

CHAPTER 5: RESOURCE CONSERVATION ORDINANCE

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SEC. 500. FINDINGS.

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

(A) The California Integrated Waste Management Act (Public Resources Code § 40000 et seq.) requires all cities and counties to reduce their waste by 50% by the year 2000 or face potential penalties of up to \$10,000 per day. The City must take a leadership role and act quickly and responsibly to implement the necessary measures to achieve this mandate.

(B) City departmental operations and activities have been found to contribute significantly to San Francisco's solid waste stream. The waste management and buy recycled provisions of this ordinance are necessary to help departments reduce their waste.

(C) On September 14, 1998, the President of the United States signed Executive Order 13101 *Greening the Government through Waste Prevention, Recycling, and Federal Acquisition* to "strengthen the role of the Federal government as an enlightened, environmentally conscious and concerned consumer." The State and Federal governments have strongly encouraged local governments to procure recycled and environmentally preferable products and services as a way to increase market demand for such products.

(D) Local agencies that use appropriated federal funds to procure \$10,000 or more worth of a designated item in a given year are subject to the federal comprehensive procurement guidelines for recycled products.

(E) Pursuant to Board of Supervisors Resolution No. 246-99, *Establishing Dioxin as a High Priority for Immediate Action for the City and County of San Francisco in Order to Restore Water Quality and Protect the Public Health and Enabling the San Francisco Commission on the Environment to Create a Task Force and Report Back on Strategies to Ensure that Less Toxic, Non-Chlorinated Sustainable Products and Processes are Actively Supported*, each City department must report to the Board of Supervisors on strategies they are using to ensure that less-toxic, non-chlorinated products sustainable alternative products, such as chlorine-free paper and PVC-free plastics, are actively supported and used.

(F) The landfill capacity available to San Francisco at the Altamont Landfill is expected to last only until approximately 2012.

(G) The discard of useable or recyclable materials into the waste stream deprives the City of the economic benefit of the value of these materials while creating unnecessary expenses for collection and disposal.

(H) This Chapter applies the Precautionary Principle to the selection of commodities used in City operations that minimize impacts on natural resources by maximizing recycled content, recycling, and reuse.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.1; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 501. DEFINITIONS.

As used in this Chapter, the following words shall have the following meanings:

"City department" means any department of the City and County of San Francisco, and does not include any other local agency or any federal or State agency, including but not limited to the San Francisco School District, the San Francisco Community College District, the San Francisco Redevelopment Agency and the San Francisco Housing Authority.

"Contract" means a binding written agreement for the provision of goods and/or services to be provided at the expense of the City or to be paid out of monies deposited in the treasury or out of trust monies under control of the City between a person, firm, corporation or other entity, including a governmental entity, and a City department. This Chapter shall not apply to contracts entered into or amended to extend the term prior to October 1, 2000.

"Contractor" means a person, firm, corporation or other entity, including a governmental entity, that enters into a contract with a City department.

"Contracting officer" means that officer or employee of the City authorized under the Charter or Municipal Code to enter into a contract on behalf of the City. "Contracting officer" shall include the Mayor, each department head or general manager and other employees of the City authorized to enter into contracts on behalf of the City.

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

"Document Imaging" means the conversion of paper documents into electronic images on a computer, thereby reducing the amount of paper used for copying and printing. A document imaging system includes the ability to scan, store, index, retrieve and search documents.

"Post-consumer material" means those products generated by a business or consumer which have served their intended end use, and which have been diverted from becoming solid waste for purposes of recycling.

"Processed Chlorine Free" means recycled paper in which the recycled content is unbleached or bleached without chlorine or chlorine derivatives. Any virgin material portion of the paper must be totally chlorine free (i.e., unbleached or processed with a sequence that includes no chlorine or chlorine derivatives).

"Purchaser" means the Purchaser of the City or his or her designee.

"Recyclable material" means any material or product separated or capable of being separated at its point of discard or from the solid waste stream for utilization as a raw material in the manufacture of a new product.

"Recycle" or "recycling" means the process of collecting, sorting, cleaning, treating, reusing or reconstituting a material that would otherwise become a solid waste and/or hazardous waste, and returning it to the economic mainstream in the form of a raw material for new, reused or reconstituted products which may be used in the marketplace.

"Reuse" means the secondary use of a product or its packaging for its original intended purpose or another function which does not require the product to be treated or reconstituted in any way.

"Solid Waste" or "Waste" has the same meaning as "solid waste" in the California Integrated Waste Management Act of 1989, Public Resources Code Section 40191.

"U.S. EPA" means the United States Environmental Protection Agency.

"Waste prevention" means discontinuing the use of an unnecessary material rather than disposing of it to the waste stream and shall include: (1) reduced resource use per unit of product; (2) increased product life; and (3) decreased consumption.

"Waste Reduction" means the diversion of materials, products and packaging from disposal through waste prevention, reuse, recycling and/or composting, but does not include steps taken after the material becomes solid waste or actions which would transfer the impacts

of land disposal to air or water resources, such as transformation, incineration, pyrolysis, distillation, gasification, or biological conversion (other than composting).

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; amended by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 21A.2; added by Ord. 83-00, File No. 000392, App. 5/12/2000; amended by Ord. 210-02, File No. 020784, App. 10/25/2002)

SEC. 502. WASTE REDUCTION BY CITY DEPARTMENTS.

(a) It shall be the goal of the City and every City department to (i) maximize purchases of recycled products and (ii) divert from disposal as much solid waste as possible so that the City can meet the state-mandated 50% diversion requirement.

(b) Within ninety (90) days of the effective date of this Chapter, each City department shall provide to the Director a written commitment signed by its department head to use its best efforts to help the City achieve its overall state-mandated diversion requirement and to maximize purchases of recycled products. Each department shall distribute copies of the written commitment to its employees and contractors within 30 days of execution.

(c) Each City department shall designate at least one person responsible for compliance with this Chapter, including preparation of the Departmental Waste Assessment (see Section 503) and the development and implementation of a Resource Conservation Plan (504) Each department shall advise the Director of the person so designated in the written commitment described in Subsection (b).

(d) All assessments, plans and reports required to be submitted to the Director under this Chapter shall be submitted electronically.

(e) Within one-hundred eighty (180) days of the effective date of this Chapter, the director shall make recommendations to departments on the use of document imaging systems for storage, retrieval and public access to departmental records.

(f) All contracts and other similar written agreements shall incorporate this Chapter by reference whenever applicable and shall provide that the failure of any bidder, proposer or contractor to comply with any of its requirements shall be deemed a material breach of contract.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.3; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 503. DEPARTMENTAL WASTE ASSESSMENT.

(a) Guidelines. Within thirty (30) days of the effective date of this Chapter and in accordance with Section 511, the Director will adopt guidelines for conducting a departmental audit to establish a Departmental Waste Assessment. For purposes of this assessment, the volume or weight of all waste generated or disposed of or diverted by a department shall be included, unless such waste is not subject to the diversion requirements contained in the California Integrated Waste Management Act of 1989, Public Resources Code § 40000 et seq. The guidelines shall include, at a minimum:

(1) Procedures for determining whether a department generates a heterogeneous waste stream (a combination of waste types, such as wood, yard debris, metals and food waste) or generates a homogenous waste stream (such as office-type wastes);

(2) Guidance on determining which wastes should be included in a waste assessment (including how to account for wastes not subject to state diversion requirements);

(3) How to determine which facilities should be included in a waste assessment; and

(4) How to estimate/calculate volumes, weights and costs associated with all waste.

(b) Within twelve (12) months of the effective date of this Chapter, each department that generates a heterogeneous waste stream

(As determined by the Director's guidelines) shall conduct and submit to the Director for review and approval a Departmental Waste Assessment.

(c) Within eighteen (18) months of the effective date of this Chapter, each department that generates a homogenous waste stream

(As determined by the Director's guidelines) shall conduct and submit to the Director for review and approval a Departmental Waste Assessment.

(d) Each department shall update its Departmental Waste Assessment annually and submit it to the Director for approval.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.4; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 504. RESOURCE CONSERVATION PLAN.

(a) Guidelines. Within thirty (30) days of the effective date of this Chapter and in accordance with Section 511, the Director will issue guidelines for development and implementation of a Resource Conservation Plan. The guidelines will cover, at a minimum, the following elements of a Resource Conservation Plan:

(1) Waste reduction, prevention and reuse;

(2) Facilitation of collection of recyclable materials;

(3) Maximizing purchases of recycled products;

(4) Operational issues that influence the ability of the City department to recycle, such as janitorial contracts;

(5) Product substitution;

(6) Equipment purchases that could facilitate recycling;

(7) Development of a diversion goal and methods of evaluating whether the goal is being met; and

(8) Examples of model programs for heterogeneous and homogenous waste streams.

(b) Within eighteen (18) months of the effective date of this Chapter, each department that generates a heterogeneous waste stream

(As determined by the Director's guidelines) shall conduct and submit to the Director for review and approval a Resource Conservation Plan.

(c) Within twenty-four (24) months of the effective date of this Chapter, each department that generates a homogenous waste stream

(As determined by the Director's guidelines) shall conduct and submit to the Director for review and approval a Resource Conservation Plan.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.5; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 505. JANITORIAL CONTRACTS.

As of six (6) months from the effective date of this Chapter, when the Purchaser or other City department enters into a contract for janitorial services where the City owns or leases at least 50% of the building the Purchaser or other City department shall contractually obligate the janitorial contractor to consolidate recyclable materials from individual City offices to a designated space for pickup by recycling haulers. Consolidation includes collection of recyclable materials from floors or individual offices and transportation to a designated location for pick up by a recycling hauler, but does not include sorting different materials (such as white paper and newspaper) from each other.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.6; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 506. PURCHASE AND USE OF PRINTING AND WRITING PAPER PRODUCTS.

(a) Every publication exhibit, form and letter produced by a City department, including all materials distributed to the public shall be on printing and writing paper products that contain:

(1) A minimum of 30% post-consumer materials for copier and bond paper (including any uncoated duplicating, printer and letterhead paper used in a variety of end use applications such as business forms and offset printing, but excluding high quality papers used for stationery, envelopes and other specialty items); and

(2) A minimum of 30% post-consumer materials for all other printing and writing paper products including, without limitation: publications, forms, letters, letterhead, promotional materials, advertisements, educational pamphlets, newsletters, exhibits, reports, business cards, calendars, commission and committee notices, agendas and minutes, requests for proposals or qualifications, invitations for bids, checks, tickets, high quality papers used for stationery, envelopes and other specialty items and other printed materials.

(3) The minimum level of post-consumer content will be reviewed annually by the Director. Pursuant to Section 511, the Director may raise, but not lower, the minimum level of post-consumer content as higher post-consumer content paper becomes available.

(4) All printing and writing paper products shall be on processed chlorine free paper as it becomes available at a reasonable price. The availability of processed chlorine free paper will be determined by the Director pursuant to Section 511.

(b) All pre-printed materials intended for distribution that are purchased or produced in quantities greater than 50 sheets after the effective date of this Chapter must include a recycled content logo and the percentage of post-consumer material in the paper.

(c) Each City department, including the Purchaser, shall use its best efforts to incorporate the standards set forth in this Section into existing contracts for the provision of printing and writing paper and services. If the City department is unable to amend an existing contract, the City department is authorized to enter into another contract to procure products that do comply with this Section, provided that the City department complies with all other applicable laws. Nothing in this Chapter is or shall be interpreted to require or authorize any City department to breach the terms of a contract. Each City department shall document its efforts pursuant to this Section in a report filed with the Director, explaining the circumstances.

(d) This Section does not apply to commercial sanitary products, paperboard and packaging products, newsprint products or other products not generally considered to be printing or writing paper products.

(e) The contracting officer shall require all suppliers of printing and writing paper products or services to certify the minimum content of post-consumer materials in the products to be provided in the performance of a contract.

(f) Unless specifically provided by court rules or other legal mandates, all pre-printed City forms and other pre-printed material shall be printed on double-sided pages.

(g) In all contracts for printing services for the City, the contract shall specify and require that the contractor use paper products meeting the standards set forth in this Section, and, unless inappropriate for the end use, that the contractor print the document on both sides of the paper.

(h) Any City department seeking the preparation and/or submission of any bid, report, request for proposal, quotation or other document shall specify and require the document to be submitted on paper which meets the requirements in this Chapter and printed on double-sided pages.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; amended by Ord. 115-05, File No. 050595, App. 6/17/2005) Derivation Former Administrative Code Section 21A.7; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

Sec. 507.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 21A.8; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

Sec. 508.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 21A.9; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 509. NON-PVC PLASTICS.

Wherever possible, all departments shall obtain non-PVC plastics where appropriate alternative products composed of non-chlorinated materials are available. City departments are not required to procure non-chlorinated products in any of the following circumstances: (i) the product is not available in a reasonable period of time; (ii) the product would fail to meet reasonable performance standards; or (iii) the product is only available at an unreasonable price.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.10; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 510. ANNUAL REPORTS.

(a) Guidelines. Within thirty (30) days of the effective date of this Chapter and in accordance with Section 511, the Director will adopt a form for annual reporting on solid waste diversion. The form shall account for departments in each phase of development of a Departmental Waste Assessment and Resource Conservation Plan and for transition periods.

(b) No later than March 1, 2001, and annually thereafter, each City department shall report solid waste diversion information to the Director, on forms provided by the Director, for the prior fiscal year. On and after March 1, 2003, the report shall contain information on the types and amount of batteries purchased, collected from and recycled by that department for the prior fiscal year. The annual report must contain a copy of any reports made under Subsections 506(c), 507(b) or (c) or 512(e) or (f) during the prior 12-month period.

(c) No later than June 1, 2001, and annually thereafter, the Director shall prepare and submit a written report to the Board of Supervisors summarizing information provided by City departments pursuant to Subsection (b) and describing the status of the implementation of this Chapter. Among other things, the Director's report shall specifically list each City department that failed to submit an annual report or otherwise conform with the requirements of this Chapter. On and after June 1, 2003, the Director's report shall also contain recommendations regarding batteries and the feasibility of "extended producer responsibility." Extended Producer Responsibility extends the traditional responsibilities that producers and distributors have previously been assigned (i.e. worker safety, prevention and treatment of environmental releases from production, financial and legal responsibility for the sound management of production wastes) to include management at the post-consumer stage.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.11; added by Ord. 83-00, File No. 000392, App. 5/12/2000; amended by Ord. 210-02, File No. 020784, App. 10/25/2002)

SEC. 511. GUIDELINES.

(a) The Director shall act as a clearinghouse of information on recycled product availability, performance, and post-consumer material content and shall assist City departments in meeting compliance with the letter and spirit of this Chapter.

(b) The Director shall promulgate any guidelines necessary or appropriate to carry out the purposes and requirements of this Chapter.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; amended by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 21A.12; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

Sec. 512.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 21A.13; added by Ord. 210-02, File No. 020784, App. 10/25/2002)

SEC. 513. PENALTY.

(a) Whenever any City department finds, after an investigation by the contracting officer and the City Attorney, that a person or entity being considered for a contract or under contract with the City has, in connection with the bidding, execution or performance of any City contract:

(1) Falsely represented to the City the nature or character of the products offered, used or supplied under the contract; or

(2) Knowingly provided the City with products in violation of this Chapter, the guidelines adopted pursuant to this Chapter, or contract provisions pertaining to the required use or purchase of recycled products the contracting officer shall have the authority to impose such sanctions or take such other actions as are designed to ensure compliance with the provisions of this Chapter.

(b) Measures which are available to a City department to enforce this Chapter upon finding a violation pursuant to Section 513(a) include, but are not limited to the following:

(1) Refusal to certify the award of a contract;

(2) Suspension of a contract;

(3) Ordering the withholding of City funds due the contractor under any City contract;

(4) Ordering the recession of a contract based upon a material breach of contract provisions or pertaining to representations made in bidding, execution or performance of the contract;

(5) Debarment of a bidder, proposer or contractor from eligibility for providing commodities or services to the City for a period not to exceed five years, with a right to review and reconsideration by the contracting City office or department upon a showing of corrective action indicating violations are not likely to reoccur.

(c) Nothing in this Chapter shall be construed to relieve a contractor of responsibility for providing a satisfactory product.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.14; added by Ord. 83-00, File No. 00392, App. 5/12/2000; amended by Ord. 210-02, File No. 010784, App. 10/25/2002)

SEC. 514. SEVERABILITY.

If any part or provision of this Chapter, or the application thereof to any person or circumstance is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect, unless enforcement of this Chapter as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Chapter. To this end, provisions of this Chapter are severable.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.15; added by Ord. 83-00, File No. 000392, App. 5/12/2000; amended by Ord. 210-02, File No. 020784, App. 10/25/2002)