

EXHIBIT A

CHAPTER 17.102 - SOLID WASTE &
RECYCLING COLLECTION

(Chapter replaced by Ordinance. No. 182190,
effective October 10, 2008.)

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17.102.010 Declaration of Policy.

(Amended by Ordinance No. 189293, effective January 11, 2019.) It is the policy of the City of Portland to reduce the amount of solid waste, both generated and disposed of, by promoting aggressive waste prevention and recycling activities. The City shall promote the development of environmentally and economically sound practices regarding the collection, processing and end use of solid waste, recyclable material and compostable

material. In order to attain these goals and protect public health and the environment, the City shall regulate collection of solid waste, recyclable and compostable materials within the City. In carrying out this policy, the goals of this Chapter are:

- A. To promote sustainability of the system of solid waste and recycling collection, by seeking to maximize efficiency, equity and economic vitality, improve worker safety and reduce environmental and human health impacts over the entire life cycle of the materials.
- B. To set and achieve recycling goals for Portland that are among the highest in the nation.
- C. To target reductions in toxic waste, to minimize its harmful effects and to reduce greenhouse gas emissions.
- D. To ensure the safe and sanitary collection, transportation and recovery of solid waste, recyclable and compostable materials.
- E. To provide Portland residents and businesses the opportunity to recycle more materials through convenient on-site, curbside and depot collection programs and through the addition of recyclable materials to the curbside collection program as appropriate.
- F. To establish and enforce solid waste, recyclable and compostable material collection standards to ensure uniform, cost effective and high-quality service delivery to all residential customers.
- G. To establish rates for residential waste collection which are fair to the public, encourage waste reduction, and promote safe, efficient collection.
- H. To establish and enforce solid waste, recyclable and compostable material collection standards, cost effective and high-quality service delivery and inform collection service options for all commercial customers.
- I. To promote community awareness in order to achieve the highest participation possible in the solid waste and recycling collection system.
- J. To enhance solid waste reduction and recycling in the multifamily, commercial, institutional and industrial sectors by ensuring that comprehensive recycling systems are provided at every establishment not covered by the residential franchise, and that owners of the establishments encourage extensive use of those systems by all employees.
- K. To undertake research, studies and demonstration projects on developing more efficient, economical and effective methods of solid waste reduction, recycling and collection.

17.102.020 Definitions.

(Amended by Ordinance Nos. 182671, 186877 and 189293, effective January 11, 2019.)
 For purposes of Chapter 17.102, and rules adopted thereunder, the following terms shall be understood to have the meanings specified in this Section. Terms, words, phrases, and their derivatives used but not specifically defined in this Chapter shall have meanings commonly accepted in the community.

- A. **“Administrative Rule”** means all rules promulgated under Section 17.102.030 of this Chapter.
- B. **“Approved Residential Recycler”** means a person that has been granted approved residential recycler status by the Director. Approved residential recycler includes any employees or other persons authorized to act on behalf of the approved residential recycler.
- C. **“Assessment”** means a civil penalty assessed for an infraction as provided in Chapter 17.102 or the franchise.
- D. **“Assigned Territory”** means an area within the City in which only a franchisee designated by the City may collect solid waste and recyclable material from residential customers.
- E. **“Biodiesel”** is a domestic, renewable fuel for diesel engines derived from vegetable oils, or animal fats, designated B100, and which meets the specifications of ASTM #D6751-03a “Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels” or revised ASTM specifications.
- F. **“Biodiesel Blend”** is a blend of biodiesel fuel meeting the ASTM #D6751-03a or revised ASTM specifications and ASTM #D5453 “Test Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels and Oils by Ultraviolet Fluorescence”, or revised ASTM specifications, comprised of biodiesel and ultra-low sulfur diesel fuels blended by a percentage of each individual component. Biodiesel Blend also includes renewable diesel blends, derived from vegetable oils or animal fats through fractional distillation, if the fuel meets a maximum carbon intensity of 56 gCO₂e/MJ as provided by the Oregon Department of Environmental Quality Clean Fuels Program.
- G. **“Business”** means any commercial entity, including industrial and institutional, but not including multifamily complexes or commercial entities that occupy 50 percent or less of the floor area of a residence.
- H. **“City”** means the City of Portland, Oregon, and such territory outside of this City over which the City has jurisdiction or control by virtue of any Intergovernmental Agreement or law.
- I. **“Collect”** or **“Collection”** means to accept, accumulate, store, process, transport, market or dispose of.

- J. ~~“Collection Vehicle” means any vehicle used for the collection of solid waste, recycling, or compostables in Portland.~~ “Collection Vehicle” means any vehicle used for the collection of residential or commercial solid waste, recycling or compostables that is safe to operate and ensures the contents are not littered in the course of servicing customers.
- K. **“Commercial”** means relating to an entity that is non-residential in nature or, if residential, consists of five or more dwelling units on a single tax lot.
- L. **“Commercial Collection”** means the collection of solid waste, recyclable and compostable materials in exchange for compensation from:
1. A non-residential source; or
 2. A multifamily residence of five or more dwelling units located on a single tax lot.;
- M. **“Compensation”** means:
1. Any type of consideration paid for collection service, including, without limitation, rent or lease payments and any other direct or indirect provision of payment of money, goods, services or benefits by owners, tenants, lessees, occupants or similar persons;
 2. The exchange of services between persons; and
 3. The flow of consideration from the person owning or possessing the solid waste recyclable or compostable material to the person providing collection service or from the person providing collection service to the person owning or possessing the solid waste recyclable or compostable material.
- N. **“Compostable Material”** and **“Compostable”** means yard debris, food scraps and food soiled paper when source separated for controlled biological decomposition. Compostable material shall not include food soiled paper containing plastic or other materials that inhibit controlled biological decomposition.
- O. **“Composting”** means the series of activities, including collection, separation, and processing, by which compostable materials are recovered from or otherwise diverted from the solid waste stream for controlled biological decomposition. Composting includes composting of source separated organics but not composting of mixed waste.
- P. **“Covered Food Scraps Generating Business”** means organizations that cook, assemble, process, serve, or sell food or do so as service providers for other enterprises.
- Q. **“Customer”** when used to refer to commercial collection service, means a person that has arranged for the collection of solid waste, recyclable or compostable

materials, excluding residential collection service covered by a franchise. Where several businesses share containers and service, customer refers only to the person that arranges for the service.

- R. **“Customer”** when used to refer to residential collection service means any person who receives solid waste, recycling or compostables collection service at a residence (four-plex or smaller) in a franchise territory. The customer need not be the person billed for such service. For rental properties where the owner of the property is required to subscribe for service, the owner shall be considered the customer.
- S. **“Director”** means the Director of the City’s Bureau of Planning and Sustainability or their authorized representative, designee or agent.
- T. **“Food Soiled Paper”** means paper products that cannot be recycled into paper products and have been in contact with organic materials to the degree that they would not be able to be recycled into paper products. Food soiled paper includes, but is not limited to, used napkins and paper towels.
- U. **“Food Scraps”** means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, coffee grounds, and other food that results from the distribution, storage, preparation, cooking, handling, selling or serving of food for human consumption. Food waste includes but is not limited to excess, spoiled or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. Food waste does not include liquids or large amounts of oils and meats which are collected for rendering, fuel production or other non-disposal applications, or any food fit for human consumption that has been set aside, stored properly and is accepted for donation by a charitable organization and any food collected to feed animals in compliance with applicable regulations.
- V. **“Franchise”** means a franchise for the collection of residential solid waste, recyclable materials and compostables, granted by Ordinance No. 181666, and as amended by subsequent ordinances.
- W. **“Franchisee”** means a business that has been granted a franchise by Ordinance No. 181666 and subsequent amending ordinances. Franchisee includes any employees or other persons authorized to act on behalf of the franchisee. Franchisee has a meaning identical to that of “grantee” as used in the franchise. A franchisee holds a single franchise for collection service in any and all of its franchise territories, including any territories transferred from other franchisees as approved by the Portland City Council, subsequent to Ordinance No. 181666, and as amended by subsequent ordinances.
- X. **“Franchise Territory”** means an area within the City in which only a person granted a franchise by the City may collect residential solid waste, recyclable

materials or compostables, from residential customers. A single franchisee may serve more than one franchise territory.

- Y. ~~“Independent Commercial Recycler” means a person who collects only recyclable and/or compostable materials from non-residential sources for the sole purpose of recycling or composting, and who does not collect solid waste.~~ “Independent Commercial Recycler” means a person who collects only recyclable materials or yard debris from non-residential sources and does not collect solid waste.
- Z. **“Infraction”** means a failure to comply with Portland City Code Chapter 17.102, the franchise, or the administrative rules promulgated thereunder, as applicable.
- AA. **“Metro”** means the metropolitan service district responsible for regional solid waste management and planning within Clackamas, Multnomah and Washington Counties.
- BB. **“Multifamily Complex”** or **“Multifamily”** means any multidwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as apartments, condominiums, mobile home parks, or houseboat moorages. Multifamily also includes certified or licensed residential care housing, such as adult foster care homes.
- CC. **“BPS”** means the City’s Bureau of Planning and Sustainability.
- DD. **“Permittee”** means any person granted a commercial collection permit under Section 17.102.210 of this Chapter.
- EE. **“Person”** means any individual, partnership, association, firm, trust, estate, a public or private corporation, a local government unit, a public agency, the state or any other legal entity.
- FF. ~~“Recyclable Material” and “Recyclable” includes, but is not limited to, newspaper, scrap paper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, container glass, aluminum, tin cans, magazines, aseptic packaging, coated paper milk cartons, steel aerosol cans, plastic bottles, office paper, cooking grease, wood, rubble and other materials as may be designated by the City.~~ “Recyclable Material” and “Recyclable” means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and that can be reused, recycled or composted for the same or other purpose(s).
- GG. **“Recycling”** means the series of activities including collection, separation, and processing, by which products or other materials are recovered from or otherwise diverted from the solid waste stream for use in the following:
1. In the form of raw materials in the manufacture of new products other than fuel.

2. ~~As fuel in the case of source separated wood waste which has no other material use.~~

“Recycling” means any process by which materials are transformed into new products in such a manner that the original products may lose their identity.

HH. **“Residence”** means any dwelling unit that is a four-plex or smaller, regardless of whether it has subscribed for waste collection, or has waste collection, in individual cans, carts or containers. Residence includes multifamily dwellings such as apartment complexes, condominiums, mobile home parks, or houseboat moorages with four units or fewer on a single tax lot. Residence also includes dwelling units used by fraternities or sororities. Residence does not include any multifamily complex as defined in this Section, multi-dwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as condominiums, mobile home parks, or houseboat moorages, nor does residence include certified or licensed residential adult foster care homes. Residence does not include any dwelling where over 50 percent of the entire building is being used for business purposes. Agreements between owners of residences purporting to provide for the collection of solid waste and recyclable on a combined basis shall not alter the status of each dwelling unit as a residence.

II. **“Resident”** means any person living in a residence.

JJ. **“Residential”** means of or pertaining to a residence.

KK. **“Self-haul, Commercial”** when used in reference to solid waste, recyclables or compostables generated by a commercial entity, means the collection and transportation of material from a commercial entity where an owner or employee of the entity hauls the material rather than hiring a permittee or independent commercial recycler to perform this function.

LL. **“Solid Waste”** has the meaning given in ORS 459.005(24) (2013), but does not include the following materials:

1. Sewage sludge, septic tank and cesspool pumpings or other sludge, and grit, screenings and other residues delivered by sewer systems to municipal treatment plants.
2. Discarded or abandoned vehicles;

MM. **“Source Separate”** means that the person who last used recyclable or compostable material separates the material from solid waste and keeps the recyclable or compostable material separate from solid waste.

NN. ~~**“Yard Debris”** means leaves, grass clippings, sod, weeds, vines, vegetative material from the yard, pumpkins, and prunings of no greater than four inches in diameter or 36 inches in length. Large branches (greater than four inches in diameter or more than 36 inches in length), dirt, stumps, metal, rocks, ashes, animal~~

~~waste, food and household solid waste are not considered yard debris.~~ **“Yard Debris”** includes grass clippings, leaves, hedge trimmings and similar vegetative waste generated from residential property or landscaping activities but does not include stumps or similar bulky wood materials.

17.102.030 Authority of Director to Adopt Rules.

(Amended by Ordinance Nos. 182671 and 189078, effective July 18, 2018.)

- A. The Director is hereby authorized to administer and enforce the provisions of this Chapter.
- B. The Director is authorized to adopt rules, procedures, and forms to implement the provisions of this Chapter.
 - 1. Any rule adopted pursuant to this section shall require a public review process. Not less than ten nor more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.
 - 2. During the public review, the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations; taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director.
 - 3. Notwithstanding paragraphs 2 and 3 of this Section, an interim rule may be adopted by the Director without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than one year (365 days). Within five business days of the adoption of an interim rule, the Director shall send notice of the rule to all the following, giving the language of the rule change, describing the purpose of the rule, and inviting the submission of comments.
 - a. Neighborhood associations recognized by the City Office of Community & Civic Life,
 - b. District Coalitions recognized by the City Office of Community & Civic Life,

- c. Business District Associations identified by the City Office of Community & Civic Life,
- d. Persons on the BPS list of parties interested in administrative rules, and
- e. Franchisees and permittees,

17.102.040 General Requirements for Franchisees and Permittees.

All franchisees and permittees must comply with applicable federal law, statutes of the State of Oregon, ordinances of Metro or the City and rules and regulations promulgated thereunder.

17.102.050 Clean and Efficient Fleet Practices.

(Replaced by the Ordinance No. 185449; amended by Ordinance No. 189293, effective January 11, 2019.) The Director is authorized to draft regulations to protect the public health and the environment. This can include requiring the use of a blend of biodiesel fuel in any collection vehicle with a diesel engine and requiring regular replacement of all collection vehicles used by franchisees or permittees within the City.

- A. All collection vehicles with a diesel engine shall use a blend of biodiesel fuel as specified by the Director, consistent with the requirements set forth in Chapter 16.60.
- B. Fleet Replacement. The intention of the clean and efficient fleet practices is to phase out vehicle emissions that contribute to unhealthy air for Portland residents and to reduce climate change impacts according to the Climate Action Plan.
 - 1. All ~~residential~~ Collection Vehicles shall have engines that are 12 years old or newer. "Collection vehicles" that are intended as back-up collection vehicles and older than 12 years are allowed to be used less than 20 percent of a full-time vehicle's hours or miles.
 - 2. Federal Emissions Improvement Adjustments. Due to emissions standard improvements to collection vehicles manufactured in 2010 or newer, collection vehicle restrictions will be adjusted accordingly:
 - a. As of January 1, 2023, all collection vehicles using diesel fuel shall have engines 13 years old or newer.
 - b. As of January 1, 2024, all collection vehicles using diesel fuel shall have engines 14 years old or newer.
 - c. As of January 1, 2025, all collection vehicles using diesel fuel shall have engines 15 years old or newer and older back up vehicles will no longer be acceptable and subject to infraction. Starting January 1, 2026 collection vehicle age restrictions will continue with a rolling 15-year timeframe for compliance.

- d. As of January 1, 2025, all collection vehicles providing service to any Portland residential or commercial customer will adhere to the Clean and Efficient Fleet Practices. At this time, exemptions to collection vehicles serving less than 50 percent of Portland customers will be lifted.
3. Diesel Particulate Filter (DPF) Retrofits. Collection vehicles that have been retrofitted with a functioning DPF will not be required to be replaced until January 1, 2025. Diesel Oxidation Catalyst (DOC) retrofits on collection vehicles will not be required to be replaced until January 1, 2020.

17.102.060 Fees Credited to Solid Waste Management Fund.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A. All fees, assessments and interest received by the Bureau of Planning and Sustainability with respect to solid waste collection or disposal shall be deposited with the City Treasurer and credited to the Solid Waste Management Fund.
- B. Monies deposited into the Solid Waste Management Fund shall be used for administration, implementation and operation of solid waste, recycling, composting and sustainable development programs, consistent with all applicable constraints on use of funds. BPS may spend or apply such fees and charges to implement and administer solid waste, recycling, composting and sustainable development policies approved by the Council.
- C. The proceeds from the City's sale of a forfeited franchise shall be deposited with the City Treasurer and credited to the Solid Waste Management Fund. Such proceeds shall be used to offset the City's costs of the process of replacing a franchisee, including its costs for providing any necessary temporary collection services, and to offset program costs to the public.

17.102.070 Fees As a Debt, Enforcement and Collection.

- A. All fees, assessments and interest imposed by this Chapter shall be a debt due and owing to the City of Portland and may be collected by civil action in the name of the City of Portland. Any fees and assessments remaining unpaid after the due date shall accrue interest at 1 percent per month, compounded daily from the due date. In addition, the Director may revoke, suspend or deny issuance of any commercial collection permit to permittees who have not paid commercial permit or tonnage fees or infraction assessments by the deadlines provided in this Chapter or in administrative rules adopted pursuant to this Chapter.
- B. Fees, assessments and interest shall be enforced and collected by the Director. The Director may waive or reduce any assessments for good cause, according to and consistent with written policies. The Director may refer collection and enforcement to another agency of the City.

17.102.080 Daytime Prohibition of Downtown Garbage Collection.

(Amended by Ordinance No. 189293, effective January 11, 2019.) No person, whether acting as private citizen, principal, employee, agent, franchisee or permittee shall transport any refuse through streets in the district bounded by SW Oak Street, SW First Avenue, SW Yamhill Street and SW Tenth Avenue, except between the hours of 10 p.m. and 10 a.m. or when otherwise authorized by the City Engineer, a city police officer, or the Director.

17.102.090 Assessments for Infractions.

- A.** The Director may impose assessments as follows:
1. A first violation of this Chapter may be subject to an assessment of up to \$500.
 2. A second violation of this Chapter by the same person may be subject to an assessment of up to \$1,000.
 3. Third and subsequent violations of this Chapter by the same person may be subject to an assessment of up to \$1,500.
 4. Assessments may be imposed on a per month, per day, per incident, per class or such other basis as the Director may determine as appropriate based upon the nature of the infraction.
- B.** The Director shall consider the following criteria in determining the amount of assessments to be imposed under this Section:
1. The nature and extent of the person's involvement in the violation;
 2. Whether the person was seeking any benefits, economic or otherwise, through the violation;
 3. Whether the violation was isolated and temporary, or repeated and continuous;
 4. The length of time from any prior violations;
 5. The magnitude and seriousness of the violation;
 6. The costs of investigation and remedying the violation;
 7. Whether any criminal prosecutions have occurred in regard to the violations; and
 8. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.

17.102.100 Right of Appeal and Payment of Assessments.

(Amended by Ordinance Nos. 184288 and 189293, effective January 11, 2019.)

- A. Any person receiving a Notice of Assessment shall, within ten days of issuance of the notice either pay to the City the stated amount of the assessment or request an appeal hearing by the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10 of the City Code. The filing of an appeal request shall stay the effective date of the assessment until the appeal is determined by the Code Hearings Officer. If, pursuant to said appeal hearing, payment of the assessment is ordered, such payment must be received by the Director or postmarked within 15 calendar days after the order becomes final.
- B. A person may appeal to the Code Hearings Office in accordance with Title 22 of the City Code if the person receives:
 - 1. A written denial of an application for a commercial collection permit;
 - 2. Any written suspension or revocation of a commercial collection permit.
- C. A business or property owner may appeal to the Code Hearings Office in accordance with Title 22 of the City Code if they receive a written denial of an application for a limited term extreme economic hardship exemption from the Containers in the Right of Way rules.

17.102.110 Divulging Particulars of Report Forms Prohibited.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A. Except as otherwise required by law, it shall be unlawful for the Bureau of Planning and Sustainability or any officer, employee, or agent of the City, to divulge, release or make known in any manner:
 - 1. Any information submitted or disclosed to the City under Section 17.102.250; or,
 - 2. Any information submitted or disclosed to the City by solid waste collectors regarding past hazardous waste remedial action surcharges.
- B. Nothing in this Section shall be construed to prohibit:
 - 1. The disclosure of the names and addresses of any persons to whom permits have been issued; or
 - 2. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any individual permittee.

17.102.120 Franchise Administration.

(Amended by Ordinance No. 182671, effective May 15, 2009.) Notwithstanding Section 3.114.020, the Bureau of Planning and Sustainability shall be responsible for administration of residential collection franchises.

17.102.130 Franchise Size Limit.

(Amended by Ordinance No. 184224, effective December 10, 2010.)

- A. No franchisee shall serve residential customers greater than 40 percent of the residential customer base, as determined on a quarterly basis. For purposes of this Section, the Bureau of Planning and Sustainability will calculate the residential customer base and the residential customer cap using the most recent Quarterly Residential Customer Count Report, and shall keep this calculation on file for public reference.
- B. No franchisee shall be a subsidiary corporation of another franchisee.

17.102.140 Residential Collection Franchise Required.

(Amended by Ordinance No. 189293, effective January 11, 2019.)

- A. No person may collect residential solid waste, recyclable or compostable materials, within the City without having obtained a franchise from the City, except as provided in 17.102.150 or 17.102.170 of this Chapter.
- B. Having obtained a franchise for residential solid waste, recyclable material and compostables collection from the City, no person shall provide or offer to provide such collection in an area within the City other than the assigned territory for which the franchise was issued.
- C. No person shall accumulate, store collect, transport, dispose of or resource recover solid waste, recyclable materials or compostables, except in compliance with this Chapter, other city ordinances and regulations, and state laws dealing with solid waste management.
- D. Nothing in this section shall prohibit the City from withdrawing certain solid waste, recyclable materials or compostables collection services by amendment of this Chapter on the basis of finding that such change is appropriate.
- E. No person other than an approved residential recycler may remove recyclable materials or compostables that are in or next to a residential recycling or compostables container set out at a residence.
- F. As provided in Section 29.30.140, owners of rental housing shall not collect solid waste generated by their tenants. Owners of rental residences must arrange for collection by a franchisee.

17.102.150 Exceptions to Residential Franchise Requirement.

(Amended by Ordinance No. 189293, effective January 11, 2019.)

- A. A franchise is not required for the collection or transportation of residential solid waste, recyclable materials or yard debris by the following persons:
 - 1. Persons transporting solid waste, recyclable materials, or compostables, collected outside the City;

2. Organizations which have been granted non-profit tax status by the federal government or who are organized as non-profit corporations in accordance with ORS Chapter 61 (2007) and who collect residential recyclable materials or compostables without charge to the person who generates those recyclable materials or compostables;
3. A contractor employed to demolish, construct or remodel a building or structure, including, but not limited to, land clearing operations and construction wastes, when collecting or transporting wastes created in connection with such employment;
4. Landscapers, gardeners, tree service contractors, janitors or renderers when collecting or transporting wastes created in connection with such employment;
5. Persons collecting and transporting waste produced by that person, except for waste produced by a tenant at a rental dwelling. For purposes of this Subsection, solid waste produced by a tenant, licensee, occupant or similar person is produced by that person and not by the landlord;
6. Persons collecting or transporting only waste tires under a valid waste tire storage or carrier permit pursuant to OAR Chapter 340;
7. Persons transporting only reusable beverage containers as defined in ORS 459A.725 (2007);
8. Federal or state agencies that collect, store, transport and dispose of solid waste or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for such agencies; and,
9. Persons exclusively collecting recyclable materials or compostables, from non-residential sources.

- B.** An organization is not required to have a franchise for the acceptance, storage or transportation of recyclable materials or compostables if those materials are accepted and stored at a depot or depots which accept recyclable material or compostables without a charge to the generator of that recyclable material or compostables.

17.102.160 Forfeiture and Replacement.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A.** In the event that the Director finds grounds for declaring a forfeiture, according to the terms of the franchise awarded by Ordinance No. 181666 and as amended by subsequent ordinances, the Director shall make a recommendation for Council action on the matter, following procedures specified in the BPS's adopted rules.

- B.** ~~In preparing for the transfer of a forfeited franchise to another party, the Director shall solicit applications from current franchisees and from other parties who have given a written notice of their interest following a public notification. The Director shall determine the applicants' qualifications to assume the franchise responsibilities. The Director is authorized to then use a lottery in selecting among qualified applicants. In addition, the Director may conduct an appraisal of the value of the forfeited franchise. The lottery winner(s) shall then be offered the opportunity to purchase the franchise from the City within a specified time period at the appraised value.~~

In preparing for the transfer of a forfeited franchise, the Director shall solicit applications following a public notification. The Director shall identify criteria to evaluate applicants' qualifications to assume the franchise responsibilities, such as related experience; technical, financial, and operational capability; equity and diversity; sustainability; resiliency; and efficiency. The Director may conduct an appraisal of the value of the forfeited franchise and give the selected applicant the opportunity to purchase the franchise from the City within a specified time period.

- C.** In cases where a franchisee abruptly ceases to provide collection service, and there is insufficient time to conduct an appraisal and permanently transfer a franchise, the Director may recommend that the Council appoint a temporary service provider. If the Council makes such an appointment, it may also guarantee a minimum level of revenue to that company, in order to encourage companies who would not otherwise be willing to assume this responsibility on a short-term basis. Such minimum level of revenue would be achieved by the City's supplementing revenues received by the temporary service provider from its temporary customers.

17.102.170 Residential Recycling Services.

(Amended by Ordinance No. 189293, effective January 11, 2019.)

- A.** No person shall provide residential recycling collection without first applying for and receiving approval as an approved residential recycler.
- B.** To have status as an approved residential recycler an applicant must receive the City's approval of recycling collection and processing plans prior to initiation of collection service, and at subsequent times as provided in the administrative rules.
- C.** To receive approval as a residential recycler, the City must first approve an applicant's recycling collection and processing plans data through means detailed in the residential administrative rules.
- DC.** To receive approval as an approved residential recycler, an applicant shall submit a recycling collection and processing plans on forms provided by the Director and shall include, at a minimum, the following information:
1. Number of residential households to be served;
 2. Description of recycling collection equipment;

3. Address and City zoning classification of all processing/storage sites that relate to collection services provided in the City;
4. Description of all processing and storage activities that relate to collection services provided in the City;
5. List of markets where each recyclable material will be sold;
6. List of the number of staff, their positions and full-time equivalent (FTE) for each;
7. Address and phone number of office;
8. Cost of recycling collection and processing equipment, the financial institution used and type of financing obtained; and
9. Any subcontracted collection services, including the names of the providers, description of the services provided and the number of customers served.
10. Written consent of the franchisee in whose territory the applicant seeks to provide collection service.
11. Other information as deemed relevant and necessary by the Director.

ED. The Director shall review the recycling collection and processing plans submitted by an applicant to determine if the plan sets out reasonable means and methods to deliver high quality recycling to City residents, and which are capable of meeting administrative rule standards for residential recycling service delivery. The Director shall notify the applicant of the decision on their status as an approved residential and any recommended modifications if approval is not given. Approved residential recyclers shall use recycling containers that meet the Director's specifications.

FE. An applicant's failure to receive the Director's approval of a plan shall result in denial of the City's permission for that applicant to provide recycling collection service and the appointment of another approved residential recycler by the Director to provide recycling collection service to those residential customers.

17.102.180 Franchise System Evaluation.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A. Periodically the Director shall prepare and submit a report to the City Council on the status and performance of the franchise collection system. The report shall comment on progress toward achievement of the relevant goals identified in Section 17.102.010 and as otherwise described in BPS's budget documents.

- B. Commencing at least five years prior to the expiration of the franchise term, the City Council shall evaluate the franchise system to determine if the system is achieving waste reduction, increased recycling, and cost-effective collection service. Such evaluation shall include an opportunity for public discussion and comment.

17.102.190 Residential Solid Waste and Recycling Rates and Charges.

For all service levels of franchised residential collection, rates and charges shall be as set forth in Figures 6 and 6-1 published at the end of Title 17.

17.102.200 Large Size Container Service to Residential Customers.

- A. Any residential putrescible waste collected in containers exceeding two yards capacity shall be emptied within seven days of the empty container being placed at the residence.
- B. Commercial permittees are prohibited from providing collection of any putrescible waste more than four times in a 365-day period to residential customers without the express written permission of the franchisee in whose territory the collection would be occurring.
- C. Within the City, franchisees are prohibited from providing containers larger than two cubic yards which are emptied more than four times in a 365-day period to residential customers outside their franchise territory.

17.102.210 Commercial Collection Permit Required.

(Amended by Ordinance Nos. 182671 and 189293, effective January 11, 2019.)

- A. No person shall provide commercial collection of solid waste, compostables and recyclable material within the City without having a currently valid commercial collection permit from the Bureau of Planning and Sustainability, except as provided in Section 17.102.220. Permits shall be issued annually, with the permit being valid for the period beginning July 1 and ending June 30. No expenditure of money, lapse of time or other act or thing, shall give the permittee any vested rights or other property rights.
- B. The Director may impose conditions upon the issuance of a permit which are necessary to implement the provisions of this Chapter or administrative rules promulgated under Section 17.102.030. Conditions shall include but not be limited to:
 1. Permittees must comply with the provisions of this Chapter and administrative rules promulgated under Section 17.102.030.
 2. If a permittee provides solid waste collection services to a customer, the permittee must offer recycling collection services to the customer. The permittee shall also offer compostable material collection services to a

customer that is a covered food scrap generating business subject to the requirements of Subsection 17.102.270 A.1.c.

- a. Permittees may provide recycling and compostable material collection services either directly or through third-party providers. Where a permittee provides such services through a third party provider, the permittee shall be responsible for reporting to the City the quantities of all materials collected by that provider on its behalf within the City.
 - b. In providing recycling and compostable material collection services, permittees shall use containers that comply with the City's administrative rules.
3. If the Director determines that a permittee is delivering as waste, loads containing significant amounts of recyclable materials to a transfer station, reload, or landfill, the Director shall work with the permittee to identify customers on the routes serviced in those loads for the purpose of providing customer outreach, assistance and education.
 4. Permittees may charge a person who source separates recyclable material - and makes it available for reuse or recycling - less, but not more, for collection and disposal of solid waste and collection of recyclable material than the collection service charges a person who does not source separate recyclable material. This subsection does not affect charges for the collection of food scraps.
- C. Any person who provides commercial collection of solid waste within the City without a current commercial collection permit from the City shall be subject to an assessment as provided by Section 17.102.090.
 - D. No person who is not authorized by the customer may remove recyclable material that is set out by the customer for recycling.
 - E. As provided in Section 29.30.140, owners of rental housing shall not collect solid waste generated by their tenants. Owners of multifamily complexes must arrange for collection by a permittee.

17.102.220 Exceptions to Commercial Collection Permit Requirement.

A commercial collection permit is not required for the collection or transportation of commercial solid waste by any of the following:

- A. Persons transporting solid waste collected outside the City;
- B. A contractor employed to demolish, construct or remodel a building or structure, including, but not limited to, land clearing operations and construction wastes, when collecting or transporting wastes created in connection with such employment; However, any subcontracted service employed exclusively to collect

and transport construction wastes, is required be a current commercial permittee and subject to all fees associated with waste hauling in the City of Portland;

- C. Landscapers, gardeners, farmers, tree service contractors, janitors or renderers when collecting or transporting wastes created in connection with such employment;
- D. Persons collecting or transporting only waste tires under a valid waste tire storage or carrier permit pursuant to OAR Chapter 340;
- E. Persons transporting only reusable beverage containers as defined in ORS 459A.725 (2007);
- F. Federal or state agencies that collect, store, transport and dispose of solid waste or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for such agencies; and
- G. Persons exclusively collecting recyclable or compostable materials from anyone other than residential customers. However, persons exclusively collecting commercial food scraps are not exempt.

17.102.230 Applications for Commercial Collection Permits, Issuance, Denial.

(Amended by Ordinance Nos. 184288 and 189293, effective January 11, 2019.)

- A. Applications for commercial collection permits required by Chapter 17.102 shall be submitted to the Director. The Director shall prepare application forms and make them available upon request.
- B. Each application for a commercial collection permit shall be accompanied by a nonrefundable fee of \$350.
- C. An applicant for a commercial collection permit shall submit an application that sets forth the following information:
 - 1. The name, address and telephone number of the business or proposed business;
 - 2. Whether the applicant is organized as a sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business;
 - a. If a partnership, the application must set forth the names, addresses and telephone numbers of each general or managing partner.
 - b. If a corporation, or limited liability company, the application must set forth the corporate or company name and the names, addresses

and telephone numbers of every person owning more than twenty percent of the business;

- c. If the business is organized in some other form, the application must set forth the name, address and telephone number of the designated contact person for the business.
- 3. A City of Portland business license number.
 - 4. A signed statement that the permittee shall hold harmless the City of Portland, its officers and employees and shall indemnify the City of Portland, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the commercial collection permit. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect permittee, property owners, and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide General Liability coverage insurance with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insures the City of Portland, their officers and employees with respect to the permittee's activities carried on under the terms of the commercial collection permit, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the Auditor.
 - 5. Any other information that the Director may reasonably feel is necessary to accomplish the goals of this Chapter.
- D. Applications shall contain a written declaration, verified by the applicant, to the effect that the statements made therein are true.
 - E. Applications shall contain written demonstration of adequate staff, equipment and collection vehicles necessary to provide services as required under Subsection 17.102.210 B.2.
 - F. The Director may investigate and verify data reported in the permit application.
 - G. The permittee shall provide written notice to the Director within 10 days of any changes in the information provided in the application that occurs after the application is submitted.
 - H. The Director shall approve issuance of a commercial collection permit to the applicant after payment of the required fee, completion of the application form and following an evaluation of the information provided with the application. The

Director may deny the issuance of a commercial collection permit to an applicant under the following conditions:

1. The permit application contains falsehoods or facts that cannot be verified;
 2. The applicant has failed to pay fees, assessments and interest as provided in Chapter 17.102;
 3. The applicant has been found by a court of competent jurisdiction to have practiced fraud or deceit upon the City; or,
 4. The applicant has had their permit revoked during the two years prior to the application. For purposes of this section, "applicant" includes any individual who was a managing partner, or who owned or controlled more than 20 percent of the voting interests in the permittee whose permit was revoked.
- I. There shall be no right to renewal of a commercial collection permit; each application shall be considered as it would be for a new permit notwithstanding that the applicant has previously been issued a permit.
- J. Denial of an application may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.

17.102.240 Revocation or Suspension of Commercial Collection Permits.

(Amended by Ordinance Nos. 184288 and 189293, effective January 11, 2019.)

- A. The Director may suspend or revoke a commercial collection permit under the following conditions:
1. One or more of the permit conditions is being violated;
 2. The permittee is in violation of any of the provisions of this Chapter or the commercial administrative rules for solid waste and recycling.
 3. The permittee has failed to pay fees and assessments as provided in Chapter 17.102.
 4. The permittee has been found by a court of competent jurisdiction to have practiced fraud or deceit upon the City.
- B. The Director shall consider the following criteria in determining whether to revoke or suspend the commercial collection permit due to violations of the provisions of this Chapter or the commercial administrative rules for solid waste and recycling:
1. The nature and extent of the permittee's involvement in the violation;

2. Whether the permittee was seeking any benefits, economic or otherwise, through the violation;
 3. Whether the violation was isolated and temporary, or repeated and continuous;
 4. The magnitude and seriousness of the violation;
 5. The relative harms of continued collection service from the permittee and the potential for service disruption;
 6. Whether any criminal prosecutions have occurred in regard to the violations; and
 7. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.
- C. Revocation or suspension of a permit may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.

17.102.250 Commercial Tonnage Fee.

(Amended by Ordinance Nos. 183828, 185349, 187771 and 189037, effective July 1, 2018.) Commercial permittees shall, when invoiced quarterly by the Director, pay a tonnage fee to the City. Fees shall be assessed up to \$12.60 per ton of commercial solid waste collected within the City and deposited in disposal facilities authorized by Metro. Payments shall be made within 30 days of the date of the invoice. Interest shall accrue at 1 percent per month on balances which remain unpaid as of 30 days after the date of invoice, compounded daily from the due date.

17.102.260 Registration Required for Independent Commercial Recyclers.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A. No person shall provide collection service as an independent commercial recycler within the City without having registered with the Bureau of Planning and Sustainability, by providing BPS with a copy of their City of Portland Business License, with their Business License number, or with a copy of their current annual Business License exemption application or request submitted to the City's Revenue Bureau.
- B. ~~All independent commercial recyclers which collect in the City at least 25 tons of recyclables and/or compostables per year shall report quarterly to BPS on the amounts of recyclables collected in the City, on forms provided by BPS.~~

All independent commercial recyclers who collect at least 25 tons of recyclables and/or yard debris in the City per year shall report quarterly to BPS on the amounts of recyclables collected in the City, on forms provided by BPS. If a person only

collects food scraps from commercial sources, that person is required to be a commercial permittee.

17.102.270 Businesses and Multifamily Complexes Required to Recycle.

(Amended by Ordinance No. 189293, effective January 11, 2019.)

A. Waste Prevention and Recycling Requirements.

1. To achieve the City's waste prevention and recycling goals as set forth in Section 17.102.010, all businesses within the City shall comply with waste prevention, recycling and composting requirements as set forth in the administrative rules established by the Director. The following recycling requirements shall be in effect:
 - a. All businesses and multifamily complexes shall recycle 75 percent of the solid waste they produce;
 - b. All businesses shall recycle all of their paper and containers. For the purposes of this Section, containers means all recyclable metal, plastic and glass containers;
 - c. Covered food scraps generating businesses shall separate their food scraps for collection.
 - d. For all building projects within the City where the total job cost (including both demolition and construction phases) exceeds \$50,000, the general contractor shall ensure that 75 percent of the solid waste produced on the job site is recycled. In addition, certain materials generated on the job site shall be recycled in compliance with administrative rules established by the Director. For an affected building project where there is no general contractor, this requirement applies to the property owner is the person responsible for ensuring compliance with the recycling requirements.
2. Commercial customers that provide garbage collection service to business tenants as part of their rental/lease, shall provide recycling and, where appropriate, compostable collection systems that will enable the business tenants to recycle in compliance with administrative rules established by the Director.
3. All multifamily complexes within the City shall establish recycling systems for their tenants' use, in compliance with administrative rules established by the Director.

- B.** The Director may monitor compliance with the requirements of Subsection A by reviewing available information including, but not limited to, information reported by the customers on their recycling activities, as well as onsite inspections.

- C. Any business or any other person may sell or exchange at fair market value its own recyclable materials which are source separated for reuse or recycling. This Chapter and any administrative rules promulgated hereunder are not intended to limit the ability of any person to compete openly to provide recycling collection service to businesses within the City of Portland.

17.102.280 Inspections to Determine Compliance with Business Recycling Requirements.

- A. The Director shall be responsible for the administration and enforcement of Section 17.102.270 relating to recycling goals for businesses and multifamily complexes. In furtherance of these responsibilities, the Director shall have the authority to inspect sites, buildings and other structures and equipment for compliance with Section 17.102.270. The Director shall establish a program for the periodic inspection of businesses and multifamily complexes for compliance with these requirements. The program shall identify the frequency, priority and types of inspections, subject to the availability of staff and budgeted funds.
- B. Right of Entry. The Director may enter the premises of any business or multifamily complex, except private residences, between the hours of 9:00 am and 5:00 pm on any business day to conduct inspections for the purpose of determining compliance with recycling requirements established pursuant to Section 17.102.270. The Director shall first present proper credentials and request entry. If entry is refused, the Director may attempt to gain entry by obtaining an inspection warrant. Failure to respond to repeated requests may constitute refusal for entry. For the purposes of Section 17.102.280, the premises shall include the common areas of the business or multifamily complex used to store solid waste, recycling or compostable materials.
- C. Warrants. Whenever an inspection is necessary to determine compliance with Section 17.102.270 and the Director has been refused entry, the Director may apply to any Circuit Court judge to obtain an inspection warrant for the inspection of the premises of a business or multifamily complex. The inspection warrant is a court order authorizing entry onto the premises of a business or multifamily complex for the purposes of conducting an inspection to determine compliance with the requirements of Section 17.102.270.
- D. Grounds for Issuance of Inspection Warrants; Affidavit.
 - 1. Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the inspection warrant, the applicable code sections or regulation requiring or authorizing the inspection, the property to be inspected and the purpose for which the inspection is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused.
 - 2. Cause. Cause shall be deemed to exist if the affidavit demonstrates that:

- a. The inspection is authorized pursuant to reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to the premises of a business or multifamily complex;
- b. There is a reasonable basis for believing that a condition of nonconformity with Section 17.102.270 exists with respect to the designated property; or,
- c. An inspection is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with any of the requirements of Section 17.102.270 or any regulations promulgated pursuant thereto.

E. Procedure for Issuance of Inspection Warrant.

1. Examination. Before issuing an inspection warrant, the judge may examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.
2. Issuance. If the judge is satisfied that cause for the inspection exists and that the other requirements for granting the application are satisfied, the judge shall issue an inspection warrant, particularly describing the person or persons authorized to execute the inspection warrant, the property to be entered and the purpose of the inspection. The inspection warrant shall contain a direction that it be executed on any business day between the hours of 9:00 a.m. and 5:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.
3. Police Assistance. In issuing an inspection warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to assist the person authorized to execute the inspection warrant in any way necessary to complete the inspection.

F. Execution of Inspection Warrants

1. In executing an inspection warrant, the person authorized to execute the warrant shall, before entry into any occupied premises of a business or multifamily complex, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the premises of the business or the multifamily complex designated in the inspection warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. The person authorized to execute the warrant shall leave a copy of the inspection warrant at the premises.

2. Return. The inspection warrant must be executed within 10 working days of its issue. The return of warrant must be submitted to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the inspection warrant shall be void unless it has been timely executed.

17.102.290 Storing Solid Waste, Recycling or Compostable Containers in the Right of Way Prohibited.

(Amended by Ordinance Nos. 182671, 184288 and 189293, effective January 11, 2019.)

- A. No person may store, or cause to be stored, containers of solid waste, recycling or compostables in public right-of-way without a permit from the City Engineer, the City Traffic Engineer, or the Bureau of Planning and Sustainability. For the purposes of this Section, storage means leaving containers in the right of way for more than 2 hours either before or after collection during normal business hours. If collection occurs after normal business hours, containers may be placed in the right of way at the close of business but must be removed from the right of way by the start of the following business day or within 24 hours of set out, whichever occurs first.
- B. The Director may provide exemptions from Subsection A. for extreme economic hardship. Criteria for eligibility shall be based upon such factors as financial hardship for the property or business owner, conditions related to the property and resources necessary to provide adequate on-site, interior storage space for garbage and recycling containers. Exempted property shall be subject to the requirements of this Section following the termination of the hardship exemption. Exemptions shall be for no more than two years. Exemptions may be renewed upon reapplication by the property owner or business owner, after a re-evaluation of eligibility by the Director. Exemptions shall be personal to the property or business owner, and shall not be assignable, transferable or otherwise be conveyable. Exempted property shall be subject to the requirements of Subsection A. following expiration of any hardship exemption granted by the Director.
- C. The Director shall develop administrative rules and procedures for determining extreme economic hardships under Subsection B., using the process under Section 17.102.030. The Director shall also adopt standards for space requirements for storage of containers of solid waste, recycling or compostables in new construction and when major alterations are made to existing buildings.
- D. The Bureau of Planning and Sustainability may charge fees to business and property owners who apply for an extreme economic hardship exemption to recover costs of administering the exemption program. All fees are stated in the Fee Schedule adopted by City Council. Fees will be updated on an as needed basis. The approved Fee Schedule is available through the Bureau of Planning and Sustainability.

- E. Denial of a request for exemption for extreme economic hardship may be appealed to the Code Hearings Officer in accordance with procedures set for in Chapter 22.10.

17.102.295 Separation of Recyclables, Compost and Solid Waste.

(Added by Ordinance No. 185452, effective July 21, 2012.) It shall be a violation of Chapter 17.102 for any customer to:

- A. Place in a recycling cart, recycling container or recycling bin any plastic bag, diapers, pet waste, Styrofoam, wood, food, yard debris, or any Solid Waste; or,
- B. Place in a compost cart or compost container any plastic bag, diapers, pet waste, Styrofoam, or any Solid Waste.

17.102.300 Definitions for Ban of Polystyrene Foam Food Containers (PSF).

(Repealed by Ordinance No. 189271, effective January 4, 2019.)

17.102.310 Prohibition on Certain PSF Uses.

(Repealed by Ordinance No. 189271, effective January 4, 2019.)

17.102.320 Exemptions for PSF Use.

(Repealed by Ordinance No. 189271, effective January 4, 2019.)

17.102.330 Enforcement and Notice of Violations for PSF Ban.

(Repealed by Ordinance No. 189271, effective January 4, 2019.)

17.102.340 Fines for PSF Ban.

(Repealed by Ordinance No. 189271, effective January 4, 2019.)