[Transportation of Aggregate Materials.]

Ordinance amending the San Francisco Administrative Code by adding a new Chapter 12T to require City Departments and contractors operating vehicles carrying dirt and other aggregate material to cover the load to prevent the entrainment of particulate material into the air during the transportation of such materials within San Francisco.

Note: This Chapter is entirely new. Board amendment additions are double underlined. Board amendment deletions are strikethrough normal.

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

Section 1. The San Francisco Administrative Code is hereby amended by adding a new Chapter 12T, to read as follows:

\textit{Chapter 12T – Transportation of Aggregate Materials}

Sec. 12T.1. FINDINGS. The Board of Supervisors finds and declares the following:

\begin{enumerate}
\item Particulate matter and other air-borne materials have been shown to have an adverse impact on public health, including asthma and other respiratory illnesses; and,
\item Particulate matter and other air-borne materials may have negative impacts on the environment, particularly in ecologically sensitive areas; and,
\item Vehicles transporting uncovered dirt and other aggregate materials may facilitate the release of particulate matter into the environment; and,
\item Vehicles that transport dirt and other aggregate materials often drive through residential and ecologically sensitive areas; and,
\item Covering loads of aggregate material during transit within the City would prevent the entrainment of particulate matter into the environment; and,
\end{enumerate}
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 its activities do not increase the amount of particulate matter present in residential and other ecologically sensitive areas. The City enacts this Chapter to require City Departments and City contractors to cover their loads when transporting dirt and other aggregate materials in the City.

Sec. 12T.2. DEFINITIONS. For the purposes of this Chapter, the following definitions shall apply to the terms used herein.

(a) "Aggregate Material" shall mean rock fragments, pebbles, sand, dirt, gravel, cobbles, crushed base, asphalt, and other similar materials.

(b) "City" or "City and County" shall mean the City and County of San Francisco, or any department, board, commission or agency thereof.

(c) "Contract" shall mean a written agreement for services to be paid for or administered by the City that might require the transportation of aggregate materials in the City.

(d) "Contract awarding authority" shall mean the City officer, department, commission, employee or board authorized to enter into contracts on behalf of the City.

(e) "Contractor" shall mean any person who enters into a contract with the City.

(f) "Person" shall mean a natural person, a firm, joint stock company, business concern, association, partnership or corporation, its or their successors or assigns, or agents.

(g) "Subcontract" shall mean any agreement that is subordinate to the contract that involves the transportation of aggregate materials.

(h) "Subcontractor" shall mean any Person who enters into a subcontract with the contractor.

(i) "Vehicle" shall have the same meaning as that found in Section 670 of the California Vehicle Code.
Sec. 12T.3. COVERING OF AGGREGATE MATERIALS REQUIRED. Any City Department, Contractor, or Subcontractor operating any vehicle hauling aggregate material shall cover the load so as to prevent its contents from dropping, sifting, leaking, blowing, spilling, or otherwise escaping from the vehicle, regardless of the degree to which the vehicle is loaded. Aggregate materials shall only be carried in the cargo area of the vehicle. The cargo area shall not contain any holes, cracks, or openings through which the aggregate material may escape.

Sec. 12T.4. CONTRACT REQUIREMENTS. As of the effective date of this Chapter, when the City enters into a contract or extends the terms of an existing contract, the contract shall obligate the Contractor to the following terms and conditions:

(a) Contractor agrees that it shall comply with the requirements of Section 12T.3 of this transportation of aggregate material.

(b) Contractor’s failure to comply with the foregoing requirement shall constitute a material breach of the contract.

(c) In the event that Contractor or its Subcontractor is found to be in breach of this provision, Contractor shall be liable for liquidated damages in an amount equal to its net profit under the contract, or five percent of the total amount of the contract, whichever is greater. Such liquidated damages shall be payable upon demand, and may be withheld from monies owed to Contractor under the contract.

(d) Nothing in this Section shall be construed to limit any other remedies available at law to City.

Sec. 12T.5. ENFORCEMENT. Whenever the contract awarding authority discovers, after an investigation, that a contractor and/or subcontractor has violated the requirements of Sections 12T.3 and/or 12T.4 of this Chapter, the contracting awarding authority or her or his designee 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 which shall include, but are not limited to:

(a) Termination or suspension of the contract;

(b) Ordering the withholding of funds due the contractor under any contract with the City and County;

(c) Disqualification of the contractor from eligibility for any contracts with the City for a period not to exceed five years, with a right to review and reconsideration by the City after two years upon a showing of corrective action indicating violations are not likely to reoccur.

Sec. 12T.6. 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 of 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.

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

By: [Signature]
Rona H. Sandler
Deputy City Attorney
Ordinance amending the San Francisco Administrative Code by adding a new Chapter 12T to require City Departments and contractors operating vehicles carrying dirt and other aggregate material to cover the load to prevent the entrainment of particulate material into the air during the transportation of such materials within San Francisco.

December 17, 2001 Board of Supervisors — PASSED ON FIRST READING  
Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

January 7, 2002 Board of Supervisors — FINALLY PASSED  
Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee
I hereby certify that the foregoing Ordinance was FINALLY PASSED on January 7, 2002 by the Board of Supervisors of the City and County of San Francisco.

Date Approved

Gregoire Hobson
Acting Clerk of the Board

Mayor Willie L. Brown Jr.