMENT.**

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

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

3 **(c) The Director of Public Works and his or her designee may issue administrative citations for**
4 **violations of this Chapter or of any rule or regulation adopted pursuant to this Chapter, except as**
5 **otherwise provided in this Chapter. San Francisco Administrative Code Chapter 100, "Procedures**
6 **Governing the Imposition of Administrative Fines," as amended, is hereby incorporated in its entirety**
7 **and shall govern the imposition, enforcement, collection, and review of administrative citations issued**
8 **to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter; provided,**
9 **however, that:**

10 **(1) The Director may adopt regulations providing for lesser penalty amounts than those**
11 **provided in Administrative Code Section 100.5;**

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

14 **(3) No person who is the owner, tenant, manager, employee, contractor, or visitor of a**
15 **multifamily or of a multi-tenant commercial property shall be subject to fines or penalties for violation**
16 **of Section 1803, unless and until the Director has adopted specific regulations setting out the liability**
17 **of such persons. The Director shall not adopt such regulations prior to July 1, 2011.**

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

21
22 **SEC. 1809. FORMS, REGULATIONS AND GUIDELINES.**

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

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

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

4
5 **SEC. 1810. EXCEPTIONS**

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

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

16
17 **SEC. 1811. OPERATIVE DATE.**

18 **This Chapter shall become operative on January 1, 2009.**

19
20 **SEC. 1812. DISCLAIMER OF LIABILITY.**

21 **The degree of protection required by this Chapter is considered to be reasonable for regulatory**
22 **purposes. The standards set forth in this Chapter are minimal standards and do not imply that**
23 **compliance will ensure safe handling of recyclables, compostables or trash. This Chapter shall not**
24 **create liability on the part of the City, or any of its officers or employees for any damages that result**
25

1 from reliance on this Chapter or any administrative decision lawfully made in accordance with this
2 Chapter. All persons handling discarded materials within the city should be and are advised to
3 conduct their own inquiry as to the handling of such materials. In undertaking the implementation of
4 this Chapter, the City is assuming an undertaking only to promote the general welfare. It is not
5 assuming, nor is it imposing on its officer and employees, an obligation for breach of which it is liable
6 in money damages to any person who claims that such breach proximately caused injury.

7
8 **SEC. 1813. DUTIES ARE DISCRETIONARY.**

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

14
15 **SEC. 1814. SEVERABILITY.**

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

22
23 Section 3. The San Francisco Public Works Code is hereby amended by amending
24 Section 173, to read as follows:
25

1 **SEC. 173. PLACEMENT AND MAINTENANCE OF LITTER RECEPTACLES.**

2 (a) It is the intent of this Section to ensure that public areas are kept clean and free
3 from litter.

4 (b) Any person, firm or corporation operating a grocery store, a liquor store or an
5 establishment selling food or beverages for consumption off the premises shall place and
6 maintain a litter receptacle outside of each exit from said premises for the use of the patrons
7 thereof during business hours; provided, however, that a person, firm, or corporation is not
8 required under this Section to place and maintain a litter receptacle outside each exit if that person,
9 firm, or corporation places and maintains a set of three containers for recyclables, compostables and
10 trash for use by customers and visitors as specified in Chapter 18 of the Environment Code.

11 (c) Any person, firm, corporation, or property owner operating a place of employment
12 shall provide and maintain adjacent to the place of employment sufficient ashtrays or other
13 receptacles for the disposal of cigarettes, cigars, and other similar combustible products used
14 by employees and patrons who smoke. The Director of Public Works shall authorize the
15 placement of such ashtrays or other receptacles in the public right-of-way where necessary.

16 (d) The design, capacity, location, and number of ashtrays and receptacles shall be
17 prescribed by the Director of Public Works. Decals may be placed upon said receptacles
18 subject to the limitations set forth in Section 171 of this Article.

19 (e) The receptacle shall be emptied when full and at the close of business each day
20 and the contents thereof shall be stored or set out for collection in the same manner as other
21 refuse generated in the operation of the business. Each receptacle shall be maintained in a
22 clean and sanitary condition.

23 (f) Violation of this Section shall constitute an infraction and shall be punishable by a
24 fine of not less than \$80 nor more than \$100; for a second offense by a fine not less than
25

1 \$150 nor more than \$200; and for each additional offense by a fine not less than \$250 nor
2 more than \$500. In the alternative, an administrative penalty not to exceed \$250 may be
3 assessed for each violation. Such penalty shall be assessed, enforced and collected in
4 accordance with Section 39-1 of the Police Code.

5

6 Section 4. The San Francisco Health Code is hereby amended, by amending Sections
7 291, 291.1, 291.2, 291.4, 291.5, and 291.15, to read as follows:

8 **SEC. 291. OWNER RESPONSIBILITY FOR MAINTENANCE OF REFUSE COLLECTION**
9 **SERVICE TO DWELLINGS AND COMMERCIAL PROPERTIES; DEFINITIONS.**

10 Unless the context otherwise specifies or requires, the terms defined in this Section
11 shall, for all purposes of this Article, have the meanings herein specified, the following
12 definitions to be equally applicable to both the singular and plural forms of any of the terms
13 herein defined:

14 (a) The term "City" means the City and County of San Francisco;

15 (b) The term "Collector" means a refuse collector duly licensed pursuant to the
16 provisions of the Initiative Ordinance;

17 *(c) The term "Commercial Property" means a parcel or any portion of real property where*
18 *Refuse is generated that is not a Dwelling, including schools, institutions, and City properties.*

19 *(d) (e)* The term "Director" means the Director of Health of the City, or his authorized
20 agents;

21 *(e) (d)* The term "dwelling" means a residence, flat, apartment, or other facility, used for
22 housing one or more persons in the City and County of San Francisco;

23 *(f) (e)* The term "Initiative Ordinance" means the Initiative Refuse Collection and
24 Disposal Ordinance adopted November 8, 1932, as amended; and

25

1 ~~(g)~~ (f) The term "Owner" when used with reference to a dwelling shall mean, and shall
2 conclusively be deemed to be, the legal Owner of the dwelling and when used in reference to a
3 commercial property shall mean, and shall conclusively be deemed to be, the legal Owner of the
4 commercial property.

5

6 **SEC. 291.1. OWNER RESPONSIBLE FOR REFUSE COLLECTION SERVICE.**

7 The owner of any dwelling or commercial property shall subscribe to and pay for refuse
8 collection service rendered to such dwelling or commercial property by a collector and shall
9 provide at a location accessible to the collector for an adequate container or containers for
10 deposit of refuse of such capacity as the Director of Public Works may prescribe. The
11 necessity for and type of refuse collection service required and the rates charged therefor
12 shall be governed by the Initiative Ordinance and Chapter 18 of the Environment Code.

13 Nothing in this Section is intended to prevent an arrangement or the continuance of an
14 existing arrangement, under which payments for refuse collection service are made by a
15 tenant or tenants, or any agent, in behalf of the Owner. However, any such arrangement will
16 not affect the Owner's obligation to the City.

17

18 **SEC. 291.2. FAILURE TO INITIATE SERVICE OR TO PROVIDE SUFFICIENT REFUSE**
19 **CONTAINERS.**

20 When an owner fails to initiate adequate refuse collection service within 15 days of
21 occupancy of a Dwelling or commercial property by any person, the Director will give the Owner
22 notification that such service is required. A copy of said notice will be sent to the Collector. If
23 the Owner does not arrange with the Collector for service within 15 days from the date of
24

25

1 mailing of the notice, then the Collector shall initiate and continue refuse collection service for
2 said dwelling or commercial property.

3 When in the judgment of the Director additional refuse containers are required, they
4 shall be provided by the Owner upon written notification from the Director.

5 The Director of Public Health, after a public notice and hearing, may adopt forms, regulations,
6 and guidelines to ensure the payment and collection of refuse services from any commercial property
7 managers who fail to initiate or pay for sufficient refuse service.

8

9 **SEC. 291.4. COLLECTOR ENTITLED TO PAYMENT FOR SERVICES RENDERED.**

10 Pursuant to the provisions of the Initiative Ordinance, the Collector shall be entitled to
11 payment from the owner for services rendered. When the Owner has been directed to
12 initiate service but fails to provide an adequate container or containers at an accessible
13 location and the Collector attempts to collect refuse from the dwelling or commercial property,
14 then such attempt shall be deemed the rendering of collection service for which Collector is
15 entitled to compensation in the same manner and amount as if refuse had actually been
16 collected. Should there be failure to make payment for any service rendered by the
17 Collector, the means for effecting payment shall be in accordance with the procedure set
18 forth hereunder.

19

20 **SEC. 291.5. COMPLAINT OF NONPAYMENT.**

21 Any account shall be deemed delinquent 15 days after the last day of the normal billing
22 period for which service has been rendered when the bill has not been paid in full. Not less
23 than 15 days after the Owner has been mailed the bill containing the notice described in
24 Section 291.6 hereunder regarding a delinquent account and not more than 180 days after
25

1 such account has become delinquent respecting such bill, said Collector may file with the
2 Director a verified written complaint which shall contain the specific allegation setting forth the
3 name or names of the Owner, the address of the Dwelling or commercial property served, the
4 period of service, the amount due, the steps taken to secure payment and such other
5 information as the Director may reasonably require.

6 Pending satisfactory payment by said Owner, or by the City pursuant to Section 291.6
7 hereunder, the Collector shall continue to provide uninterrupted normal refuse collection
8 service to the Dwelling or commercial property covered by the complaint; provided, however,
9 that said Collector shall not be required to continue to provide such uninterrupted normal
10 refuse collection service if the City fails or is unable to pay the fees due under this Article after
11 the City has received the complaint and the rates or service to the Dwelling or commercial
12 property are not under adjudication as provided by the Initiative Ordinance.

13

14 **SEC. 291.15. MANNER OF GIVING NOTICES.**

15 Any notice required to be given hereunder by the City, the Director or any Collector to
16 an Owner shall be sufficiently given or served upon the Owner for all purposes hereunder if
17 personally served upon the Owner or if deposited, postage prepaid, in a post office letter box
18 addressed to the "Owner" at the official address of the Owner maintained by the Tax Collector
19 of the City for the mailing of tax bills or, if no such address is available, to the Owner at the
20 address of the dwelling or commercial property.

21

22 / / /

23 / / /

24 / / /

25

1 Section 5. The San Francisco Health Code is hereby amended by amending
2 Section 293.1, to read as follows:

3 **SEC. 293.1. VIOLATIONS.**

4 It shall be unlawful for any person other than the Collector, an authorized City employee
5 for enforcement purposes, or the generator of recyclable materials ~~City's authorized curbside~~
6 ~~recycling program collectors~~ to take, remove, move or otherwise appropriate recyclable materials
7 that have been placed in a container designated by a Collector for recyclables or to take, remove,
8 move, or otherwise appropriate the container that is placed for collection ~~the container in which~~
9 ~~recyclable materials are placed for collection and the matters contained therein~~. The City and its
10 duly authorized collectors shall have the exclusive right to collect recyclable materials placed
11 for collection in public sidewalk and street areas.

12
13 Section 6. **Environmental Findings.** On _____, 2008, the Planning
14 Department determined that the actions contemplated in this Ordinance are categorically
15 exempt under the California Environmental Quality Act (California Public Resources Code
16 sections 121000 et seq.). Said determination is on file with the Clerk of the Board of
17 Supervisors in File No. _____ and is incorporated herein by reference.

18
19 / / /
20 / / /
21 / / /
22 / / /
23 / / /
24 / / /

25

1 Section 7. **Severability.** If any part or provision of this ordinance, or the application
2 thereof to any person or circumstance, is held invalid, the remainder of the ordinance,
3 including the application of such part or provision to other persons or circumstances shall not
4 be affected thereby and shall continue in full force and effect. To this end the provisions of the
5 ordinance are severable.

6

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

9

10 By: _____
11 THOMAS J. OWEN
12 Deputy City Attorney

12

13

14

15

16

17

18

19

20

21

22

23

24

25