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## CHAPTER 19: MANDATORY RECYCLING AND COMPOSTING

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### SEC. 1901. TITLE.

This Chapter shall be entitled "Mandatory Recycling and Composting".

(Added by Ord. 10009, File No. 081404, App. 6/23/2009)

### SEC. 1902. DEFINITIONS.

For the purposes of this Chapter, the following words have the following meanings:

- (a) "Adequate Refuse Collection Service" means that a dwelling or commercial property is serviced by a Collector for recyclables, compostables, and trash, and that the level of service is sufficient to contain the refuse generated at that dwelling or commercial property.
- (b) "City" means the City and County of San Francisco.
- (c) "Collection" means taking physical possession of and removing discarded material from the place of generation for subsequent off-site management of that material.

(d) "Collection Container" means the receptacle that is provided, designated and serviced by the collector for the collection of recyclables, compostables or trash.

(e) "Collector" means a person, firm or corporation licensed and permitted to collect refuse by the Director of Public Health pursuant to the provisions of the Refuse Collection and Disposal Ordinance adopted November 8, 1932, as amended, and any other collectors of discarded material not excluded under that ordinance.

(f) "Commercial Property" means a parcel or any portion of real property where refuse is generated that is not a dwelling, including schools, institutions, and City properties.

(g) "Compostable" means any material that can be broken down into, or otherwise become part of, usable compost (e.g., soil-conditioning material) in a safe and timely manner as accepted in San Francisco's compostables collection program, such as food scraps, soiled paper and plant trimmings. Compostable materials can also include disposable plastic food service ware and bags if labeled "Compostable", in accordance with the Food Service Waste Reduction Ordinance (No. 295-06) and Department of the Environment regulations for easy identification, meeting the ASTM Standard Specification (D6400) for compostable plastics, and consistent with State labeling law (California Public Resources Code Section 42359) that any plastic bag or food container labeled "Compostable" must meet the ASTM Standard Specification for compostable plastics.

(h) "Construction and Demolition Debris" means building materials generated from construction and demolition activities including, but not limited to, fully-cured asphalt, concrete, brick, rock, soil, lumber, gypsum wallboard, cardboard and other associated packaging, roofing material, ceramic tile, carpeting, fixtures, plastic pipe, metals, tree stumps, and other vegetative matter resulting from land clearing and landscaping for construction, deconstruction, demolition or land developments. Hazardous waste, as defined in California Health and Safety Code Sections 25100 et seq., is not construction and demolition debris for purposes of this Chapter.

(i) "Customer" means any person being served food from a food vendor or event.

(j) "Department" means the San Francisco Department of the Environment.

(k) "Designated" means clearly labeled and color-coded for a material type, such as labeled blue receptacles for recyclables, green for compostables and black for trash.

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

(m) "Disposable Food Service Ware" means all containers, bowls, plates, trays, carton, cups, lids, straws, forks, spoons, knives, napkins and other items that are designed for one-time use for serving food.

(n) "Dwelling" means a residence, flat, apartment, or other facility, used for housing one or more persons.

(o) "Event" means any function that serves food and is permitted through any agency, including, but not limited to, the Department of Parking and Traffic, the Recreation and Park Department, the Port of San Francisco or, to the extent permitted by law, the National Park Service.

(p) "Food Vendor" means any and all sales outlets, stores, shops, vehicles or other places of business located or operating in the city that operate primarily to sell or convey foods or beverages to consumers, and stores that sell food or beverages in combination with a gasoline station.

(q) "Janitor" means the person who is hired by owners and managers of commercial properties and their contractors to process refuse on-site before it leaves the premises.

(r) "Manager" means the authorized agent for the owner of a building, structure or property, who is responsible for the day-to-day operation of said building, structure or property.

(s) "Multifamily Property" means a property that includes multiple residential households and has a single account with collector(s) for recyclables, compostables and trash.

(t) "Person" means a natural person (including a resident, employee, or visitor), a firm, business concern, association, partnership, corporation or governmental entity, including the City and County of San Francisco and its departments, boards and commissions, and successors or assigns.

(u) "Public Trash Container" means any receptacle installed by a public agency at a sidewalk, park or other public area and that is not under the control, unless otherwise required by this Chapter, of a multifamily or commercial property, food vendor or event manager.

(v) "Recyclable" means any material that can be sorted and reconstituted, for the purpose of using the altered form in the manufacture of a new product, as accepted in San Francisco's recycling collection program, such as paper, bottles and cans. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

(w) "Refuse" has the meaning set forth in the Refuse Collection and Disposal Ordinance adopted November 8, 1932, as amended, and includes recyclables, compostables, and trash, but not construction and demolition debris or hazardous waste, all as defined in this Chapter.

(x) "Source Separate" means to divide refuse at the place of discard generation, prior to collection, into separate containers that are designated for recyclables, compostables or trash.

(y) "Transfer Station" means a facility that is permitted under Health Code Section 294 to receive discarded materials and transport them to a landfill for disposal.

(z) "Trash" means material that is designated for landfill disposal by the collector and does not include either recyclable or compostable materials. The term "trash" does not include hazardous waste, as defined in California Health and Safety Code Sections 25100 et seq., or construction and demolition debris as defined in this Chapter.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

### **SEC. 1903. SOURCE SEPARATION OF REFUSE REQUIRED.**

All persons in San Francisco must source separate their refuse into recyclables, compostables and trash, and place each type of refuse in a separate container designated for disposal of that type of refuse. No person may mix recyclables, compostables or trash, or deposit refuse of one type in a collection container designated for another type of refuse, except as otherwise provided in this Chapter.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

### **SEC. 1904. REQUIREMENTS FOR OWNERS OR MANAGERS OF MULTIFAMILY AND COMMERCIAL PROPERTIES.**

(a) Owners or managers of multifamily or commercial properties must provide Adequate Refuse Collection Service to the tenants, employees, contractors, and customers of the properties.

(b) Owners or managers of multifamily or commercial properties must supply appropriate containers, placed in an appropriate location, to make source separation of refuse convenient for the tenants, employees, contractors, and customers of the properties. The containers must:

(1) Be of appropriate number and size in light of the recyclable, compostable, and trash quantities reasonably

anticipated to be generated at the location;

(2) Bear appropriate signage and be color coded to identify the type of refuse to be contained—blue for recyclables, green for compostables, and black for trash—and meet any additional design criteria established by the Department by regulation; and,

(3) Be placed as close together as possible, to provide equally convenient access to users.

(c) Owners or managers of multifamily or commercial properties must provide information and/or training for new tenants, employees and contractors, including janitors on how to source separate recyclables, compostables and trash, and must re-educate existing tenants, employees and contractors at least once a year.

(d) Owners and managers of commercial properties or their contractors will work with on-site janitors to create effective source separation programs as a means of achieving compliance, meeting citywide diversion goals, and achieving the diversion or disposal rate reported annually to the State of California.

(e) New construction or expansion of multifamily or commercial properties may be subject to Department of Building Inspection requirements, such as Administrative Bulletin 088 and Building Code Chapter 13, Section 1304C, to provide adequate space for recyclables and compostables, which includes requiring any chute systems to keep compostables, recyclables and trash separate.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

## **SEC. 1905. REQUIREMENTS FOR OWNERS OR MANAGERS OF FOOD VENDORS AND EVENTS.**

(a) Owners or managers of food vendors and events must provide Adequate Refuse Collection Service to their employees, contractors and customers.

(b) Owners or managers of food vendors and events must supply appropriate containers, placed in appropriate locations, to make source separation of recyclables, compostables, and trash convenient for the employees, contractors, and customers of the food vendors and events. The containers must:

(1) Be of appropriate number and size in light of the recyclable, compostable, and trash quantities reasonably anticipated to be generated at the location;

(2) Bear appropriate signage and be color coded to identify the type of refuse to be deposited—blue for recyclables, green for compostables, and black for trash—and meet any additional design criteria established by the Department by regulation; and,

(3) Be placed as close together as possible to provide equally convenient access to users.

(c) Owners or managers of food vendors and events must provide information and/or training for new tenants, employees, and contractors, including janitors on how to source separate recyclables, compostables, and trash, and must re-educate existing tenants, employees, and contractors at least once a year.

(d) Food vendors that provide disposable food ware must have at least one container each for recyclables, compostables and trash for use by customers and visitors, placed inside near a main exit, unless that food vendor does not use disposable food ware for on-site consumption and serves minimal to go orders per day, but not including any to go orders delivered to residents by a delivery service. Food vendors meeting the requirements of this Section are exempt from the requirement of Public Works Code Section 173 to place "a litter receptacle outside each exit." Multiple food vendors that provide disposable food service ware and share a common eating area may share an appropriate number, size, and placement of containers for recyclables, compostables and trash for convenient use by customers or visitors.

(e) Food vendors and events must not put any fats, oils or grease in trash collection containers.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

## SEC. 1906. REQUIREMENTS FOR REFUSE COLLECTORS, TRANSFER STATIONS, AND PROCESSING FACILITIES.

(a) All collectors must appropriately designate the collection containers they provide to customers for source separation of recyclables, compostables and trash. The containers must:

(1) Bear appropriate signage that allows users to clearly and easily identify which containers to use for recyclables, compostables or trash;

(2) Be color-coded—blue for recyclables, green for compostables and black for trash; and,

(3) Bear the name of the collector to whom the container belongs.

(b) (1) If a collector finds materials that are not the correct type as designated for that container, such as recyclables or compostables in a trash container, or trash in a compostables or recyclables container, the collector then must leave a tag on the container identifying the incorrect materials.

(2) If the collector continues to find incorrect materials in a collection container after the collector has left a previous tag for that customer and that type of container, the collector must leave another tag on the container identifying the incorrect materials and send a written notice to the person who subscribes for that collection service.

(3) If the collector continues to find incorrect materials in a collection container after the collector has already left two or more tags for that customer and that type of container, the collector may refuse to empty the container, subject to California Code of Regulations Title 14, Section 17331, or as determined by the Director of Public Health or his or her designee. If the container is not emptied, the collector must leave a tag and send a written notice to the person who subscribes for the collection service, identifying the incorrect materials and describing what action must be taken for the materials to be collected; provided, however, that a collector may not refuse on this basis to empty containers from multifamily or commercial properties with multiple tenants and joint account collection service.

(4) The collector shall, upon request, provide to the Director a list of the names and addresses of those persons who have received tags or notices or whose containers have not been emptied due to non-compliance with this Chapter, or copies of the tags or notices issued by the collector. The collector shall also provide to the Director, upon request, a list of the names, addresses, and service levels of the collector's customers and any additional information required by the Director.

(c) Within 90 days of the end of each calendar year, each collector must submit to the Department, on a form specified by the Director, an annual report of all tons collected by material type and to whom the material was sent.

(d) No person may deliver recyclables or compostables, including those mixed with trash, to a landfill or transfer station for the purpose of having those materials landfilled, except as follows:

(1) A collector may drop off recyclables or compostables at the San Francisco transfer station for landfill if the transfer station has agreed to provide to the Director, upon request, audits of collection vehicles for a specified period going forward in time. The transfer station's audit shall report the quantity of recyclables or compostables, stated as estimated tons per load or as a percentage of the loads, deposited at the transfer station by collection vehicles specifically identified in the request over a reasonable period of time occurring after the request.

(2) A processing facility that sorts and reconstitutes recyclables for the purpose of using the altered form in the

manufacture of a new product or turns compostables into usable and marketable compost (e.g., soil-conditioning) material may send to a landfill a minor portion of those materials that constitutes unmarketable processing residuals, if the processing facility provides to the Director, upon request, audits of specific collection vehicles for a specific period going forward in time, of the quantities of recyclables or compostables sent to the landfill from the processing facility.

(e) No person may deliver trash from the city, including trash mixed with recyclables or compostables, to a processing facility, unless the processing facility has agreed to provide to the Director, upon request, audits of collection vehicles for a specified period going forward in time. The processing facility's audit shall report the quantity of trash, stated as estimated tons per load or as a percentage of the loads, deposited at the processing facility by collection vehicles specifically identified in the request over a reasonable period of time occurring after the request.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

## SEC. 1907. REQUIREMENT TO SUBSCRIBE TO REFUSE COLLECTION SERVICE.

Owners of residential, multifamily or commercial properties, events or other facilities that generate refuse must subscribe to and pay for Adequate Refuse Collection Service, and provide an accessible location for sufficient levels of service with collector(s) for source separated recyclables, compostables and trash, except as otherwise provided in this Chapter. Owners of such properties are responsible for any failure to subscribe to or pay for sufficient levels of refuse collection service. The Director of Public Health, pursuant to Health Code Article 6, as amended, shall enforce requirements for adequate and continuous refuse collections services.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

## SEC. 1908. ENFORCEMENT.

(a) The Director and his or her designee may administer all provisions of this Chapter and enforce those provisions by any lawful means available for such purpose, except as otherwise provided in this Chapter.

(b) To the extent permitted by law, the Director may inspect any collection container, collection vehicle load, or receiving facility for collected trash, recyclables or compostables.

(c) Except as otherwise provided in this Chapter, the Director of the Department of Public Health or his or her designee may impose administrative fines for violations of those provisions of this Chapter, or of rules and regulations adopted pursuant to this Chapter, that pertain to the jurisdiction of the Department of Public Health.

(d) Except as otherwise provided in this Chapter, the Director of Public Works or his or her designee may impose administrative fines for violations of those provisions of this Chapter, or of any rule or regulation adopted pursuant to this Chapter, that pertain to the jurisdiction of the Department of Public Works.

(e) San Francisco Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as amended, is hereby incorporated in its entirety and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter; provided, however, that:

(1) The Director of Public Works or the Director of Public Health may adopt regulations providing for lesser penalty amounts than those provided in Administrative Code Section 100.5;

(2) The fine for any violation at a dwelling or commercial property that generates less than one cubic yard of refuse per week may not initially exceed \$100; and,

(3) No person who is the owner, tenant, manager, employee, contractor, or visitor of a multifamily or of a multi-tenant commercial property shall be subject to fines or penalties for violation of Section 1903 (but will remain subject to such enforcement for violations of section 1904 and other sections of the Ordinance), unless and until the Director of the Department of the Environment has adopted specific regulations setting out the liability of such persons. The Director shall not adopt such regulations prior to July 1, 2011.

(f) The City shall use administrative penalties collected under this Chapter, including recovery of enforcement costs, to fund implementation and enforcement of this Chapter. Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

## SEC. 1909. FORMS, REGULATIONS AND GUIDELINES.

(a) After public notice and a public hearing, the Director may adopt necessary forms, regulations, and guidelines to implement this Chapter.

(b) The Department shall provide assistance regarding compliance with this Chapter.

(c) The Department shall provide information on its website regarding what materials are accepted as recyclables, compostables, and trash under this Chapter.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

## SEC. 1910. EXCEPTIONS

(a) A property owner or manager may seek a waiver from the Director of all or portions of this Chapter, if the applicant submits documentation, using a form specified by the Director and including a signed affidavit under penalty of perjury, that shows that the property does not have adequate storage space for containers for recyclables, compostables or trash. In cases where after on-site verification space limitations are determined to exist, the Director shall evaluate the feasibility of sharing containers for recyclables, compostables or trash with contiguous properties, and, where feasible, requiring container sharing in lieu of providing a waiver.

(b) Except as otherwise required by the Director, a collector may drop-off compostables or recyclables at the San Francisco transfer station that have been collected from public trash containers. The Director may require public trash containers to have a recyclables receptacle attached.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

## SEC. 1911. DISCLAIMER OF LIABILITY.

The degree of protection required by this Chapter is considered to be reasonable for regulatory purposes. The standards set forth in this Chapter are minimal standards and do not imply that compliance will ensure safe handling of recyclables, compostables or trash. This Chapter 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 Chapter or any administrative decision lawfully made in accordance with this Chapter. All persons handling discarded materials within the City should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this Chapter, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officer and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

## SEC. 1912. DUTIES ARE DISCRETIONARY.

Subject to the limitations of due process and applicable requirements of State or Federal laws, and notwithstanding any other provisions of this Code, whenever the words "shall" or "must" are used in establishing a responsibility or duty of the City, its elected or appointed officers, employees or agents, it is the legislative intent that such words establish a discretionary responsibility or duty requiring the exercise of judgment and discretion.

(Added by Ord. 100-09, File No. 081404, App. 6/23/2009)

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