Hunters Point Shipyard - Health Code Amendment

Ordinance amending Article 31 of the Health Code to extend, to the entire Hunters Point Shipyard area, the special permit processing requirements that now apply to Hunters Point Shipyard Parcel A to address potential residual contamination, and imposing fees to administer this Article; amending Sections 804 and 1227 of the Health Code to make conforming amendments; and making environmental findings.

Note: Additions are single-underline italics Times New Roman; deletions are strikethrough italics Times New Roman. 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. Findings.

A. In conjunction with Ordinances [PWC] 205-10, and [DBI] 206-10 on file with the Clerk of the Board of Supervisors in File Nos. 100576 and 100577, this Ordinance amends Chapter 31 of the Health Code to extend to the entire Hunters Point Shipyard area the special permit processing requirements that now apply at Hunters Point Shipyard Parcel A to address potential contamination.

B. In accordance with the actions contemplated herein, this Board adopted Resolution No. 347-10, concerning findings pursuant to the California Environmental Quality Act (California Public Resources Code sections 21000 et seq.). Said Resolution is on file with the Clerk of the Board of Supervisors in File No. 100572 and is incorporated herein by reference.
Section 2. San Francisco Health Code is amended by amending Article 31 to read as follows:

SEC. 3100. - HUNTERS POINT SHIPYARD.

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

A. This ordinance is designed to protect human health and safety and the environment at the former Hunters Point Shipyard during and after development and to facilitate redevelopment as envisioned in the Hunters Point Shipyard Redevelopment Plan, which the Board of Supervisors adopted in 1997 and amended in 2010, and its Environmental Impact Reports.

B. The United States designated Hunters Point Shipyard as a U.S. Naval Shipyard in 1945. The United States Environmental Protection Agency (EPA) placed the Hunters Point Shipyard on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) in 1989. The U.S. Navy ("Navy") has divided the site into six parcels designated Parcels A-F for purposes of remediation.

C. The U.S. Navy issued a CERCLA Record of Decision (ROD) for Parcel A which was approved by the EPA, the California Department of Toxic Substances Control (DTSC), and the San Francisco Bay Region Regional Water Quality Control Board (RWQCB) in November 1995. The ROD concluded that "no action" was needed to clean up Parcel A. Effective April 5, 1999, EPA removed Parcel A from the National Priorities List after EPA and the State of California found that all appropriate responses under CERCLA had been implemented, that no further cleanup is appropriate for Parcel A and that the remedial actions conducted on Parcel A remain protective of public health, welfare, and the environment.
D. On September 1, 2004, the Navy issued a draft final Finding of Suitability to Transfer (FOST) for Parcel A. On September 30th and October 6th and 7th 2004, respectively, the EPA, DTSC and the RWQCB concurred with the Navy's FOST. The Navy signed the FOST on October 14, 2004. The FOST for Parcel A contains requirements for certain notices, restrictions and covenants to be included in the deed for Parcel A. These notices, restrictions and covenants are also referred to as "institutional controls" and are binding on all successive owners of any portion of Parcel A.

E. On December 3, 2004, the Navy transferred portions of Parcel A to the San Francisco Redevelopment Agency.


G. In addition to Parcel A, which the Navy already transferred to the San Francisco Redevelopment Agency ("Agency"), it is anticipated that the Navy will offer the remaining parcels for transfer to the Agency in accordance with a Conveyance Agreement between the Agency and the Navy. Prior to transfer of any parcel, the Navy will issue a draft final FOST or a draft final Finding of Suitability to Transfer.
Suitability for Early Transfer (FOSET) for the parcel. If the Navy issues a FOST, the Conveyance Agreement requires the Navy to obtain the concurrence of the EPA, DTSC, and RWQCB in the final FOST before it offers the parcel to the Agency. If the Navy issues a FOSET, CERCLA requires the Navy to obtain the approval of EPA and the concurrence of the Governor of California which will be based on input from DTSC and the RWQCB. A FOST or FOSET may require the deeds for the property to include certain environmental notices, restrictions or covenants, also referred to as "institutional controls" that will be binding on all successive owners of the transferred property to which such notices, restrictions or covenants apply. The Navy also is expected to enter into a Covenant to Restrict Use of Property (CRUP) with DTSC, which will be binding on subsequent owners and will provide for DTSC enforcement of the covenants, restrictions or conditions to which the property is subject. A Land Use Control Remedial Design (LUC RD) for each parcel will lay out the inspection and reporting requirements for the institutional controls and activity and land use restrictions. For property that transfers via a FOSET, the EPA and the Agency and possibly subsequent private developers, will be required to enter into an Administrative Order on Consent (AOC), also approved by state environmental regulatory agencies, which will detail the required corrective or cleanup actions and restricted activities associated with the property covered by the AOC and provide for EPA enforcement of its terms. Additionally, for property that transfers via a FOSET, the Navy and the Agency will enter into an Early Transfer Cooperative Agreement (ETCA), which will provide for the Agency to cause to be performed certain environmental remediation activities to facilitate redevelopment in exchange for funding of such activities by the Navy.

H. The Board of Supervisors by Resolution 347-10 adopted CEOA findings, including a mitigation monitoring and reporting program ("MMRP") for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project ("Project"), for which the Agency and Planning Commissions certified a Final Environmental Impact Report ("FEIR") in
June 3, 2010. The Project contains all of the property in the Hunters Point Shipyard except the property designated as Parcel A by the Navy. The MMRP contains mitigation measures that address potential hazardous materials impacts associated with the Project. It is the intent of the Board to create a process for the Department of Public Health to enforce in the Hunters Point Shipyard portion of the Project certain hazardous materials mitigation measures identified in the FEIR through this Article 31.

SEC. 3101. - DEFINITIONS.

In addition to the general definitions applicable to this Code, whenever used in this Article, the following terms shall have the meanings set forth below:

(a) "Applicant" means a person applying for any of the following authorizations for subsurface activities on portions of the Hunters Point Shipyard subject to this Ordinance:

(1) For property determined by the applicable ROD to be suitable for unrestricted residential use:

(i) any building or grading permit that involves the disturbance of at least 50 cubic yards (38.23m3) of soil; (ii) any permit pursuant to the Public Works Code that involves the disturbance of at least 50 cubic yards (38.23m3) of soil; (iii) any improvement plan pursuant to Division 3 of the Subdivision Code that involves the disturbance of at least 50 cubic yards (38.23m3) of soil; (iv) any permit to operate or approval to close an underground tank, pursuant to Sections 1120 and 1120.1 of the Health Code that involves the disturbance of at least 50 cubic yards (38.23m3) of soil; (v) any well construction, modification, operation or maintenance permit pursuant to Article 12B of the Health Code; or (vi) any permit that involves demolition of structures with lead-based paint.

(2) For property which is subject to a deed restriction or covenant containing an environmental restriction requiring a durable cover or engineered cap:

(i) any building or grading permit that involves the disturbance of soil; (ii) any permit pursuant to the Public Works Code that involves the disturbance
of soil; (iii) any improvement plan pursuant to Division 3 of the Subdivision Code that involves the disturbance of soil; (iv) any permit to operate or approval to close an underground tank, pursuant to Sections 1120 and 1120.1 of the Health Code that involves the disturbance of soil; or (v) any well construction or destruction permit pursuant to Article 12B of the Health Code.

(3) Notwithstanding the preceding subdivisions, an Applicant does not include a person applying for a permit for the sole purpose of conducting environmental characterization.

(b) "Director" means the Director of the San Francisco Department of Public Health or the Director's designee.

(c) "GIS" is a geographic information system for the Hunters Point Shipyard. The GIS is a computer-based system containing site-specific environmental information.

(d) "Hunters Point Shipyard parcels" or "HPS parcels" mean that area of the City and County of San Francisco shown on Figure Article 31 Map - Figure 1, which is maintained for public distribution by the Director. A copy of said figure is on file with the Clerk of the Board of Supervisors in File No. 100575.

(e) "Improvement Plan" means an improvement plan as required under the Subdivision Map Act, California Government Code Sections 66410 et seq.

(ef) "Parcel A" means that area of the City and County of San Francisco shown on Figure Article 31 Map – Figure 1, which is maintained for public distribution by the Director. A copy of said figure is on file with the Clerk of the Board of Supervisors in File No. 100575, that parcel or parcels of land of the Hunters Point Shipyard as indicated on the Map filed with the Recorder of the City and County of San Francisco on December 3, 2004 situated in the City and County of San Francisco, that was transferree to the San Francisco Redevelopment Agency by the U.S. Navy.
(fg) "Prescribed Subsurface Activity Area" means the specific location and horizontal and vertical extent of the proposed disturbance, excavation, grading or other subsurface activity defined using coordinates compatible with the GIS to the extent feasible.

SEC. 3102. - APPLICABILITY OF ARTICLE.

(a) Applicants must comply with this Article. The Department of Public Works (for any permit or improvement plan subject to this Article), the Department of Building Inspections (for building and grading permits) and the Department of Health (for underground tank permits and approvals and water well permits) shall inform the Director whenever a permit or improvement plan application is submitted for Hunters Point Shipyard and shall refer Applicants to the Director. The Director shall determine the applicability of this Article to the permit application or improvement plan and shall implement and enforce the provisions of this Article. If the Director determines that a permit or improvement plan is subject to the provisions of this Article, the permit or improvement application shall not be deemed complete until the Applicant has complied with the requirements of this Article or shall be conditioned upon compliance with this Article as specified herein.

(b) Any person that obtains environmental sampling data shall submit that data to the Director in a form acceptable to the Director.

(ec) The following sections of this Article apply:

All Parcels Section 3100 et seq.
Parcel A Section 3120 et seq.
Parcel B Section 3130 et seq.
Parcel C Section 3140 et seq.
Parcel D Section 3150 et seq.
Parcel E Section 3160 et seq.

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(d) Prior to applying for a permit or improvement plan any person that desires to comply with this ordinance may enter into a voluntary agreement with the Director. The voluntary agreement shall be signed as to form by the City Attorney and shall require the person to comply with the substantive requirements of this Article and any regulations adopted by the Director; require payment of fees; and provide for Director notification to the relevant department that the person has complied with this Article.

(ed) Compliance with this Article does not relieve any person of compliance with any applicable federal, state, regional or local law, and does not take the place of compliance with any requirement of any regulatory agency that has jurisdiction to enforce any legal requirement that this Article is intended to address.

SEC. 3103. - REPORTS BY DIRECTOR.

The Director shall monitor compliance with this Article and provide an annual summary of compliance with this Article to the Board of Supervisors.

SEC. 3104. - GENERAL WELFARE; NON-ASSUMPTION OF LIABILITY.

The degree of protection required by this Article is considered to be reasonable for regulatory purposes. This Article shall not create liability on the part of the City, or any of its officers or employees for any damages that result from reliance on this Article or any administrative decision lawfully made in accordance with this Article. All persons handling hazardous materials within the City should be and are advised to determine to their own satisfaction the level of protection desirable to ensure no unauthorized release of hazardous materials.

In undertaking to require Applicants to comply with this Article, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not
assuming, nor is it imposing on itself or on its officers and employees, any obligation for
breach of which it is liable for money damages to any person who claims that such breach
proximately caused injury.

All inspections specified or authorized in this Article shall be conducted at the discretion
of the City and nothing in this Article shall be construed as requiring the City to conduct any
such inspection nor shall any actual inspection made imply a duty to conduct any other
inspection.

SEC. 3105. - CONSTRUCTION ON CITY PROPERTY.

All departments, boards, commissions and agencies of the City and County of San
Francisco that authorize construction or improvements on land under their jurisdiction under
circumstances where no building, grading, street use or other permit or approval is required
pursuant to the San Francisco Municipal Codes shall adopt rules and regulations to insure
that the procedures set forth in this Article are followed. The San Francisco Redevelopment
Agency and the departments of Public Health, Public Works, and Building Inspection shall
assist other departments, boards, commissions and agencies to ensure that these
requirements are met.

SEC. 3106. - FORMER LANDFILL DISPOSAL AREAS.

Upon receipt of a site evaluation report from an Applicant, the Director, in consultation
with the Local Enforcement Agency and the California Integrated Waste Management Board, shall
determine whether the Prescribed Subsurface Activity Area is subject to the provisions of the
California Integrated Waste Management Act (Cal. Public Resources Code § 40000 et seq.)
as amended, relating to development on or near a former landfill disposal site. In making this
determination, the Director may consult with the Local Enforcement Agency and the California
Integrated Waste Management Board.
(a) For any Prescribed Subsurface Activity Area or portion thereof that is subject to such provisions, the Director shall require the Local Enforcement Agency to approve proposed land uses and determine any necessary protective measures or requirements to the extent necessary to comply with California Code of Regulations, Title 27, Chapter 3, Subchapter 4, Article 6 (Section 20917 et seq.) and Subchapter 5 (Section 20950 et seq.), as amended.

(b) For any Prescribed Subsurface Activity Area or portion thereof that is located within 1,000 feet of a former landfill disposal site, but which is not subject to the above-referenced provisions of the California Integrated Waste Management Act, the Director shall review any proposed structures to ensure that the construction or use of the structure will not pose a threat to public health and safety or the environment. In making this determination, the Director shall consider the potential for adverse impacts on public health and safety and the environment, taking into account the following: the amount, nature and age of solid waste in the landfill disposal area; current and projected gas generation; effectiveness of existing controls; proximity of the proposed land uses to landfill disposal area; and other relevant geographic or geologic features. Based on these factors, the Director shall determine whether the structure must be designed and constructed in accordance with the following measures or requirements (or other design providing an equivalent degree of protection against gas migration into the structure): installation of a geomembrane or equivalent system with low permeability to landfill gas between the concrete floor slab of the structure and subgrade; installation of a permeable layer of open graded material of clean aggregate with a minimum thickness of 12 inches between the geomembrane and the subgrade or slab; installation of a geotextile filter to prevent the introduction of fines into the permeable layer; installation of perforated venting pipes, designed to operate without clogging, within the permeable layer;
construction of a venting pipe with the ability to be connected to an induced draft exhaust
system; installation of automatic methane gas sensors within the permeable gas layer, and
inside the structure to trigger an audible alarm when methane gas concentrations are
detected; and/or appropriate periodic methane gas monitoring, including monitoring inside
structures, with reporting requirements and a contingency and mitigation plan.

For purposes of this section, "structures" shall include: buildings, subsurface vaults,
utilities or any other buildings or areas where potential gas buildup would be of concern.

(c) If the Director determines under subsections (a) or (b) of this Section that protective
measures or requirements are necessary, the Director shall inform the relevant department in
writing that such measures or requirements must become conditions of the permit or
improvement plan.

SEC. 3107. - RULES AND REGULATIONS.

(a) Pursuant to the procedures specified in Section 1170 of the Health Code, the
Director may adopt rules, regulations and guidelines, including maps, necessary or
appropriate to implement this Article.

(b) Pursuant to Section 3107(a), the Director may subject additional geographic areas to the
requirements of this ordinance where those additional areas exhibit the same underlying conditions
and will be subject to the same restrictions as areas already subject to this ordinance.

(eb) Regulations promulgated by the Health Commission shall be maintained in the
Office of the Clerk of the Board of Supervisors.

(dc) The Director shall maintain and update the GIS- project files as site data is received
pursuant to this Article and provide public access to the GIS-files and site data.

(ed) The Director shall maintain for public distribution a map that reflects the
boundaries of each Parcel of the Hunters Point Naval Shipyards. The map shall include former
landfill disposal sites and a line representing the 1,000 foot perimeter from those sites. For
Parcel A, the Director shall adopt a map showing historic fill areas and utility lines existing
prior to the date of transfer of Parcel A from Navy ownership.

SEC. 3108. - FEES.

The Director is authorized to charge the following fees to defray the costs of document
processing and review, consultation with Applicants, and administration of this Article: for
fiscal year 2004-2005: (1) an initial fee of $511.00 upon submission of the site evaluation report; and
(2) an additional fee of $137.00 per hour for document processing and review and applicant
consultation exceeding three hours or portion thereof payable on an ongoing basis; for fiscal year
2005-2006: (1) an initial fee of $514.00; and (2) an additional fee of $145.00 per hour exceeding three
hours or portion thereof; for fiscal year 2006-2007: (1) an initial fee of $539.00; and (2) an additional
fee of $153.00 per hour exceeding three hours or portion thereof. Beginning with fiscal year 2007-
2008, for Fiscal Year 2010-2011, the fees are as follows: Application Fee = $592 for up to three hours
of document review/consultation and $197 for each additional hour, including site visits. No later
than April 15 of each year, the Controller shall adjust the allowable fees provided in this Article
to reflect changes in the relevant Consumer Price Index, without further action by the Board of
Supervisors. In adjusting the fees, the Controller may round these fees up or down to the
nearest dollar, half-dollar or quarter-dollar. The Director shall perform an annual review of the
fees scheduled to be assessed for the following fiscal year and shall file a report with the
Controller no later than May 1st of each year, proposing, if necessary, an adjustment to the
fees to ensure that costs are fully recovered and that fees do not produce significantly more
revenue than required to cover the costs of operating the program. The Controller shall adjust
fees when necessary in either case.

SEC. 3109. - VIOLATIONS.
In addition to any other provisions of this Article, fraud, willful misrepresentation, or any willfully inaccurate or false statement in any report required by this Article shall constitute a violation of this Article.

SEC. 3110. - ENFORCEMENT ACTIONS.

The Director shall have authority to administer and enforce all provisions of this Article and may enforce the provisions of this Article by any lawful means available for such purpose, including taking any action authorized pursuant to Article 21, Sections 1133(a)-(d), (f), and (h)-(i) of the Health Code.

SEC. 3111. - RESERVED.

SEC. 3112. - REMEDIES NOT EXCLUSIVE.

Remedies under this Article are in addition to and do not supersede or limit any and all other remedies, civil or criminal.

SEC. 3113. - PARCEL A INSTITUTIONAL CONTROLS.

An Applicant must comply with institutional controls included in the any deed conveying ownership of Parcel A from the United States Navy to the San Francisco Redevelopment Agency pursuant to a final FOST or FOSET or included in any recorded covenant to restrict use of property containing environmental restrictions for Parcel A to the extent such institutional controls apply to activities authorized by a permit or improvement plan subject to this Article. The Director will advise the relevant department of the specific requirement pursuant to the deed; require compliance with the institutional controls as a condition of the permit or improvement plan; and coordinate with the relevant department to monitor and enforce compliance with such institutional controls.

SEC. 3114. - PARCEL A SITE EVALUATION AND SITE MITIGATION FOR UNRESTRICTED RESIDENTIAL PROPERTY.
This section applies to property determined by the applicable ROD to be suitable for unrestricted residential use that is transferred without a requirement for a durable cover or engineered cap.

(a) An Applicant must submit the following, satisfactory to the Director, as further specified in regulations adopted by the Director: (i) Site Evaluation Report; (ii) Dust Control Plan; (iii) Unknown Contaminant Contingency Plan; (iv) Disposal Plan (if applicable); (v) Site Specific Health and Safety Plan; (vi) Stormwater and Erosion Control Plan; (vii) Soil Importation Plan (if applicable), (viii) a determination of whether additional information is necessary to adequately characterize the Prescribed Subsurface Activity Area, and (ix) for areas that undergo demolition of structures with lead based paint, a scope of work to collect additional information as described in the regulations. The plans required by (ii)–(viii) must be specific to the activities to be conducted under a permit or improvement plan.

The Director shall review the site evaluation report and advise the Applicant on whether additional information is necessary to adequately characterize the Prescribed Subsurface Activity Area as follows:

(1) In unrestricted residential parcels, if the Prescribed Subsurface Activity Area has already been evaluated in a Site Evaluation Report in the past and a Closure Report for the Prescribed Subsurface Activity Area was approved by the Director and the Closure Report included verification of: (i) the placement of at least one foot of clean imported fill or equivalent on areas with fill containing naturally occurring asbestos; or (ii) that the Area was cut into native bedrock and properly covered, if necessary, to address any concerns about naturally occurring asbestos; or (iii) that the Area has no naturally occurring asbestos concerns; then no site history, data evaluation, sampling or additional characterization will be necessary with respect to such Prescribed Subsurface Activity Area.

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(2) Unrestricted residential property that does not meet the criteria provided in subdivision (1) will be evaluated as follows:

(4A) Tier I Areas. If a portion of a Prescribed Subsurface Activity Area has been used continuously only for residential purposes, or is not located on historic fill (as defined in a map maintained by the Director pursuant to Section 3107(e)), or is not or has not been underlain by Navy utility lines (as defined on a map maintained by the Director pursuant to Section 3107(e)), and, in any case, there is no evidence that hazardous substances are present, no additional information or sampling will be necessary with respect to such portions of the Prescribed Subsurface Activity Area. The Director shall provide the Applicant and the relevant department with written notification that the Applicant has complied with the requirements of this Article as to such portions, and must comply with the plans listed in subsection (a)(ii)—(vix), as determined by the Director to be applicable, and all laws applicable to soil removal and off-site disposal.

(2B) Tier II Areas. In portions of Prescribed Subsurface Activity Area other than those described as Tier I, if the Director determines that such portions are adequately characterized, the Director shall provide the Applicant and the relevant department with written notification that the Applicant has complied with the requirements of this Article as to such portions, and must comply with the plans listed in subsection (a)(ii)—(vix), as determined by the Director to be applicable, and all laws applicable to soil removal and off-site disposal. If the Director determines that additional information is necessary to adequately characterize portions of the Prescribed Subsurface Activity Area, the Applicant must submit a proposed scope of work for a supplemental site evaluation in accordance with regulations adopted by the Director. Upon approval of the scope of work by the Director, the Applicant shall implement the scope of work and prepare a supplemental site evaluation report summarizing the new information.
(Aa) If the supplemental site evaluation report shows that there is no existing contamination that exceeds the screening criteria established by the Director by regulation, the Director shall provide the Applicant and the relevant department with written notification that the Applicant has complied with the requirements of this Article, and must comply with the plans listed in subsection (a)(ii)—(vix), as determined by the Director to be applicable, and all laws applicable to soil removal and off-site disposal.

(Bb) If the supplemental site evaluation report shows that there is existing contamination that exceeds the screening criteria established by the Director and the Applicant wishes to retain that soil in the Prescribed Subsurface Activity Area or elsewhere within Parcel A unrestricted residential property, the Applicant must prepare and submit to the Director a risk evaluation report and a site mitigation plan demonstrating the property can still be used for unrestricted residential purposes consistent with the FOST. The site mitigation plan must include the plans listed in subsection (a)(ii)—(vix), as determined by the Director to be applicable, and may include a deed notice, provided that any notice is consistent with use for unrestricted residential purposes. The Director must review and approve the risk evaluation report and the site mitigation plan. Upon approval of these documents, the Director shall provide the Applicant and the relevant department with written notification that the Applicant has complied with the requirements of this Article, and must comply with the site mitigation plan and all laws applicable to soil removal and off-site disposal.

(b) If the Director finds that the Applicant intends to remove soil from the Prescribed Subsurface Activity Area and dispose of that soil off-site, then the Director shall find that, as to that soil, no additional information is necessary and shall provide the Applicant and the relevant department with written notification that the Applicant has complied with the requirements of this Article, and must comply with the plans listed in subsection (a)(ii)—(vix).
as determined by the Director to be applicable, and all laws applicable to soil removal and off-site disposal.

(c) Upon completion of the activity authorized by the permit or improvement plan, the Applicant shall submit a Closure Report to the Director including: additional information or data obtained, including information on unanticipated conditions; correcting any information previously submitted; and certifying implementation of the plans listed in subsection (a)(ii)—(vii), as determined by the Director to be applicable, any applicable risk management or site mitigation plan and all laws applicable to soil removal.

SEC. 3130. PARCEL B [RESERVED].

SEC. 3140. PARCEL C [RESERVED].

SEC. 3150. PARCEL D [RESERVED].

SEC. 3160. PARCEL E [RESERVED].

SEC. 3170. PARCEL F [RESERVED].

SEC. 3115. HPS PROPERTY WITH A DURABLE COVER REQUIREMENT.

(a) For property which is subject to a deed restriction or covenant to restrict use of property containing an environmental restriction requiring a durable cover or engineered cap the Applicant shall submit to the Director (i) Site Evaluation Report; (ii) Dust Control Plan; (iii) Unknown Contaminant Contingency Plan; (iv) Disposal Plan (if applicable); (v) Site Specific Health and Safety Plan; (vi) Soil Importation Plan (if applicable); (vii) Foundation Support Piles Installation Plan.

The Applicant will also submit verification to the Director of the following:

(b) for property that is currently subject to an Administrative Order on Consent (AOC) and is therefore subject to the regulatory oversight of the EPA, the Applicant must submit proof that it is complying with all environmental documents and restrictions, including without limitation as applicable, the AOC, ETCA, CRUP, LUC RD, pre-Remedial Action Closeout Report (pre-RACR) Risk.

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Management Plan (RMP), post-RACR RMP and Operation and Maintenance Plan (OMP). Proof of compliance can be: (i) a letter from EPA detailing the compliance; (ii) a report or checklist, as required by the document; or (iii) any other form acceptable to the Director demonstrating compliance.

(c) for property that is no longer subject to an Administrative Order on Consent (AOC) or that was never subject to an AOC, the Applicant must submit proof that it is complying with all environmental documents and restrictions that are applicable to the property, including without limitation as applicable, an ETCA, CRUP, pre-RACR RMP, post-RACR RMP, and OMP. Proof of compliance can be: (i) a report or checklist, as required by the document; or (ii) any other form acceptable to the Director demonstrating compliance.

(d) Whether or not an AOC is in effect for the property:

(i) if an RMP for the property includes a requirement for a Dust Control Plan and if EPA already has approved the RMP and Dust Control Plan, then the Applicant is required only to submit a copy of the approved Dust Control Plan and approval letter from EPA as proof of compliance with the Dust Control Plan requirement. However, if the EPA approved Dust Control Plan does not include specification of particulate monitoring equipment, site specific monitoring location requirements, or action levels then the Director may require submittal of this information.

(ii) if an RMP for the property includes a requirement for a Site Specific Health and Safety Plan and if EPA has already approved the RMP and the Site Specific Health and Safety Plan, then the Applicant is required only to submit a copy of the approved Site Specific Health and Safety Plan and approval letter from EPA as proof of compliance with the Site Specific Health and Safety Plan requirement.

(iii) if an RMP for the property includes a requirement for a Soil Importation Plan and if EPA has already approved the RMP and the Soil Importation Plan, then the Applicant is required only to
submit a copy of the approved Soil Importation Plan and approval letter from EPA as proof of
compliance with the Soil Importation Plan requirement.

e) Upon completion of the activity authorized by the permit or improvement plan, the Applicant
shall submit a Closure Report to the Director including: additional information or data obtained,
including information on unanticipated conditions; corrections as to any information previously
submitted; and certifications of implementation of the plans listed in Section 3115 (a)(ii)-(vii), and all
laws applicable to soil removal.

SEC. 31803116.- SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this
Article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective
by any court of competent jurisdiction, such decision shall not affect the validity or
effectiveness of the remaining portions of this Section or any part thereof. The Board of
Supervisors hereby declares that it would have passed each section, subsection, subdivision,
paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more
sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared
unconstitutional or invalid or ineffective.

Section 3. The San Francisco Health Code is amended by amending Section 804, to
read as follows:

SEC. 804. - APPLICATION.

Any person proposing to construct, modify, operate and/or maintain a well or soil boring
shall file with the Department a completed written application on forms approved by the
Department and submit the appropriate application fees thirty (30) days prior to the proposed
commencement of such activities. For well permits in Hunters Point Shipyard Parcel A, such
permit application shall not be deemed complete until the department receives written
notification from the Director that the applicant has complied with all provisions of Article 31 that are required to be met prior to permit issuance. The completed application shall include, without limitation, all of the following, when applicable:

(a) The name and address of the owner of the property on which the well or soil boring is located.

(b) The name and address of the operator of the well or soil boring, if different from the owner.

(c) The name and state license number of the general contractor, if applicable, and the C-57 license number of the person responsible for the construction or modification of the well or soil boring.

(d) The address at which notices issued in accordance to this Article are to be served, if different from those specified in Subsections (a) and (b).

(e) A plot plan showing the proposed or actual location of the well or the soil boring that is being constructed, modified, operated or maintained with respect to the following items within a radius of five hundred feet (500') from the well or soil boring:

(1) Property lines, including ownership;

(2) Sewage or waste disposal system, including reserved waste disposal expansion areas, or works for conveying sewage waste;

(3) The approximate drainage pattern of the property;

(4) Other wells, including abandoned wells;

(5) Access road to the well site;

(6) Any structures; and

(7) Any aboveground or below ground utilities.
(f) Location of the property with a vicinity map including the legal description of the property and the assessor's parcel, block and lot numbers.

(g) The proposed use and the operating parameters of the well or soil boring, if applicable.

(h) The expected operational lifetime of the well or soil boring, if applicable.

(i) Location and classification by visual inspection of any solid, liquid, or hazardous waste disposal sites within five hundred feet (500') of the proposed well or soil boring.

(j) Method of and a proposed schedule for the construction or modification of the well or soil boring.

(k) The construction parameters of the well or soil boring including, without limitations, the following information, if applicable:

   (1) Total depth of the proposed well or soil boring;
   (2) Depth and the type of casing to be used for the proposed well;
   (3) Depth and the type of perforation; and
   (4) Proposed depth and the type of annular seal.

(l) A plan for the safe and appropriate handling and disposal of drilling fluids and other drilling materials resulting from the proposed work.

(m) An approval from the San Francisco Public Utilities Commission if drilling fluids or water extracted from the well or soil boring will be discharged into the sanitary sewer.

(n) Submission of completion bonds, contractor's bonds, cash deposits, or other adequate security of at least $10,000 to insure that all projects are performed completely and properly in a manner which protects the public health and safety and the integrity of the groundwater resources. The Director may, in his or her discretion, increase the amount of the
bond, cash deposit or security deemed necessary to protect the public health and safety and
the integrity of the groundwater resources.

(o) Submission of the appropriate filing fees as provided for in this Article.

(p) Any other information deemed necessary by the Department to ensure adequate
protection of groundwater resources.

Section 4. The San Francisco Health Code is amended by amending Section 1227 to
read as follows:

SEC. 1227. - KNOWN HAZARDOUS WASTE SITE; HUNTERS POINT SHIPYARD.

PARCELA.

(a) If the soil sampling and analysis report or site history indicates that the property is
listed on the National Priorities List or the list of California Hazardous Substances Account Act
release sites, the applicant shall provide to the Director certification or verification from the
appropriate federal or State agency that any site mitigation required by the federal or State
agency has been completed and complete the certification procedure set forth in Section
1229. Certification by a competent State or federal agency that mitigation measures have
been properly completed shall constitute a conclusive determination and shall be binding
upon the Director.

Mayor Newsom
BOARD OF SUPERVISORS
(b) Applicant's activities on Parcel A of the Hunters Point Shipyard, as defined in Article 31, are governed by Article 31 of the Health Code and not by this Article.

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

By: ANDREA RUIZ ESQUILE
Deputy City Attorney

Mayor Newsom
BOARD OF SUPERVISORS
Ordinance amending Article 31 of the Health Code to extend, to the entire Hunters Point Shipyard area, the special permit processing requirements that now apply to Hunters Point Shipyard Parcel A to address potential residual contamination, and imposing fees to administer this Article; amending Sections 804 and 1227 of the Health Code to make conforming amendments; and making environmental findings.

July 27, 2010 Board of Supervisors - PASSED ON FIRST READING
Ayes: 10 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi
Noses: 1 - Daly

August 03, 2010 Board of Supervisors - FINALLY PASSED
Ayes: 10 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi
Noses: 1 - Daly

File No. 100575 I hereby certify that the foregoing Ordinance was FINALLY PASSED on 8/3/2010 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom

August 3, 2010
Date Approved