

1 [Mandatory Recycling and Composting.]

2  
3 Ordinance amending the San Francisco Environment Code by adding Chapter 19,  
4 Sections 1901 through 1912, 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, 291.7, 291.11, 291.12, 291.15, 291.17, and 293.1, and by repealing current  
8 Sections 291.9 and 291.16 and adding a new Section 291.16, all to: (1) require all  
9 persons located in San Francisco to separate recyclables, compostables and landfilled  
10 trash and participate in recycling and composting programs; (2) provide enforcement  
11 mechanisms and penalties for violations; (3) ensure that all properties subscribe to  
12 refuse collection service; and (4) authorize a Department of Public Health inspection  
13 fee of \$167 per hour; and making environmental findings and setting an operative date.

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

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

18  
19 Section 1. **Findings.** The Board of Supervisors finds and declares:

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

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

1           3. The California Integrated Waste Management Act of 1989 mandates that each local  
2 jurisdiction in the state divert 50% of discarded materials from landfill. Every city and county  
3 in California could face fines up to \$10,000 a day for not meeting the 50% diversion goal. In  
4 2001, the California Integrated Waste Management Board adopted a Strategic Directive  
5 statewide zero waste goal.

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

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

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

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

23           8. People who live in, work in, or visit San Francisco generate over 2 million tons of  
24 solid waste annually. While the city has an overall landfill diversion rate of 70% (as reported  
25

1 to the State), most residents and businesses divert closer to 50% through recycling and  
2 composting, resulting in over 660,000 tons per year of material from San Francisco being  
3 landfilled in 2006.

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

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

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

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

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

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 1948, Sections 19014804 through 19124812, to read as follows:

15       **SEC. 19014804. TITLE.**

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

17  
18       **SEC. 19024802. DEFINITIONS.**

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

20           *(a) "Adequate Refuse Collection Service" means that a dwelling or commercial property is*  
21 *serviced by a Collector for recyclables, compostables, and trash, and that the level of service is*  
22 *sufficient to contain the refuse generated at that dwelling or commercial property.*

23           *(b) "City" means the City and County of San Francisco.*

1           (c) "Collection" means taking physical possession of and removing discarded material from  
2 the place of generation for subsequent off-site management of that material.

3           (d) "Collection Container" means the receptacle that is provided, designated and serviced by  
4 the collector for the collection of recyclables, compostables or trash.

5           (e) "Collector" means a person, firm or corporation licensed and permitted to collect refuse by  
6 the Director of Public Health pursuant to the provisions of the Refuse Collection and Disposal  
7 Ordinance adopted November 8, 1932, as amended, and any other collectors of discarded material not  
8 excluded under that ordinance.

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

11           (g) "Compostable" means any material that can be broken down into, or otherwise become  
12 part of, usable compost (e.g., soil-conditioning material) in a safe and timely manner as accepted in  
13 San Francisco's compostables collection program, such as food scraps, soiled paper and plant  
14 trimmings. Compostable materials can also include disposable plastic food service ware and bags if  
15 labeled "Compostable", in accordance with the Food Service Waste Reduction Ordinance (No.  
16 295-06) and Department of the Environment regulations for easy identification, meeting the ASTM  
17 Standard Specification (D6400) for compostable plastics, and consistent with State labeling law  
18 (California Public Resources Code Section 42359) that any plastic bag or food container labeled  
19 "Compostable" must meet the ASTM Standard Specification for compostable plastics.

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

1 Hazardous waste, as defined in California Health and Safety Code Sections 25100 et seq., is not  
2 construction and demolition debris for purposes of this Chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22  
23 **SEC. 19034803. SOURCE SEPARATION OF REFUSE REQUIRED.**  
24  
25

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

6  
7 **SEC. 19044804. REQUIREMENTS FOR OWNERS OR MANAGERS OF MULTIFAMILY AND**  
8 **COMMERCIAL PROPERTIES.**

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

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

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

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

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

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



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

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

9  
10 **SEC. 19054805. REQUIREMENTS FOR OWNERS OR MANAGERS OF FOOD VENDORS**  
11 **AND EVENTS.**

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

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

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

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

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

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

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

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

15  
16 **SEC. 19064806. REQUIREMENTS FOR REFUSE COLLECTORS, TRANSFER STATIONS,**  
17 **AND PROCESSING FACILITIES.**

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

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

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

23 and,

24                   (3) Bear the name of the collector to whom the container belongs.  
25

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

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

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

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

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

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

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

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

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

1 **SEC. 19074807. REQUIREMENT TO SUBSCRIBE TO REFUSE COLLECTION SERVICE.**

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

9  
10 **SEC. 19084808. ENFORCEMENT.**

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

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

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

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

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

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

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

10                   (3) No person who is the owner, tenant, manager, employee, contractor, or visitor of a  
11 multifamily or of a multi-tenant commercial property shall be subject to fines or penalties for violation  
12 of Section 19034803 (but will remain subject to such enforcement for violations of section 1904  
13 and other sections of the Ordinance), unless and until the Director of the Department of the  
14 Environment has adopted specific regulations setting out the liability of such persons. The Director  
15 shall not adopt such regulations prior to July 1, 2011.

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

19  
20 **SEC. 19094809. FORMS, REGULATIONS AND GUIDELINES.**

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

23                   (b) The Department shall provide assistance regarding compliance with this Chapter.  
24  
25

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

3  
4 **SEC. 19104810. EXCEPTIONS**

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

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

15  
16 **SEC. 19114844. DISCLAIMER OF LIABILITY.**

17           The degree of protection required by this Chapter is considered to be reasonable for regulatory  
18 purposes. The standards set forth in this Chapter are minimal standards and do not imply that  
19 compliance will ensure safe handling of recyclables, compostables or trash. This Chapter shall not  
20 create liability on the part of the City, or any of its officers or employees for any damages that result  
21 from reliance on this Chapter or any administrative decision lawfully made in accordance with this  
22 Chapter. All persons handling discarded materials within the city should be and are advised to  
23 conduct their own inquiry as to the handling of such materials. In undertaking the implementation of  
24 this Chapter, the City is assuming an undertaking only to promote the general welfare. It is not  
25

1 assuming, nor is it imposing on its officer and employees, an obligation for breach of which it is liable  
2 in money damages to any person who claims that such breach proximately caused injury.

3  
4 **SEC. 19124812. DUTIES ARE DISCRETIONARY.**

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

10  
11 Section 3. The San Francisco Public Works Code is hereby amended by amending  
12 Section 173, to read as follows:

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

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

16 (b) Any person, firm or corporation operating a grocery store, a liquor store or an  
17 establishment selling food or beverages for consumption off the premises shall place and  
18 maintain a litter receptacle outside of each exit from said premises for the use of the patrons  
19 thereof during business hours; provided, however, that a person, firm, or corporation is not  
20 required under this Section to place and maintain a litter receptacle outside each exit if that person,  
21 firm, or corporation places and maintains a set of three containers for recyclables, compostables and  
22 trash for use by customers and visitors as specified in Chapter ~~19~~ 48 of the Environment Code.

23 (c) Any person, firm, corporation, or property owner operating a place of employment  
24 shall provide and maintain adjacent to the place of employment sufficient ashtrays or other  
25



1 receptacles for the disposal of cigarettes, cigars, and other similar combustible products used  
2 by employees and patrons who smoke. The Director of Public Works shall authorize the  
3 placement of such ashtrays or other receptacles in the public right-of-way where necessary.

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

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

11 (f) Violation of this Section shall constitute an infraction and shall be punishable by a  
12 fine of not less than \$80 nor more than \$100; for a second offense by a fine not less than  
13 \$150 nor more than \$200; and for each additional offense by a fine not less than \$250 nor  
14 more than \$500. In the alternative, an administrative penalty not to exceed \$250 may be  
15 assessed for each violation. Such penalty shall be assessed, enforced and collected in  
16 accordance with Section 39-1 of the Police Code.

17  
18 Section 4. The San Francisco Health Code is hereby amended, by amending Sections  
19 291, 291.1, 291.2, 291.4, 291.7, 291.11, 291.12, 291.15, and 291.17, and by repealing the  
20 current Section 291.16 and adding a new Section 291.16, to read as follows:

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

23 Unless the context otherwise specifies or requires, the terms defined in this Section  
24 shall, for all purposes of this Article, have the meanings herein specified, the following  
25

1 definitions to be equally applicable to both the singular and plural forms of any of the terms  
2 herein defined:

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

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

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

8 (d) (e) The term "Director" means the Director of Health of the City, or his authorized  
9 agents;

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

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

14 (g) (f) The term "Owner" when used with reference to a dwelling shall mean, and shall  
15 conclusively be deemed to be, the legal Owner of the dwelling and when used in reference to a  
16 commercial property shall mean, and shall conclusively be deemed to be, the legal Owner of the  
17 commercial property.

18  
19 **SEC. 291.1. OWNER RESPONSIBLE FOR REFUSE COLLECTION SERVICE.**

20 The owner of any dwelling or commercial property shall subscribe to and pay for adequate  
21 refuse collection service rendered to such dwelling or commercial property by a collector and  
22 shall provide at a location accessible to the collector for an adequate container or containers  
23 for deposit of refuse of such capacity as the Director of Public Works may prescribe. The  
24 necessity for and type of refuse collection service required and the rates charged therefor  
25

1 shall be governed by the Initiative Ordinance, Chapter 1948 of the Environment Code, and any  
2 applicable rules and regulations adopted by the Director of Public Health.

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

7  
8 **SEC. 291.2. FAILURE TO INITIATE SERVICE, MAINTAIN ADEQUATE SERVICE, OR TO**  
9 **PROVIDE SUFFICIENT REFUSE CONTAINERS.**

10 When an owner fails to initiate adequate refuse collection service within 15 days of  
11 occupancy of a Dwelling or commercial property by any person, including a business entity, or  
12 fails to maintain adequate refuse collection service, the Director will evaluate the need for service and  
13 what would constitute adequate service in this context, and, where appropriate, give the Owner an  
14 order from the Director ~~notification~~ that such service or additional service is required. In  
15 determining the need for service or additional service, the Director may make use of any relevant  
16 information or evidence, including information provided by the Collector regarding the existing level of  
17 service. A copy of the Director's order ~~said notice~~ will be sent to the Collector. If the Owner  
18 does not arrange with the Collector for service within 15 days from the date of mailing of the  
19 order, or request within that time a hearing before the Director to dispute a service or change of  
20 service requirement ~~notice~~, then the Collector shall, consistent with the Director's order, initiate,  
21 maintain, or increase ~~and continue~~ refuse collection service for said dwelling or commercial  
22 property.

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

1           The Director, in consultation with the Department of the Environment and after a public notice  
2 and hearing, may adopt forms, regulations, and guidelines to ensure the payment and collection of  
3 refuse services from any commercial property managers who fail to initiate or maintain sufficient  
4 refuse service, including standards and criteria for determining whether a Commercial property has  
5 provided for sufficient refuse service, or to otherwise implement and enforce Sections 291 et seq.

6           The Director of Public Health, or his or her designee, may impose administrative fines for  
7 violations of Sections 291.1 and 291.2, or any rules or regulations adopted by the Director to  
8 implement and enforce Sections 291 et seq. San Francisco Administrative Code Chapter 100,  
9 "Procedures Governing the Imposition of Administrative Fines," as amended, is hereby incorporated in  
10 its entirety and shall govern the imposition, enforcement, collection, and review of administrative  
11 citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter;  
12 provided, however, that the Director may adopt regulations providing for lesser penalties than those  
13 provided in Administrative Code Section 100.5.

14           No person who is the owner, tenant, manager, employee, contractor, or visitor of a multifamily  
15 dwelling or of a multi-tenant commercial property shall be subject to fines or penalties for failure to  
16 provide adequate refuse collection service, unless and until the Director has adopted specific  
17 regulations establishing the responsibilities of such persons under this Article.

18           The fine for any violation at a dwelling or commercial property which generates less than one  
19 cubic yard of refuse per week may not initially exceed \$100.

20           In addition to any administrative penalty assessed pursuant to this Article, the Director may  
21 assess the responsible Owner the reasonable enforcement costs incurred by the City, including  
22 reasonable attorneys' fees. The imposition of enforcement costs is within the discretion of the Director.

23  
24       **SEC. 291.4. COLLECTOR ENTITLED TO PAYMENT FOR SERVICES RENDERED.**  
25

1 Pursuant to the provisions of the Initiative Ordinance, the Collector shall be entitled to  
2 payment from the owner for services rendered. When the Owner has been directed to  
3 initiate service but fails to provide an adequate container or containers at an accessible  
4 location and the Collector attempts to collect refuse from the dwelling or commercial property,  
5 then such attempt shall be deemed the rendering of collection service for which Collector is  
6 entitled to compensation in the same manner and amount as if refuse had actually been  
7 collected. Should there be failure to make payment for any service rendered to any dwelling  
8 by the Collector, or rendered to a commercial property pursuant to an order of the Director of  
9 Public Health under Section 291.2, the means for effecting payment shall be in accordance  
10 with the procedure set forth hereunder.

11  
12 **SEC. 291.7. PAYMENT BY DEPARTMENT OF PUBLIC HEALTH LIEN.**

13 Following Within 45 days following the receipt of the complaint filed in accordance with  
14 Section 291.5, the Director shall, regardless of any sale or other transfer of property following  
15 the date of receipt of such complaint, process the complaint for payment to the Collector from  
16 a continuing appropriation account so provided herein under Section 291.14, and the Owner  
17 shall be liable to the City for fees paid. The payment by the City will, upon the recording  
18 thereof in the manner herein provided, create a lien on the real property to which the service  
19 was rendered. The lien will be officially recorded in the County Recorder's files, the lien to  
20 carry and will include additional charges for administrative expenses of \$50 or 10 percent of  
21 the amount owned, whichever is higher, plus any applicable recording fees, and interest at a rate  
22 of 1 1/2 percent per full month compounded monthly from the date of the recordation of the  
23 lien on all fees and charges due. The Owner shall be notified by the Director that the fees and  
24 charges are due to the City. In addition, the Owner shall be notified that if the fees and  
25

1 charges remain unpaid, subsequent proceedings may be taken to make said fees and  
2 charges a special assessment on the real property to which said refuse collection service was  
3 rendered.

4  
5 ~~SEC. 291.9. DIRECTOR'S HEARING.~~

6 ~~Prior to the report of delinquent collection services fees being submitted to the Board of~~  
7 ~~Supervisors, the Director shall cause a hearing to be held as to each owner of the real~~  
8 ~~property to which service was rendered. At such hearing, the Owner may make any protest or~~  
9 ~~objection regarding inclusion on the list.~~

10 ~~The Director shall fix a date, time and place of hearing and shall cause a notice, at least 10~~  
11 ~~days prior to said hearing, to be mailed to the Owners.~~

12 ~~At the conclusion of the hearing, the Director shall issue a report of delinquent charges~~  
13 ~~together with his recommendation as to any charge.~~

14  
15 **SEC. 291.11. REPORTS OF DELINQUENCIES TRANSMITTED TO THE DIRECTOR**  
16 **BOARD OF SUPERVISORS.**

17 Any charges that remain unpaid by a residential property owner or a commercial  
18 property owner pursuant to an order of the Director under Section 291.2 for a period of 60 or  
19 more days after the date upon which they were billed are delinquent and may be collected in  
20 the manner set forth in this Article. A report of delinquent charges shall be transmitted to *the*  
21 *Board of Supervisors* by the Director. Upon receipt by the *Director Board of Supervisors* of the  
22 report, *he or she* ~~it~~ shall fix a time, date and place for hearing the report and any protests or  
23 objections thereto.

1     **SEC. 291.12. HEARING.**

2             The Director Board of Supervisors shall cause notice of the hearing to be mailed to the  
3     Owner of the real property to which the service was rendered not less than 10 days prior to  
4     the date of hearing. At the time fixed for the report, the Director Board of Supervisors shall hear  
5     it with any objections of the Owner liable to be assessed for delinquent accounts. The  
6     Director Board of Supervisors may make such revisions, corrections or modifications of the  
7     report as it may deem just and in the event that the Director Board of Supervisors is satisfied  
8     with correctness of the report (as submitted or as revised, corrected or modified), the Director  
9     shall confirm the report it shall be confirmed or rejected by resolution. The decision of the Director  
10    Board of Supervisors on the report and on all protests or objections thereto shall be final and  
11    conclusive.

12  
13    **SEC. 291.15. MANNER OF GIVING NOTICES.**

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

20  
21    **SEC. 291.16. INSPECTION FEE.**

22             If the Director of Public Health causes a Dwelling or a Commercial Property to be inspected to  
23    determine whether the Owner has complied with Section 291.1, the Owner of the Dwelling or

1 Commercial Property shall pay an inspection fee equal to \$167 per hour of Department of Public  
2 Health staff time spent during the inspection.

3  
4 **~~SEC. 291.16. PENALTY.~~**

5 ~~Notwithstanding the provisions of Section 291.3 of this Article, any person who shall violate any~~  
6 ~~of the provisions of Sections 291.1 or 291.2 of this Article shall be guilty of an infraction or a~~  
7 ~~misdemeanor. If charged as an infraction, upon conviction thereof, said person shall be punished for~~  
8 ~~the first offense by a fine of not less than \$10 nor more than \$50; and for a second and each additional~~  
9 ~~offense by a fine of not less than \$20 nor more than \$100.~~

10 ~~If charged as a misdemeanor, upon conviction thereof, said person shall be punished by~~  
11 ~~imprisonment in the County Jail not exceeding one year or a fine not exceeding \$1,000. The complaint~~  
12 ~~charging such violation shall specify whether the violation is a misdemeanor or infraction, which~~  
13 ~~decision shall be solely that of the District Attorney.~~

14  
15 **SEC. 291.17. SEVERABILITY.**

16 If any part or provisions of Sections 291 through 291.16 ~~291.16~~ or application thereof, to  
17 any person or circumstance is held invalid, the remainder of the Section, including the  
18 application of such part or provision to other persons or circumstances shall not be affected  
19 thereby and shall continue in full force and effect. To this end the provisions of the Sections  
20 are severable.

21  
22 Section 5. The San Francisco Health Code is hereby amended by amending  
23 Section 293.1, to read as follows:

24 **SEC. 293.1. VIOLATIONS.**



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

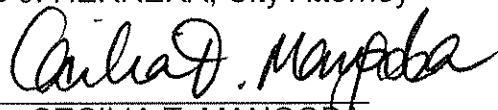
9 Section 6. **Environmental Findings.** On December 9, 2008, the Planning  
10 Department determined that the actions contemplated in this Ordinance are categorically  
11 exempt under the California Environmental Quality Act (California Public Resources Code  
12 sections 121000 et seq.). Said determination is on file with the Clerk of the Board of  
13 Supervisors in File No. 081404 and is incorporated herein by reference.

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

19 Section 8. **Operative Date.** The operative date of this ordinance shall be 90 days  
20 after its effective date.

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

23 By:

  
24 CECILIA T. MANGOBA  
Deputy City Attorney



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

**File Number:** 081404

**Date Passed:**

Ordinance amending the San Francisco Environment Code by adding Chapter 18, Sections 1801 through 1812; entitled "Mandatory Recycling and Composting Ordinance," amending the San Francisco Public Works Code by amending Section 173, and amending the San Francisco Health Code by amending Sections 291, 291.1, 291.2, 291.4, 291.7, 291.11, 291.12, 291.15, 291.17, and 293.1, and by repealing the current Section 291.16 and adding a new Section 291.16, all to: (1) require all persons located in San Francisco to separate recyclables, compostables and landfilled trash and participate in recycling and composting programs; (2) provide enforcement mechanisms and penalties for violations; (3) ensure that all properties subscribe to refuse collection service; and (4) authorize a Department of Public Health inspection fee of \$167 per hour; and making environmental findings and setting an operative date.

April 7, 2009 Board of Supervisors — SUBSTITUTED

June 9, 2009 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

June 9, 2009 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 9 - Alioto-Pier, Avalos, Campos, Chiu, Daly, Dufty, Mar, Maxwell, Mirkarimi

Noes: 2 - Chu, Elsbernd

June 16, 2009 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Alioto-Pier, Avalos, Campos, Chiu, Daly, Dufty, Mar, Maxwell, Mirkarimi

Noes: 1 - Chu

Excused: 1 - Elsbernd

File No. 081404

I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on June 16, 2009 by  
the Board of Supervisors of the City and  
County of San Francisco.

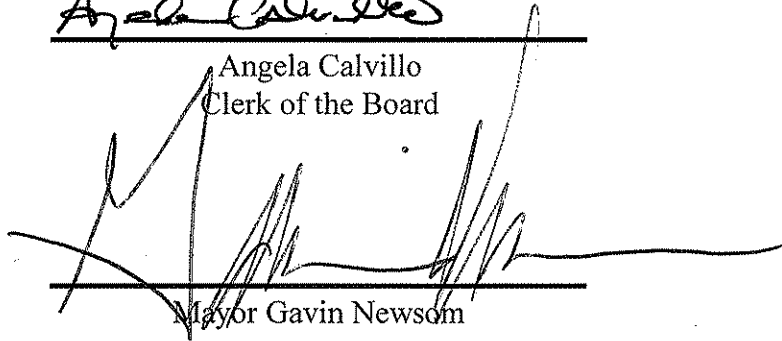
6/23/2009

---

Date Approved



Angela Calvillo  
Clerk of the Board



Mayor Gavin Newsom