[Resource Conservation]

REPEALING CHAPTER 21A, PART I OF THE SAN FRANCISCO MUNICIPAL CODE
(ADMINISTRATIVE CODE) AND ADDING CHAPTER 21A, PART I OF THE SAN FRANCISCO MUNICIPAL CODE (ADMINISTRATIVE CODE), IMPOSING REQUIREMENTS ON CITY DEPARTMENTS TO PLAN FOR AND IMPROVE RESOURCE CONSERVATION AND RECYCLING PRACTICES.

Note: Additions are underlined; deletions are in ([double parentheses]).

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

Section 1. FINDINGS. The Board of Supervisors of the City and County of San Francisco hereby finds and declares that the Resource Conservation Ordinance, enacted in May 1992, imposed certain requirements upon City departments to recycle and reduce the amount of waste they generate. This amendment will repeal and reenact the ordinance to add more precise provisions, reflect the current marketplace for recycled products, impose requirements necessary to meet state-mandated deadlines and make each City department accountable for reducing its waste and purchasing practices.

Section 2. The San Francisco Administrative Code is hereby amended by repealing Chapter 21A, as follows:

((SEC. 21A.1. FINDINGS. The Board of Supervisors hereby finds and declares that:

(1) The landfill space available to San Francisco at the Altamont landfill is expected to last only 15 more years, and the cost-per-ton of solid waste disposal is expected to rise steeply after that time; and

(2) The careless discard of usable materials into the waste stream deprives the City of the economic benefit of the value in those materials while creating unnecessary expenses of collection and disposal; and

SUPERVISOR, AMMiano, BIERMAN, NEWSOM, BECERRIL
BOARD OF SUPERVISORS 3/2/00
(3) Discontinuing the use of unnecessary materials is in the long-term financial and public health interest of the City; and

(4) At the present time, various departments of the City recycle annually 375 tons of office paper, 40 tons of newspaper, 60 tons of lubricating oils, 35 tons of used tires, 10,000 tons of construction and demolition debris and 1,800 tons of organic debris, and undetermined amounts of other recyclable products, such as bottles, aluminum and cardboard; and

(5) Recycling involves not only the collection of material that would become solid waste, but also involves the reconstitution and return of these materials to the economic stream in a marketable form; and

(6) Supporting the marketplace for recycled materials is a critical component of reducing the solid waste stream; and

(7) The Board of Supervisors has recognized the importance of creating and supporting markets for recycled products by encouraging every City department to demand and purchase recycled paper to the greatest extent possible; and

(8) The State of California has encouraged local governments to procure recycled products as one way of supporting markets for recycled products; and

(9) State law requires all local agencies to increase procurement of recycled products; and

(10) Requiring City departments to purchase recycled products and promulgating guidelines for such purchase and use will meet the State-mandated goals and contribute to the necessary reduction in solid waste. Such a requirement will not create shortages of materials or supplies for the City inasmuch as acceptable recycled products are available and of a quality comparable to virgin products, although the Board of Supervisors recognizes that
recycled products will be less available than virgin products until the recycling industries mature and markets develop.

(11) Resource conservation is imperative to preserve the health of ecosystems on the planet Earth and the most environmentally sound and economic methods of resource conservation are, in priority order, source reduction, reuse, recycling and composting. The City enacts this Chapter to require that (1) City departments establish in-house waste reduction programs, and (2) all City and County departments and agencies purchase recycled products to the maximum extent possible.

(12) Under this Chapter, the City and County of San Francisco wishes to exercise its power to make economic decisions involving its own funds as a participant in the marketplace and to conduct its own business as a municipal corporation to ensure that purchases and expenditures of public monies are made in a manner consistent with sound environmental policies and practices.

SEC. 21A.2. DEFINITIONS. As used in this Chapter, the following words and phrases shall have the meanings indicated herein:

“Brown paper” shall mean paper, usually made from unbleached kraft pulp, that is commonly used for bags, sacks and wrapping paper.

“Building insulation” shall mean a material, including blanket, board, spray-in-place and loose-fill that are used as ceiling, floor, foundation and wall insulation, primarily designed to resist heat flow, which is installed between the conditioned volume of a building and adjacent unconditioned volumes or the outside.

“City” or “City and County” shall mean the City and County of San Francisco or any department, board, commission or agency thereof.
“City funds” shall mean all monies or other assets received and managed by, or are otherwise under the control of, the Treasurer, and any notes, bonds, securities, certificates of indebtedness or other fiscal obligations issued by the City and County.

“Contract” shall include, but not be limited to, any contract, purchase order, term purchase agreement, revolving fund order, or other binding written obligation of the City and County.

“Contract specifications” shall mean the set of specifications prepared for an individual construction project containing design, performance and material requirements for that project.

“Contracting officer” shall mean that officer or employee of the City and County authorized under the Charter, the Administrative Code or the Municipal Code, to enter into a contract on behalf of the City and County. “Contracting officer” shall include the Mayor, each department head or general manager and other employees of the City and County authorized to enter into contracts or other binding agreements on behalf of the City and County.

“Construction” shall mean any and all actions necessary and incidental to the building of new public works or improvements, or the replacement, expansion, remodeling, alteration, modernization, or extension of existing public facilities.

“Cotton fiber papers” or “rag paper” shall mean paper that contains a minimum of 25 percent or more cellulose fibers, also commonly called “rag” derived from lint cotton, cotton linters and cotton or linen cloth cuttings and that is commonly used for stationery, ledgers, maps and other specialty papers.

“Dollies” shall mean paper placemats used on food service trays in hospitals or other institutions.

“Engine lubricating oil” shall mean petroleum-based oils used for reducing friction in engine parts.
“Facial tissue” shall mean any of a group of soft, absorbent and sanitary papers.

“Gear oil” shall mean petroleum-based oils used for lubricating machinery gears.

“High-grade bleached papers” shall mean printing and writing papers made of pulp that has been treated with bleaching agents, including offset printing, mimeo and duplicator paper, writing stationery, note pads, paper for high-speed copiers, envelopes, form bond including computer and carbonless papers, book paper, bond paper, ledgers and cover stock.

“Hydraulic fluids” shall mean petroleum-based hydraulic fluids.

“Industrial wipes” shall mean paper towels especially made for industrial cleaning and wiping.

“Millbroke” shall mean any paper waste generated in a paper mill prior to completion of the papermaking process. It is usually returned directly to the pulping process. Millbroke is excluded from the definition of “recovered materials.”

“Newsprint” shall mean paper made primarily from mechanical wood pulps combined with some chemical wood pulp and generally used in the publication of newspapers or special publications.

“Paper napkins” shall mean special tissues of any size, color or texture which are used during meals or with beverages.

“Paper towels” shall mean paper toweling in folded sheets, or in raw form, for use in drying or cleaning or where quick absorption is required.

“Paperboard” shall mean the broad category of paper that is heavier in basis weight and thicker (0.012 inch or more) than paper. Paperboard generally includes container-board used for corrugated boxes, boxboard used to make cartons, and all other paperboard.

“Post-consumer material” shall mean only those products generated by a business or consumer which have served their intended end uses, and which have been diverted from solid waste for the purposes of collection, recycling and disposition.
“Purchaser” shall mean the Purchaser of the City and County or any authorized representative of that official.

“Recovered materials” shall mean waste material and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process.

In the case of paper and paper products, “recovered material” shall include the following materials:

(1) Post-consumer material such as:

(a) Paper, paperboard and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end usage as a consumer item, including: Used corrugated boxes, old newspapers, old magazines, mixed waste paper, tabulating cards, and used cordage; and

(b) All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste; and

(2) Preconsumer materials such as manufacturing, forest residues, and other wastes including:

(a) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: Envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(b) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;
(c) Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw linters, bagasse, slash, and other forest residues;

(d) Wastes generated by the conversion of goods made from fibrous material (e.g., waste rope from cordage manufacture, textile mill waste, and cuttings); and

(e) Fibers recovered from wastewater that otherwise would enter the waste stream.

“Recyclable product” shall mean any 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” shall mean the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste and/or hazardous waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

“Recycled paper” shall mean all paper or paper product that contains at least the following minimum percentages of recovered materials:

<table>
<thead>
<tr>
<th>Paper Product</th>
<th>Percent Recovered</th>
</tr>
</thead>
<tbody>
<tr>
<td>High-grade, bleached printing</td>
<td>50% waste paper of which 010% is post-consumer paper</td>
</tr>
<tr>
<td>0or writing (office) papers</td>
<td>40% post-consumer</td>
</tr>
<tr>
<td>Cotton-fiber papers</td>
<td>40% post-consumer</td>
</tr>
<tr>
<td>Newsprint</td>
<td>40% post-consumer</td>
</tr>
<tr>
<td>Tissue</td>
<td>40% post-consumer</td>
</tr>
<tr>
<td>Toilet tissue</td>
<td>20% post-consumer</td>
</tr>
<tr>
<td>Paper towels</td>
<td>40% post-consumer</td>
</tr>
<tr>
<td>Paper napkins</td>
<td>30% post-consumer</td>
</tr>
<tr>
<td>Facial tissue</td>
<td>05% post-consumer</td>
</tr>
</tbody>
</table>
Doilies 40% post-consumer
Unbleached packing boxes 35% post-consumer
Brown paper 05% post-consumer
Recycled paperboard 80% post-consumer
Pad backing 90% post-consumer

"Re-refined oil" shall mean used oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process.

"Retread tire" shall mean a worn automobile, truck, or other motor vehicle tire whose tread has been replaced.

"Reuse" shall mean the secondary use of a product or its packaging in a way that conserves the product's inherent structure.

"Source reduction" shall mean discontinuing the use of unnecessary materials, rather than disposing of them into the waste stream and shall include (1) reduced resource use per unit of product, (2) increased product life, (3) product reuse and repair and (4) decreased consumption. "Source reduction" does not include steps taken after the material becomes solid waste or actions which would impact air or water resources in lieu of land, including, but not limited to, transformation.

"Specifications" shall mean the clear and accurate written descriptions, drawings, prints, commercial designations, industry standards, and other descriptive references setting forth the technical requirements for materials, supplies, equipment, or services specifying the minimum requirement for quality and construction of materials, equipment and service necessary for an acceptable product.

"Tire" shall mean the following types of tires: Passenger car tires, light- and heavy-duty truck tires, high-speed industrial tires, bus tires, and special-service tires (including agricultural, off-road and slow-speed industrial).
"Tissue products" shall mean paper primarily used for its soft or absorbent properties, including toilet tissue, paper towels, paper napkins, facial tissue, doilies and industrial wipes.

"Toilet tissue" shall mean sanitary tissue paper, marketed either in rolls or in interleaved packages, and characterized by its softness, absorbency, cleanliness, adequate strength and easy disposability.

"Transformation" shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. "Transformation" does not include composting.

"Wastepaper" or "secondary waste material" shall mean any of the following "recovered materials":

1. Post-consumer materials such as:
   a. Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end usage as a consumer item, including: Used corrugated boxes, old newspapers, old magazines, mixed wastepaper, tabulating cards, and used cordage; and
   b. All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste; and
2. Preconsumer materials including manufacturing, forest residues, and other wastes such as:
   a. Dry paper and paperboard waste generated after completion of the papermaking process (that is, those trimmings of the paper machine reel into smaller rolls or rough sheets) including: Envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
(b) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others. “Unbleached papers” shall mean any papers made of pulp that has not been treated with bleaching agents.

SEC. 21A.3. IN-HOUSE WASTE REDUCTION. It shall be the goal of all City departments to reduce the amount of waste generated and disposed of within their operations.

Every City department shall designate at least one person to work with the Director of Administrative Services' Buy-Recycled and Source Reduction Committee to develop and implement programs to reduce the amount of waste disposed of by City government departments.

SEC. 21A.4. PURCHASE OF BUILDING INSULATION PRODUCTS. (a) Recovered Materials in Building Insulation Products.

1. All City departments having the responsibility for drafting or reviewing specifications for construction of public works and improvements and for procurement of materials, supplies and equipment necessary for said construction or for maintenance, repair or renovation of public facilities, shall require in all such specifications that all bidders, contractors and vendors offer the City building insulation products using or containing recovered materials whenever available and to the maximum extent possible without jeopardizing reasonable performance standards.

2. For purposes of this Section, all City departments shall require the following minimum percentages of recovered materials in building insulation products:

<table>
<thead>
<tr>
<th>Insulation Product Percent Recovered</th>
<th>75% post-consumer recovered paper</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cellulose, loose-fill and spray-on</td>
<td></td>
</tr>
<tr>
<td>Perlite composite board</td>
<td>23% post-consumer recovered paper</td>
</tr>
</tbody>
</table>
Plastic rigid foam
(polysocyanurate/polyurethane)

Rigid foam  9% recovered material

Foam-on-place  5% recovered material

Glass fiber reinforced  6% recovered material

Phenolic rigid foam  5% recovered material

Rock wool  50% recovered material

(b) Nonapplicability.

(1) Section 21A.4 shall not apply to bid packages advertised and made available to the public or any competitive and sealed bids received by the City or entered into prior to the effective date of this Chapter.

(2) Section 21A.4 shall not apply to any amendment, modification to or renewal of a contract, which contract was entered into prior to the effective date of this Chapter, where such application would delay timely completion of a project or involve an increase in the total monies to be paid by the City and County under that contract.

(3) The provisions of Section 21A.4 shall not apply where the contracting officer finds and certifies that:

(A) Building insulation products containing recovered material are not available in a sufficient quantity within a period of time necessary for completion of a project or application; or

(B) The available building insulation product containing recovered material is unable to meet technical performance standards required by the contract; or

(C) The inclusion or application of such provisions will violate or be inconsistent with the terms or conditions of a grant, subvention or contract with an agency of the State of
California or the United States or the instructions of an authorized representative of any such agency with respect to any such grants, subvention or contract.

SEC. 21A.5. PURCHASE OF RECYCLED PAPER AND PAPER PRODUCTS. (a) Departments to Purchase Recycled Paper; Bond Paper With 25 Percent Rag Content Used for Letterhead.

(1) Any City department seeking to purchase paper or paper products shall require, as part of the standards or specifications for procurement of paper or paper products, that the bidders offer recycled paper and paper products containing recovered materials, to the maximum extent possible within the performance standards required by the contract. Bond paper purchased for use as printed City letterhead shall be recycled paper containing recovered materials without regard to Section 21A.5.(b)(3)(D) pertaining to nonapplicability.

(2) Any City department specifying nonrecycled paper or paper products shall set forth the performance standards required to be met necessitating the purchase of a nonrecycled product, and shall certify that recycled paper or paper products are unavailable to meet the contract requirements. Performance standards and specifications shall bear reasonable relation to the function or intended end use of the product.

(3) The contracting officer shall require all suppliers of paper to certify the minimum content of recovered materials in paper or paper products to be provided in the performance of a contract.

(4) In all contracts for printing services for the City, the contract shall specify and require that the contractor use recycled paper or paper products meeting the standards in Section 21A.2 of this Chapter to the maximum extent possible, and, when appropriate, that the contractor print the document using double-sided pages.
(5) When appropriate, all preprinted City forms, letterhead and other printed material shall be on double-sided pages and shall bear a notation or logo identifying the paper as a recycled product.

(6) Any City department requiring 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 recycled paper and printed on double-sided pages to the maximum extent possible.

(b) Nonapplicability.

(1) Section 21A.5 shall not apply to bid packages advertised and made available to the public or any competitive and sealed bids received by the City or entered into prior to the effective date of this Chapter.

(2) Section 21A.5 shall not apply to any amendment, modification or renewal of a contract, which contract was entered into prior to the effective date of this Chapter, where such application would delay timely completion of a project or involve an increase of more than 10 percent in the total monies to be paid by the City and County under that contract.

(3) The provisions of Section 21A.5 shall not apply where the contracting officer finds and certifies that:

(A) There is no available recycled-paper product meeting the reasonable performance standards required by the contract; or

(B) The available recycled paper or paper product is of a quality inappropriate to the intended end use of the paper; or

(C) The recycled paper product is not available in a sufficient quantity within a reasonable time as required by the contract; or

(D) The available recycled paper or paper product contract price is more than 20 percent higher than the lowest responsive bid for the equivalent nonrecycled paper; or
(E) The inclusion or application of such provisions will violate or be inconsistent with the terms or conditions of a grant, subvention or contract with an agency of the State of California or the United States or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or contract.

SEC. 21A.6. PURCHASE OF RE-REFINED OIL. (a) Department to Purchase or Use Re-refined Oil.

(1) To the maximum extent possible, all City departments entering into contracts for the purchase or use of lubricating oils shall specify and require the use of re-refined oil.

(2) All City departments entering into contracts for the purchase or use of lubricating oils shall set a minimum re-refined oil content standard for purchases of oils pursuant to this Chapter, based on criteria of performance, availability and price, but shall require no less than 25 percent minimum re-refined oil content.

(3) When a contract proposal specifies a minimum re-refined oil content standard for purchase of oil under that contract, the contracting officer shall require each contractor to certify that oil to be used in the performance of the contract will have an API rating that meets vehicle manufacturer's specifications required for keeping warranties intact.

(4) The contracting officer shall require all suppliers of re-refined oil to certify the percentage of re-refined oil content used as a factor of the total volume of oil supplied under the contract.

(b) Nonapplicability.

(1) Section 21A.6 shall not apply to bid packages advertised and made available to the public or any competitive and sealed bids received by the City or entered into prior to the effective date of this Chapter.

(2) Section 21A.6 shall not apply to any amendment, modification or renewal of a contract, which contract was entered into prior to the effective date of this Chapter, where
such application would delay timely completion of a project or involve an increase of more than 10 percent in the total monies to be paid by the City and County under that contract.

(3) Section 21A.6 shall not apply where the contracting officer finds and certifies that:

(A) There is no available re-refined oil product which will have an API rating that meets vehicle manufacturer's specifications required for keeping warranties intact; or

(B) The re-refined oil is not available in a sufficient quantity within a reasonable period of time as required by the contract; or

(C) The inclusion or application of such provisions will violate or be inconsistent with the terms or conditions of a grant, subvention or contract with an agency of the State of California or the United States or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or contract.

SEC. 21A.7. PURCHASE OF RETREAD TIRES. (a) Departments to Purchase Retread Tires.

(1) Any City department entering into a contract for the purchase of tires shall purchase retread tires for use on the following vehicles: Four-tire rear-axle trucks.

(2) Any City department purchasing tires for uses other than those enumerated in Subdivision (a) of this Section may purchase retreaded tires meeting the functional criteria and performance requirements for such use. Specifications for said contracts shall describe the functional requirements of tires to be procured, including performance criteria, any desired mileage guarantees and the size and type of tire required.

(3) Notwithstanding any other provision of this section, the City shall not purchase retreaded tires for use on police, fire, ambulance or any other emergency vehicle used in the course of protecting the health and safety of the residents of the City.

(b) Nonapplicability.
(1) Section 21A.7 shall not apply to bid packages advertised and made available to
the public or any competitive and sealed bids received by the City or entered into prior to the
effective date of this Chapter.

(2) Section 21A.7 shall not apply to any amendment, modification or renewal of a
contract, which contract was entered into prior to the effective date of this Chapter, where
such application would delay timely completion of a project or involve an increase of more
than 10 percent in the total monies to be paid by the City and County under that contract.

Section 21A.7 shall not apply to:

(A) Any binding contractual obligation for purchase of retread tires entered into prior
to the effective date of this Chapter; or

(B) Where the contracting officer finds that the available retread tires will not meet
reasonable performance standards or are otherwise of a quality inappropriate to the intended
end use of the tire; or

(C) Where the inclusion or application of such provisions will violate or be
inconsistent with the terms or conditions of a grant, subvention or contract with an agency of
the State of California or the United States or the instructions of an authorized representative
of any such agency with respect to any such grant, subvention or contract.

SEC. 21A.8. OTHER RECYCLED PRODUCTS. (1) To the maximum extent possible,
the City shall procure for its use other recycled products not otherwise defined in this Chapter.

(2) The Department of Solid Waste Management shall act as a
clearinghouse of information on recycled product availability, performance, and post-
consumer content and shall assist departments and the Purchaser in meeting compliance
with the letter and spirit of this ordinance.

SEC. 21A.9. PURCHASES OF RECYCLED PAPER — COMPATIBLE EQUIPMENT.

(Reserved)
SEC. 21A.10. REMANUFACTURING. (Reserved)

SEC. 21A.11. CONTRACTOR RESPONSIBILITY. Nothing in this Chapter shall be construed to relieve a contractor of responsibility for providing a satisfactory product.

SEC. 21A.12. RULES AND REGULATIONS. (a) The Department of Solid Waste Management shall promulgate any rules and regulations necessary or appropriate to carry out the purposes and requirements of this ordinance. Each department, board and commission of the City and County shall cooperate with, and provide in writing to, the Department of Solid Waste Management, all information necessary for the promulgation of such rules and regulations.

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

SEC. 21A.13. PUBLIC RECORDS. Any and all documents and reports prepared pursuant to the requirements of this ordinance shall be made available for public inspection upon proper request, except those prepared for purposes of litigation.

SEC. 21A.14. PENALTY. (a) Whenever any department of the City and County discovers, 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 and County has, in connection with the bidding, execution or performance of any City contract:

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

(2) Provided the City with products in violation of this ordinance, the rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining to the required use or purchase of recycled products, the contracting officer shall have the authority...
1 to impose such sanctions or take such other actions as are designed to ensure compliance
2 with the provisions of this ordinance including, but not limited to:
3 (1) Refusal to certify the award of a contract;
4 (2) Suspension of a contract;
5 (3) Ordering the withholding of funds due the contractor under any contract with the
6 City and County;
7 (4) Ordering the revision of a contract based upon a material breach of contract
8 provisions or pertaining to representations made in bidding, execution or performance of the
9 contract;
10 (5) Disqualification of a bidder or contractor from eligibility for providing
11 commodities or services to the City and County for a period not to exceed five years, with a
12 right to review and reconsideration by the contracting City office or department after two years
13 upon a showing of corrective action indicating violations are not likely to reoccur.
14 (b) All contracts shall provide that in the event any bidder or contractor fails to
15 comply in good faith with any of the provisions of this Chapter the bidder or contractor shall
16 be liable for liquidated damages in an amount equal to the bidder’s or contractor’s net profit
17 under the contract, or five percent of the total amount of the contract dollars whichever is
18 greatest. All contracts shall also contain a provision whereby the bidder or contractor
19 acknowledges and agrees that the liquidated damages assessed shall be payable to the City
20 and County upon demand and may be set off against any monies due to the bidder or
21 contractor from any contract with the City and County of San Francisco.
22 SEC. 21A.15. (RESERVED)
23 SEC. 21A.16. IMPLEMENTATION REPORTS. The Office of Solid Waste
24 Management shall provide written reports on the implementation of this ordinance to the
25 Board of Supervisors (1) at the first Board of Supervisors meeting held 12 months after this
Chapter has taken effect; and (2) annually thereafter. Each department, board and commission of the City and County shall cooperate with, and provide in writing to, the Office of Solid Waste Management, whichever is appropriate, all information necessary for preparation of such reports.

This ordinance shall expire 10 years from its effective date unless the Board of Supervisors finds that the purposes identified in Chapter 21A have not yet been achieved, in which case the ordinance may be extended for additional three-year periods.

SEC. 21A.17. SEVERABILITY. If any section, subsection, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court or federal or state agency or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.]

Section 3. Chapter 21A of the San Francisco Administrative Code is hereby added to read as follows:

SEC. 21A.1. 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.

**SEC. 21A.2. 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.

"Comprehensive Procurement Guideline" or "CPG" means final guidelines, as periodically promulgated and amended by the U.S. EPA and codified at 40 Code of Federal Regulations Part 247, which designate products that are or can be made with recovered materials in order to assist federal procuring agencies in complying with the requirements of federal law and Executive Order 13101 as they apply to the procurement of items with recovered materials content. As of February 14, 2000, final CPGs exist for: paper and paper products; vehicle products (including engine coolants, re-refined lubricating oils, and retread tires); construction products (including building insulation products, carpet, cement and concrete containing coal fly ash and ground granulated blast furnace slag, consolidated and reprocessed latex paint, floor tiles, patio blocks, shower and room dividers, structural fiberboard, carpet cushion, flowable fill and railroad grade crossing surfaces); transportation products (including channelizers, delineators, flexible delineators, parking stops, traffic barricades and traffic cones); park and recreational products (including plastic fencing, playground surfaces, running tracks, park benches and picnic tables, and playground equipment); landscaping products (including garden and soaker hoses, hydraulic mulch, lawn and garden edging, yard trimmings compost, food waste compost, and plastic lumber landscaping timbers and posts); non-paper office products (including binders, office recycling containers, office waste receptacles, plastic desktop accessories, plastic envelopes, plastic trashbags, printer ribbons, toner cartridges, solid plastic binders, plastic clipboards, plastic file folders, plastic clip portfolios, and plastic presentation folders); and miscellaneous products.
(including pallets, sorbents, industrial drums, awards and plaques, mats, signage, including sign supports and posts, and manual-grade strapping).

"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 Solid Waste Management Program within the Department of Administrative Services 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.

“Recovered Materials Advisory Notice” or “RMAN” means the information and
recommendations periodically published and amended by the U.S. EPA, based on U.S.
EPA’s market research concerning the availability, quality, and price of products listed in the
CPG. Existing RMANs can be found at 60 Federal Register 21386 (May 1, 1995) (RMAN);
62 Federal Register 60976 (November 13, 1997) (RMAN II); 61 Federal Register 26986 (May
29, 1996) (Paper RMAN IV); 63 Federal Register 31214 (June 8, 1998) (Paper RMAN II); 63
Federal Register 45580 (August 26, 1998) (RMAN III); and 65 Federal Register 3070

“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.

“Recycled product” means a product that is or can be made with recovered materials,
including those listed in the CPG and which at a minimum, meets the requirements of the
federal RMAN.

“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).

SEC. 21A.3. 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 21A.4) and the development and implementation of a Resource Conservation Plan (see section 21A.5). 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.

(e) 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.

Sec. 21A.4. DEPARTMENTAL WASTE ASSESSMENT.

(a) Guidelines. Within thirty (30) days of the effective date of this Chapter and in accordance with Section 21A.12, 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.

SEC. 21A.5. RESOURCE CONSERVATION PLAN.

(a) Guidelines. Within thirty (30) days of the effective date of this Chapter and in accordance with section 21A.12, 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.

SEC. 21A.6. 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.

SEC. 21A.7. 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 21A.12, 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 21A.12.

(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. Such products are covered under Section 21A.8.

(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.
SEC. 21A.8. PURCHASE AND USE OF PRODUCTS LISTED IN THE CPG OTHER THAN PRINTING AND WRITING PAPER PRODUCTS UNDER SECTION 21A.7

(a) Except for printing and writing paper products covered under section 21A.7, a City department (including but not limited to City departments having responsibility for drafting or reviewing construction specifications) that purchases or contracts to purchase any product listed in the CPG shall purchase and contract to purchase a product that meets or exceeds the RMAN for that CPG.

(b) City departments are not required to procure products that meet or exceed the RMAN in the following circumstances: (i) the (RMAN) product is not available in a reasonable period of time; (ii) the (RMAN) product would fail to meet reasonable performance standards; (iii) or the (RMAN) product is only available at an unreasonable price. “Available in a reasonable period of time” means that the department would receive the (RMAN) product within the needed time frame without hindering productivity. “Reasonable performance standards” means a (RMAN) product that will perform the desired objective without overriding any City specifications for a project. If a City department relies on one of these exceptions, within two weeks of the purchase, it must file a report with the Director, in a form specified by the Director, explaining the circumstances and demonstrating a good faith effort to buy products that meet the RMAN.

(c) Each City department, including the Purchaser, shall use its best efforts to incorporate the CPGs and associated RMANs into existing contracts for these products. 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 the RMAN, 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
subsection in a report filed with the Director, explaining the circumstances.

(d) Notwithstanding any other provision of this Chapter, no City department is
required to purchase retreaded tires for use on passenger vehicles, police, fire, ambulance or
other emergency vehicle used in the course of protecting the health and safety of the
residents of the City.

(e) The contracting officer shall require all contractors, vendors and suppliers of
products subject to this section to certify that the product meets or exceeds the relevant

(f) Wherever possible, each City department that purchases or contracts to purchase
paper products subject to this Section 21A.8, shall purchase and contract to purchase paper
products that are processed chlorine free. City departments are not required to procure
paper products that are processed chlorine free under this subsection 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.

SEC. 21A.9. PRODUCTS NOT LISTED IN THE CPG. Wherever possible, for
products which are not included in the CPGs, the City shall procure for its use products
containing the maximum amount of post-consumer material.

SEC 21A.10 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.
SEC. 21A.11. ANNUAL REPORTS.

(a) Guidelines. Within thirty (30) days of the effective date of this Chapter and in accordance with Section 21A.12, 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. The annual report must also contain a copy of any reports made under subsections 21A.7(c), or 21A.8 (b) or (c) 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.

SEC. 21A.12. 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. The Director shall maintain and make copies of the current CPG and RMAN and supporting documents available.

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

SEC. 21A.13. 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 21A.13(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) Disqualification 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.

SEC. 21A.14. 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.

APPROVED AS TO FORM:
LOUISE H. RENNE, City Attorney

By:
Rona H. Sandler
Deputy City Attorney
Ordinance amending Administrative Code by adding Chapter 21A, imposing requirements on City departments to plan for and improve resource conservation and recycling practices.

April 24, 2000 Board of Supervisors — PASSED ON FIRST READING
Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Teng, Yaki, Yee
Absent: 1 - Katz

May 1, 2000 Board of Supervisors — FINALLY PASSED
Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Teng, Yaki, Yee
Absent: 1 - Katz
I hereby certify that the foregoing Ordinance was FINALLY PASSED on May 1, 2000 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

MAY 12, 2000
Date Approved

Mayor Willie L. Brown Jr.