



CITY OF PALO ALTO OFFICE OF THE PUBLIC WORKS

August 5, 2019

The Honorable City Council
Palo Alto, California

SECOND READING: Ordinance Amending Chapter 5.20 (Refuse Collection) of Title 5 of the Palo Alto Municipal Code Related to the Storage, Sorting, Collection and Removal of Refuse, Including Restrictions on the Type and Color of Refuse Collection Bags and Other Modifications to Make Waste Sorting More Effective and Facilitate Monitoring; and Finding the Ordinance to be Exempt Under California Environmental Quality Act (CEQA) (FIRST READING: June 24, 2019 PASSED: 6-1 Tanaka no)

This Ordinance was first heard by the City Council on June 24, 2019, where it was approved without changes on a 6-1 (Tanaka no) vote. It is now before you for the second reading.

Ordinance Amending Chapter 5.20 (Refuse Collection) of Title 5 of the Palo Alto Municipal Code Related to the Storage, Sorting, Collection and Removal of Refuse, Including Restrictions on the Type and Color of Refuse Collection Bags and Other Modifications to Make Waste Sorting More Effective and Facilitate Monitoring; and Finding the Ordinance to be Exempt Under California Environmental Quality Act (CEQA).

MOTION: Council Member Kniss moved, seconded by Council Member DuBois to:

- A. Find the Refuse Collection Ordinance is exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Sections 15307 and 15308; and
- B. Adopt the Refuse Collection Ordinance amending Chapter 5.20 of Title 5 of the Palo Alto Municipal Code (PAMC), related to the storage, sorting, collection and removal of refuse, including restrictions on the type and color of refuse collection bags and other modifications to make waste sorting more effective and facilitate monitoring.

AMENDMENT: Council Member Tanaka moved, seconded by Council Member XXX to exempt businesses with fewer than 100 employees.

MOTION FAILED DUE TO THE LACK OF A SECOND

MOTION PASSED: 6-1 Tanaka no

ATTACHMENTS:

- Attachment A: Ordinance (PDF)

Department Head: Brad Eggleston, Department Director

Not Yet Approved

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Sections 5.20.010 (Definitions), 5.20.020 (Declaration of Policy), 5.20.030 (Discarding of Refuse), 5.20.090 (Collection and Ownership of Recycled Materials), 5.20.100 (Collection and Ownership of Compostable Materials), 5.20.105 (Contamination of Containers), 5.20.109 (Requirements for Special Events), 5.20.110 (Exclusions), 5.20.120 (Refuse Containers), 5.20.130 (Maintenance and Placement of Containers) of Chapter 5.20 (Collection, Removal and Disposal of Refuse) of Title 5 (Health and Sanitation) of the Palo Alto Municipal Code

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Section 5.20.010 (Definitions) of Chapter 5.20 (Collection, Removal and Disposal of Refuse) of Title 5 (Health and Sanitation) is hereby amended to read as follows:

5.20.010 Definitions.

Within and limited to this Chapter, the following words and phrases shall be construed as defined in this section, unless the context indicates otherwise.

(1) "Bin" means a detachable refuse container used in connection with commercial premises with a 1 to 8 cubic yard capacity, equipped with a lid, and designed for mechanical pick-up by collection vehicles.

(2) "Box" means a wheeled or sledded container or compactor, generally 7 to 50 cubic yards in size, suitable for the storage and collection of commercial solid waste or recyclable materials.

(3) "Cart" means a wheeled receptacle equipped with a lid, and designed for mechanical pick-up by collection vehicles.

(4) "City" means the government of the City of Palo Alto, defined in Section 1.04.050(1) of the municipal code, with a principal place of business at 250 Hamilton Avenue, Palo Alto, County of Santa Clara.

(5) "City manager" means the person referred to in Section 2.08.140 of the municipal code, or designee.

(6) "Collection agreement" means a contract with the City for the collection of refuse pursuant to Section 5.20.040.

(7) "Collector" means one or more persons authorized by Section 5.20.040 to provide the collection, processing and disposal of refuse pursuant to one or more written contracts with the City.

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(8) "Commercial business owner" means any person holding or occupying, alone or with others, commercial premises, whether or not the person holds the title or is the record owner of the commercial premise.

(9) "Commercial premises" means any occupied real property in Palo Alto, except property occupied by federal, state or local government agencies which do not consent to their inclusion, and except residential premises as defined in subsection ~~(3334)~~ hereof, and shall include, without limitation, any wholesale or retail establishments, restaurant and food service establishment, bar, store, shop, shopping center, office, industrial establishment, manufacturing establishment, service station, repair, research and development establishment, professional, services, sports or recreational facility, any place or premise where an animal is maintained or sheltered, construction or demolition site, a multiple dwelling that is not a residential premise, and any other commercial or industrial business facility, structure, site, or other establishment in Palo Alto.

(10) "Compostable materials" means organic materials designated by the City as approved for collection and processing, including, without limitation, yard trimmings, food scraps, soiled paper and compostable plastics, but excluding animal manure, sewage sludge, and human biological wastes.

(11) "Composting" means the controlled, biological decomposition of organic materials into humus for use as a soil amendment, conditioner or fertilizer or for any other similar use or purpose.

(12) "Construction and/or demolition site" means any real property in Palo Alto, at which a building or structure, or any portion thereof, is being constructed, assembled, erected or demolished, and during which construction or demolition waste which must be removed from the property.

(13) "Construction and/or demolition waste" means any waste generated as the result of construction or demolition work, including, without limitation, discarded packaging or containers and waste construction materials, whether brought on-site for fabrication or used in construction or resulting from demolition, excluding liquid waste and hazardous waste.

(14) "Container" means any bin, box, cart, compactor, drop box, roll-off box, or receptacle, used for the storage of solid waste, recyclable materials, compostable materials or other materials designated by the City for collection by the collector.

(15) "Director" means the person referred to in Section 2.08.190 of the Municipal Code, or the director's designee.

(16) "Disposal or processing facility" means a landfill facility, a recycling facility, a composting facility or a solid waste transfer or processing station.

(17) "EPA" means the federal Environmental Protection Agency or successor agency.

(18) "Food service establishment" means any establishment, located or providing food within Palo Alto, which provides prepared and ready-to-consume food or beverages, for public

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consumption, including, but not limited to, any retail service establishment, eating and drinking service (as defined in Chapter 18.23), takeout service (as defined in Chapter 18.23), supermarket, delicatessen, restaurant, food vendor, sales outlet, shop, cafeteria, catering truck or vehicle, cart or other sidewalk or outdoor vendor or caterer which provides prepared and ready-to-consume food or beverages, for public consumption.

(19) "Hazardous waste" means waste defined as hazardous by Public Resources Code section 40141, as it now exists or may be amended, namely, a waste or combination of wastes, which due to its quantity, concentration, or physical, chemical or infectious characteristics, may do either of the following: (i) cause or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; (ii) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. "Hazardous waste" includes extremely hazardous waste and acutely hazardous waste, and any other waste as may hereafter from time to time be designated as hazardous by the EPA or other agency of the United States Government, or by the California Legislature or any agency of the State of California empowered by law to classify or designate waste as hazardous, extremely hazardous or acutely hazardous.

(20) "Home composting" means the controlled decomposition of organic material, including, without limitation, yard trimmings and kitchen scraps, into humus by any person owning or occupying any place or premises in Palo Alto.

(21) "Manure" means the waste droppings of any animal.

(22) "Multifamily property" means any residential premise with ~~three~~^{five} or more attached units with shared service.

(23) "Organic wastes" means "compostable materials."

(24) "Person" means any individual, or entity referred to in Section 1.04.050(5) of the Municipal Code and including any general partnership, limited partnership, limited liability partnership, or limited liability company.

(25) "Place or premises" means every residential premises and commercial premises, including any structure, apparatus, or portion thereof occupied or operated by any person and situated on an integral parcel of land undivided by a public street, highway, or railway.

(26) "Public solid waste or recycling receptacles" means any container for the collection of solid waste, recyclable materials or compostable materials that are both located on public property and intended for use by the general public.

(27) "Recyclable materials" means materials designated by the City as suitable for collection and transport to a material recovery facility for processing into a recycled content product, including, without limitation, newspaper, paper, cans, corrugated cardboard, glass and certain types of plastic, and metals.

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(28) "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid 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. This term does not include transformation as that term is defined in Public Resources Code section 40180.

(29) "Refuse" means and includes compostable materials, recyclable materials and solid waste.

(30) "Refuse Room" means a room(s) located inside a building in which refuse containers are maintained and refuse is collected. Refuse rooms are typically located at the end of a hallway or on the ground level, but may be in other locations.

~~(31)~~ "Refuse service" means the weekly or other periodic collection, processing and disposal of materials properly deposited in the collector-provided containers for solid waste, as well as weekly collection and processing of recyclable materials and weekly collection and processing of compostable materials.

~~(32)~~ "Residential householder" means any person owning or occupying residential premises in Palo Alto.

~~(33)~~ "Residential premises" means any residential dwelling unit in Palo Alto, including, without limitation, a multiple unit residential complex, such as a rental housing project, condominium, apartment house, mixed condominium and rental housing, and a mobile home park, except any multiple dwelling which, with the prior written approval of the Director, receives commercial bin service.

~~(34)~~ "Salvage" means the controlled removal of construction or demolition debris/material from a permitted building, construction, or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse. Examples include air conditioning and heating systems, columns, balustrades, fountains, gazebos, molding, mantels, pavers, planters, quoins, stair treads, trim, wall caps, bath tubs, bricks, cabinetry, carpet, doors, ceiling fans, lighting fixtures, electrical panel boxes, fencing, fireplaces, flooring materials of wood, marble, stone or tile, furnaces, plate glass, wall mirrors, door knobs, door brackets, door hinges, marble, iron work, metal balconies, structural steel, plumbing fixtures, refrigerators, rock, roofing materials, siding materials, sinks, stairs, stone, stoves, toilets, windows, wood fencing, lumber and plywood.

~~(35)~~ "Solid waste" means solid and semisolid wastes, generated in or upon, related to the occupancy of, remaining in or emanating from residential premises or commercial premises, including garbage, trash, rubbish, ashes, industrial wastes, manure, animal carcasses, solid or semisolid wastes, and other solid and semisolid wastes. "Solid waste" shall not include liquid wastes or sewage, abandoned vehicles, hazardous waste, recyclable materials or compostable materials.

~~(36)~~ "Solid waste enterprise" shall mean any person regularly engaged in the business of providing solid waste, recyclable materials or compostable materials handling services.

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(376) "Source separated single recyclable materials" means recyclable materials that are separated from other recyclable materials or solid waste and placed in separate containers according to type or category of materials and directly marketed as a single commodity.

(387) "Yard trimmings" means plant trimmings generated from the maintenance or alteration of public, commercial premises or residential premises landscapes, including, without limitation, grass cuttings, yard clippings, leaves, tree trimmings, pruning, brush and weeds, excepting those materials which are prohibited under written rules and regulations promulgated by the Director.

SECTION 2. Section 5.20.020 (Declaration of Policy) of Chapter 5.20 (Collection, Removal and Disposal of Refuse) of Title 5 (Health and Sanitation) is hereby amended to read as follows:

5.20.020 Declaration of policy.

(a) The accumulation, collection, removal and disposal of refuse must be controlled by the City for the protection of the public health, safety and welfare. The Council finds that to give practical effect to this policy a comprehensive system for the periodic collection, removal and disposal of refuse from all places or premises is essential and benefits all occupants of places or premises. All occupants of places or premises shall be liable for refuse collection charges established by the Council for the collection, removal and disposal of refuse.

(b) The City complies with the applicable provisions of the California Integrated Waste Management Act, as amended, codified in the Public Resources Code section 40000 et seq. The law requires that, by and after January 1, 2000, fifty percent (50%) of the solid waste generated must be diverted through some source reduction, recycling, and composting activities.

(c) The City also complies with the 75 percent recycling goal included as part of AB 341 Mandatory Commercial Recycling Law, adopted on October 6, 2011, which includes modifications to the Public Resources Code.

(d) ~~In addition, the City complies with AB 1826, which amended the law in 2014, imposes the organic waste recycling requirements under AB 1826, with a mandate that will begin which became effective on April 1, 2016.~~

(e) In 2016, SB 1383 established methane emissions reduction targets to reduce statewide emissions of short-lived climate pollutants including, establishing a 50 percent reduction of disposed organic waste from 2014 levels by 2020 and a 75 percent reduction by 2025; and the target to reduce 20 percent of disposed edible food by 2025. ~~Further, in~~ Also in 2016, the City established sustainability and climate action goals of an 80 percent% reduction in greenhouse gases and 95 percent% diversion of materials from landfills by 2030.

(f) The City may adopt, implement, and enforce requirements, rules and regulations for local compostable materials and local recyclable materials that are more stringent or comprehensive than California law.

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SECTION 3. Section 5.20.030 (Discarding of Refuse) of Chapter 5.20 (Collection, Removal and Disposal of Refuse) of Title 5 (Health and Sanitation) is hereby amended to read as follows

5.20.030 Discarding of refuse.

(a) No person shall throw, drop, leave, place, keep, accumulate, or otherwise dispose of any refuse upon private property either with or without the intent to later remove the same from that place or premises, or upon any street, public right-of-way, sidewalk, gutter, stream, or creek, or the banks thereof, or any public place or public property.

(b) All persons shall separate their refuse according to its characterization as solid waste, compostable materials, or recyclable materials, and place each type of refuse in a separate container designated for disposal of that type of refuse. No person may mix any type of refuse, or deposit refuse of one type in a collection container designated for refuse of another type, except as otherwise provided in this Chapter. This does not prohibit the placement of refuse in public solid waste or recycling receptacles, or in containers for collection in accordance with the provisions of this Chapter. This section does not prohibit any person from engaging in home composting. Administrative citations or any other enforcement actions will not apply to this paragraph for a person occupying a residential premise.

(c) Effective July 1, 2020, any person occupying a commercial premises, not including multiple dwellings, who uses bags to collect and discard refuse, whether placed for collection inside or outside a container, shall ensure that the refuse contents of the bags are clearly visible. When bags are used, garbage shall be collected in clear plastic bags and recyclable materials shall be collected in blue-tinted plastic bags.

(d) Effective July 1, 2020, all persons who use bags to collect compostable materials, whether placed for collection inside or outside a container, shall use green-tinted compostable bags such that the contents are clearly visible.

SECTION 4. Section 5.20.090 (Collection and Ownership of Recyclable Materials) of Chapter 5.20 (Collection, Removal and Disposal of Refuse) of Title 5 (Health and Sanitation) is hereby amended to read as follows:

5.20.090 Collection and ownership of recyclable materials.

(a) All persons owning or occupying any place or premises where recyclable materials are created, produced or accumulated shall subscribe and pay for this type of refuse services and shall subscribe and pay for a number of containers sufficient to hold all recyclable materials created, produced or accumulated at the place or premises during a one-week period, unless a different frequency collection schedule has been approved or directed pursuant to this Chapter.

(b) Recyclable materials placed for curbside collection in or outside of a container shall become the property of the collector at the time of placement at the curb or other designated location for collection in or outside of the container. The collector shall have the exclusive right

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to collect the recyclable materials, unless the collection agreement specifies a different arrangement.

(c) The disposal of solid waste and compostable materials in containers designated for the collection of recyclable materials is prohibited. Recyclable materials that are placed in a recyclable materials container for collection by the collector must be free of solid waste and compostable materials.

(d) Cardboard boxes shall be broken down flat before being placed into recyclables containers to allow for adequate space to contain the recyclable materials.

SECTION 5. Section 5.20.100 (Collection and Ownership of Compostable Materials) of Chapter 5.20 (Collection, Removal and Disposal of Refuse) of Title 5 (Health and Sanitation) is hereby amended to read as follows:

5.20.100 Collection and ownership of compostable materials.

(a) All persons owning or occupying any place or premises where compostable materials are created, produced or accumulated shall subscribe and pay for this type of refuse services and shall subscribe and pay for a number of containers sufficient to hold all compostable materials created, produced or accumulated at the place or premises during a one-week period, unless a different frequency collection schedule has been approved or directed pursuant to this Chapter.

(b) Compostable materials placed for curbside collection in a container shall become the property of the collector at the time of placement at the curb or other designated location for collection of the container.

~~(c) On or after April 1, 2016, all commercial premises at which 8 cubic yards or more of solid waste refuse service is subscribed per week, multifamily properties, and food service establishments shall subscribe and pay for a number of containers sufficient to hold compostable materials created, produced or accumulated at or on the places or premises during a one-week period, unless a different frequency collection schedule has been approved or directed pursuant to this chapter.~~

~~(d) On or after January 1, 2017, all commercial premises where 2 cubic yards or more of solid waste refuse service is subscribed per week, shall subscribe and pay for a number of containers sufficient to hold compostable materials created, produced or accumulated at or on the place or premises during a one-week period, unless a different frequency collection schedule has been approved or directed pursuant to this chapter.~~

~~(e) On or after January 1, 2018, All~~ commercial premises at which solid waste refuse service is subscribed, shall subscribe and pay for a number of containers sufficient to hold compostable materials created, produced or accumulated at or on the place or premises during a one-week period, unless a different frequency collection schedule has been approved or directed pursuant to this Chapter.

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(df) The City may direct the collector to audit individual solid waste streams generated at commercial premises to determine the owner, occupant or tenant's compliance with this section.

SECTION 6. Section 5.20.105 (Contamination of Containers) of Chapter 5.20 (Collection, Removal and Disposal of Refuse) of Title 5 (Health and Sanitation) is hereby amended to read as follows:

5.20.105 Contamination of containers.

(a) No person subscribing to refuse service shall dispose or permit the disposal of solid waste in a container designated for the collection of recyclable materials or compostable materials. The person shall remove any solid waste deposited in the recyclable materials and compostable materials containers before the collection of the recyclable materials and compostable containers occurring that week.

(1) The collector will notify any person who occupies commercial premises whenever the City or the collector determines the recyclable materials or compostable materials container of that person is contaminated with solid waste and the waste must be removed. After the person removes the solid waste from the recyclable materials and compostable materials container, the collector will return to the commercial premises to service the container or containers and the person occupying the commercial premises will be charged a "return trip" fee specified in the refuse rate schedules.

(2) If the person occupying the commercial premises does not remove the waste from the recyclable materials and compostable materials containers by the scheduled pick-up date, the containers will be serviced at the next business day and the person occupying the commercial premises will be charged both an "extra solid waste pick-up" fee and a "return trip" fee in addition to the refuse charges that apply to the level of service subscribed by the person occupying the commercial premises. The extra solid waste pick-up fee shall be determined according to the size of the contaminated recyclable materials or compostable materials container and the established rates approved by the City.

(3) The fees outlined in Section 5.20.105 (a)(1) - (2) will also apply if a person occupying a commercial premises places recyclable materials in containers designated for compostable materials or compostable materials in containers designated for recyclable materials.

(4) ~~On or after July 1, 2021, if~~ if a person occupying a commercial premises places recyclable materials and/or compostable materials in containers designated for solid waste, the person will be subject to a "contamination" fee.

(5) A person occupying residential premises will not be subject to a "return trip" fee, an "extra solid waste pick-up" fee, a "contamination" fee, an administrative citation or any other enforcement action. A multifamily property will not be subject to a "return

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trip" fee or an "extra solid waste pick-up" fee if owners or managers of the multifamily property can demonstrate compliance with Section 5.20.108 to the satisfaction of the Director.

(b) No person shall dispose of commercial grease or cooking oil in a compostable materials container.

SECTION 7. Section 5.20.109 (Requirements for Special Events) of Chapter 5.20 (Collection, Removal and Disposal of Refuse) of Title 5 (Health and Sanitation) is hereby amended to read as follows:

5.20.109 Requirements for special events.

(a) The promoter or coordinator of a special event held in Palo Alto must provide a level of refuse service sufficient to contain the refuse generated at the special event.

(b) The promoter or coordinator shall provide containers at appropriate locations at the special event to facilitate the source separation of solid waste, compostable materials, and recyclable materials by event employees, vendors, and attendees.

(c) The three types of containers shall:

(1) Be appropriate in number and size with respect to the quantity of solid waste, compostable materials, and recyclable materials anticipated to be generated at the property or premises;

(2) Bear appropriate signage and be color-coded – blue containers for recyclable materials, green containers for compostable materials, and black containers for solid waste – to identify the type of refuse to be contained and meet any additional design criteria established by the City; and

(3) Be placed together as a waste station to provide equally convenient access to users.

(d) If the promoter or coordinator determines that vendor booths at the special event will require refuse containers, the vendors shall receive from the promoter or coordinator a set of refuse containers that bear appropriate signage and are color-coded to identify the type of waste to be contained.

(e) The use of public solid waste, recycling or composting receptacles at special events is prohibited. The promoter or coordinator shall remove or cover all public solid waste, recycling or composting receptacles to prevent their use during the special event. If covers for receptacles are utilized, the promoter or coordinator shall return them to the City after the special event.

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SECTION 8. Section 5.20.110 (Exclusions) of Chapter 5.20 (Collection, Removal and Disposal of Refuse) of Title 5 (Health and Sanitation) is hereby amended to read as follows:

5.20.110 Exclusions.

(a) Residential Householder Exclusion. No provision of this Chapter shall prevent a residential householder from collecting and disposing of occasional loads of solid waste generated at the residential premise, composting at home, or selling, donating or disposing of recyclable or compostable materials generated at the residential premise. The containers provided by the collector may not be used for activities authorized by this paragraph. Notwithstanding the foregoing, no residential householder shall employ or engage any solid waste enterprise, other than the collector to haul or transport solid waste, recyclable materials, or compostable materials to a disposal or processing facility. No residential householder may collect or dispose of solid waste generated at a location that is not the residential premise.

(b) Gardener's Exclusion. No provision of this Chapter shall bar a gardener, tree trimmer or other person engaged in a similar trade from collecting and disposing of yard trimmings not containing other solid waste whenever the collection and disposal are incidental to providing the gardening, tree trimming or similar services.

(c) Commercial Source Separated Recyclable Materials and Compostable Materials.

(1) Commercial business owners shall retain the right to donate or sell recyclable materials and compostable materials, or to pay fees for services to solid waste enterprises other than the collector for the collection of particular recyclable materials and compostable materials, so long as all recyclable materials and compostable materials collected are source separated single recyclable materials and compostable materials. Recyclable materials and compostable materials collected pursuant to this paragraph (c) shall be transported to a recyclable materials and compostable materials facility achieving a diversion rate of 90 percent and where not more than 10 percent of the materials are disposed of in a landfill.

(2) Commercial business owners shall demonstrate compliance with the provisions of this paragraph (c) at the request of the Director.

(3) The City may require any recycler, junk dealer or other enterprise engaged in the business of buying and marketing recyclable materials and compostable materials to provide the City with information pertaining to the collection and the amount of recyclable materials and compostable materials collected from within Palo Alto's territorial limits.

(d) Collection of Source Separated Single Recyclable Materials. No provision of this Chapter shall prevent a recycler, junk dealer or other enterprise engaged in the business of buying and marketing source separated single recyclable materials in the stream of commerce and which buys such materials for marketing and not for disposition in a landfill or transfer

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station (as defined in Public Resources Code Section 40200), from buying recyclable materials for monetary or other valuable consideration. A recycler, junk dealer or enterprise which buys recyclable materials shall not be prohibited from removing and transporting those materials to a destination for marketing in the stream of commerce.

(e) Renovation, Rebuilding, Repairs. No provision of this Chapter shall prevent a commercial business owner from arranging for any worn, spent, or defective equipment, or part thereof, used in the commercial business and requiring renovation, rebuilding, recharging, regeneration or repair, to be picked up, renovated, rebuilt, recharged, regenerated or otherwise restored and repaired and returned to that commercial business owner. Any person engaged in the business of renovating, rebuilding, recharging, regenerating, or otherwise restoring or repairing the equipment or part thereof, is not prohibited from transporting the same from or returning it to the commercial business, or from removing, transporting or disposing of the equipment, or part thereof, replaced in connection with an equipment repair or service contract.

(f) Contractors' Exclusions. In addition to the authority granted by paragraph (c) of this Section 5.20.110, no provision of this Chapter shall prevent a licensed contractor under contract for the deconstruction, demolition or reconstruction of a building, structure, pavement, or concrete installation from marketing any saleable or donation items salvaged from the deconstruction, demolition or reconstruction, or from causing the salvageable items or construction or demolition waste to be removed and transported from the place or premises at which such waste is generated, pursuant to the provisions of the demolition or construction contract, subject to the following:

(1) The collection, removal and disposal activity shall be performed only by the licensed contractor under contract for the construction, deconstruction or demolition work that generated the salvageable items or by regularly employed personnel carried on the licensed contractor's payroll records as an employee.

(2) All vehicles used to facilitate the collection, removal and disposal activities shall be owned by or under the exclusive control of the licensed contractor and shall meet all of the requirements of this Chapter and all other laws, statutes, rules, regulations and ordinances of the state of California and the City. All vehicles shall be subject to inspection by and the approval of the Director from time to time.

(3) The placement and use of a container, other than a container provided by the collector, shall be prohibited, whether placed on the ground, on a vehicle, or any other place.

(g) ~~Reinforced~~ Concrete Exclusion. In addition to the authority granted by paragraph (f) of this Section 5.20.110, nothing in this Chapter shall prevent a commercial/industrial business owner, residential householder, or licensed contractor from using a solid waste enterprise other than the collector to dispose of ~~reinforced~~ concrete.

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(h) Document Destruction Service. No provision of this Chapter shall prevent any person engaged in the business of destroying or disposing of secret, confidential or sensitive documents from transporting or disposing of those documents, provided the transport and disposal of the documents are incidental to the document destruction or disposal service.

(i) Self-Haul Exclusion. In addition to the authority granted by paragraph (a) of this Section 5.20.110, nothing in this Chapter shall prevent a commercial business owner or residential householder from, on a regular basis, collecting, transporting and disposing of solid waste generated at the place or premise, in lieu of availing themselves of the services of the collector. No residential householder or commercial business owner shall employ or engage any solid waste enterprise, other than the collector, to haul or transport the solid waste to a disposal or processing facility. Any residential householder or commercial business owner who pursuant to this paragraph ~~(i)~~ seeks to on a regular basis collect, transport and dispose of solid waste generated at the place or premise, shall first obtain approval of the Director, and must comply with any written rules and regulations established by the Director~~the procedures applicable to self-hauling that are adopted by resolution.~~

(j) General Requirement. In all cases where the right to an exclusion pursuant to this Section 5.20.110 is exercised, disposal shall be made at a disposal or processing facility that meets all applicable regulatory requirements. Any disposal by a person exempted under this section shall not be relieved of any obligation or liability imposed by this Chapter or any other ordinance, resolution, rule or regulation for the payment of the minimum solid waste and recyclable materials disposal rates imposed pursuant to this Chapter or any other applicable rates or fees. ~~Notwithstanding the foregoing, any person with a valid self haul permit obtained pursuant to paragraph (h), and who does not use the solid waste collection services offered by the collector, shall be exempt from the payment of the solid waste collection rates imposed for use of the services provided by the collector.~~

(k) Backhauling Compostable Materials. A commercial business may opt out of the compostable materials service levels required by this Chapter, provided that business verifies to the satisfaction of the Director that all compostable materials generated on-site will be transported to a central facility to be later composted or otherwise recycled at a 90 percent rate and not placed in a landfill.

(l) Space Limitations for Existing Structures. The Director may grant a written exemption for any existing commercial business structure that lacks sufficient storage space for compostable materials or recyclable materials from all or portions of this section in accordance with the written rules and regulations established by the Director. The Director, in cases where space constraints are determined to exist, shall also evaluate the feasibility of shared container usage by contiguous businesses or multifamily property structures.

(m) De Minimis Exception. The Director may waive any of the requirements of this section if documentation satisfactory to the Director, based upon rules and regulations, is provided to establish that the materials in any type of container, on an on-going basis is incidental to any other materials originating from that collection location.

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SECTION 9. Section 5.20.120 (Refuse Containers) of Chapter 5.20 (Collection, Removal and Disposal of Refuse) of Title 5 (Health and Sanitation) is hereby amended to read as follows:

5.20.120 Refuse containers.

(a) All types of refuse containers shall be kept in a sanitary condition with the lids closed except whenever they are being loaded or unloaded.

(b) Refuse containers suitable for residential places or premises shall be provided by the collector or the City. Any container shall be of a size based upon the subscription service level requested by the person responsible for the payment of charges therefor or as may be required by this Chapter. Any container shall not be loaded with more than the quantity of materials that either can fit in the container with its lid closed or is in excess of the weight limit marked on the container, when the lid is closed. All containers for use at commercial premises shall be provided by or approved by the collector, except for industry-approved grease or cooking oil tallow containers that shall be provided by a designated tallow hauler.

(c) Refuse containers shall be collected by the collector whenever the containers are placed in a ~~refuse solid waste~~ enclosure or at the authorized collection area. Collection may be made at another location upon approval of the Director, based upon the subscription service level requested.

(d) All commercial property owners and commercial business owners shall provide access to the City or the collector for the inspection of internal and external refuse containers and enclosures. The Director shall be authorized to conduct inspections of commercial premises, as permitted by law, to ensure compliance with this Chapter, including this Section.

(e) Commercial property owners and commercial business owners shall ensure that all refuse containers and refuse enclosures are accessible and easily serviceable by the collector. Service vehicles shall have a safe and clear passage and access to refuse enclosures to provide for the efficient service to customers.

SECTION 10. Section 5.20.130 (Maintenance and Placement of Containers) of Chapter 5.20 (Collection, Removal and Disposal of Refuse) of Title 5 (Health and Sanitation) is hereby amended to read as follows:

5.20.130 Maintenance and placement of containers.

(a) The commercial business owners and residential householder shall maintain their containers at their places and premises and the areas where the containers are located in good, usable, clean and sanitary condition, and shall ensure that the lids on the container are kept closed and shall ensure that there is no litter underneath or surrounding the containers. No refuse shall be placed outside of the container. Containers shall be maintained by the commercial business owners and residential householders in a manner that will prevent leakage, spillage and the emission of odors. Commercial premises sharing receptacles placed outside of retail areas, must also share equally in the responsibility of emptying the receptacles

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so that they do not overflow and maintaining the area around the receptacles so that it is free of loose litter.

(b) The location or placement of containers at any place or premise shall be subject to the approval of the Director. Every commercial business owner shall provide a location at the commercial premises for the containers they use.

(c) Any collection agreement may provide for the rental of containers approved by the collector to customers. The collector shall be responsible for maintenance of the rental containers by keeping the containers in good and sanitary condition (ordinary wear and tear excepted) and shall repaint the containers at a frequency as determined by the Director. The collector and the renter shall determine and agree upon the placement of the containers to minimize traffic, aesthetics and other potential effects that may be associated with their placement.

(d) Where a container is not rented from the collector but is rented from another solid waste enterprise and approved by the City, the renter shall ensure that the container meets the standards of quality and maintenance applicable to the containers supplied by the collector. The renter shall procure the written standards or rules and regulations of the collector prior to renting from another solid waste enterprise.

(e) Any containers of a one cubic yard or greater size shall be identified with the name and telephone number of the collector or other solid waste enterprise servicing the container. The container shall be identified by the type of materials that can be deposited in the container.

(f) Containers shall remain on private property and not in the public right-of-way except as necessary to accommodate scheduled collection. Containers are permitted in the public right-of-way only during the day preceding the day of scheduled collection and terminating the day following such collection.

SECTION 11. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 12. The Council finds that this project is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Section 15061 of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

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SECTION 13. This Ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Public Works