

## **Title 8**

### **HEALTH AND SANITATION**

#### **Chapters:**

- 8.04 Rubbish Removal and Disposal**
- 8.05 Solid Waste Facility Regulation**
- 8.06 Collection of Recyclable Waste Materials**
- 8.12 Abandoned Vehicles**
- 8.16 Abatement of Weeds and Rubbish**
- 8.20 Smoking in Public and Workplaces**



**Chapter 8.04**

**RUBBISH REMOVAL AND DISPOSAL<sup>1</sup>**

Sections:

Article I. General Provisions

- 8.04.010 Purpose and findings.
- 8.04.020 Enforcement.
- 8.04.030 Definitions.

Article II. Storage, Collection and Disposal of Refuse

- 8.04.040 Mandatory duty on all real property owners.
- 8.04.050 Storage of refuse.
- 8.04.060 Storage of yard trimmings.
- 8.04.070 Storage of other waste materials.
- 8.04.080 Refuse collection stations.
- 8.04.090 License or franchise required for collection – Exceptions.
- 8.04.100 License or franchise for collection.
- 8.04.110 Frequency of service.
- 8.04.120 Time of service.
- 8.04.130 Regulations of service.
- 8.04.140 Vehicles used to transport refuse.
- 8.04.150 Special collections.
- 8.04.160 Dead animal disposal.
- 8.04.170 Ownership of refuse.
- 8.04.180 Designation of collection charges.
- 8.04.190 Disposition of collection charges.
- 8.04.200 Payment to refuse collector.
- 8.04.210 Collection of charges by refuse collector.
- 8.04.220 Exceptions to collection charges.
- 8.04.230 Disposal area.
- 8.04.240 Operation of disposal area.
- 8.04.250 Disposal by public.

- 8.04.260 Burning refuse.
- 8.04.270 Deposit of refuse in public places.

Article III. Mandatory Refuse Collection Subscription

- 8.04.280 Subscription required.
- 8.04.290 Exemption from subscription requirement.
- 8.04.300 Nuisance presumed to exist.
- 8.04.310 Collection notice for failure to comply.
- 8.04.320 Mailing and posting collection notice.
- 8.04.330 Request for hearing.
- 8.04.340 Manner of holding hearings.
- 8.04.350 Decision.
- 8.04.360 Appeals.
- 8.04.370 Final abatement action.
- 8.04.380 Administrative expenses.
- 8.04.390 Lien and collection.
- 8.04.400 Notice of special assessment.

**Article I. General Provisions**

**8.04.010 Purpose and findings.**

The health, welfare and safety of the people in the city require that a mandatory refuse collection procedure be established for the periodic collection and the disposal of all refuse and waste materials that accumulate within the city. Such a refuse collection and disposal procedure benefits all real property owners in the city. To ensure the existence and continuance of such a refuse collection system, the city council finds that all real property owners are required to properly maintain and store refuse upon their properties, that each property owner mandatorily engage in the contracting for refuse collection by the city’s refuse franchise collector, and that a fiscal procedure be established to accomplish said purposes as set forth in this chapter. [Ord. 997 § 1, 1990.]

**8.04.020 Enforcement.**

The code enforcement officer is assigned the duty and responsibility of enforcing of this chapter. [Ord. 997 § 1, 1990.]

**8.04.030 Definitions.**

In this chapter, unless the context otherwise requires:

1. For statutory provisions regarding restaurant sanitation generally, see Health and Safety Code § 28520 et seq.

Prior legislation: 1937 Code §§ 265 through 273, 274.1 through 275 and 291 through 293; Ords. 675, 705, 803, 836, 892 and 935.

A. "Collection station" means the location on other than collection days where the occupant of any premises places refuse in containers or bundles.

B. "Disposal area" means the site where the disposal of refuse not produced on that site is permitted to occur.

C. "Garbage" means animal and vegetable refuse resulting from the preparation of food not disposed of for recycling purposes.

D. "Person" includes a public agency and the officer of the public agency.

E. "Premises" includes a dwelling, commercial establishment and every parcel of land upon which a building or business is located.

F. "Property owner" includes the owner of property, the tenant or occupant of the property, and the owner's agent.

G. "Refuse" means all putrescible or nonputrescible solid and semisolid waste, whether combustible or noncombustible, and includes yard trimmings, garbage and rubbish but excludes waste material as defined in subsection (K) of this section.

H. "Refuse collector" means the city department, private contractor, franchise holder or a combination of these designated by the city council to collect and dispose of refuse.

I. "Rubbish" means paper, rags, sawdust, cans, ashes and other waste not resulting from the preparation of food not disposed of for recycling purposes.

J. "Standard container" means a metallic or plastic can with a close-fitting cover, a cover handle and side handles, of 40 gallons or less in gross capacity.

K. "Waste material" means dead animals, corrosive substances, sludge, oil, sewage, liquid wastes and industrial wastes.

L. "Yard trimmings" means cut grass, cut leaves, and branches cut from bushes or trees, but excludes rocks, bricks, cement or soil. [Ord. 997 § 1, 1990.]

## Article II. Storage, Collection and Disposal of Refuse

### 8.04.040 Mandatory duty on all real property owners.

A mandatory obligation is imposed on the property owner of every type of real property to store all refuse which is produced or accumulated on the property according to this chapter. Failure to comply with this section is an infraction. [Ord. 997 § 1, 1990.]

### 8.04.050 Storage of refuse.

A. A property owner of a premises within the city where refuse is produced or accumulates shall obtain and maintain the standard container for receiving and holding, without leakage or escape of odors, all refuse which is produced or accumulated upon the premises.

B. A property owner leasing a dwelling for habitation, whether single- or multiple-family, shall provide and keep one standard container as defined in this chapter for each family residing in the leased premises.

C. No person may deposit waste materials as defined in PMC 8.04.030(K) in the standard container used for refuse.

D. A property owner may not:

1. Allow refuse to be scattered about the premises;

2. Allow the contents of a standard refuse container to exceed 75 pounds in weight;

3. Fail to line the standard container with a suitable liner such as newspaper or plastic bag;

4. Fail to wash the standard container weekly after collection;

5. Present for collection refuse which is packed into standard containers so that the refuse will not fall out of its own weight when the standard container is upended;

6. Fail to mark plainly in large letters the apartment number, the occupant's name, the street address or other readily distinguishable marking on each standard container when there is more than one dwelling unit on the premises;

7. Allow the standard container to remain uncovered whenever any garbage is in it. [Ord. 997 § 1, 1990.]

**8.04.060 Storage of yard trimmings.**

Yard trimmings produced from the premises may be presented for collection in either a standard container or in a sealed plastic bag. Tree and bush branches may be assembled in tied bundles. The bundles may not exceed 75 pounds in weight or five feet in length or two feet in diameter. [Ord. 997 § 1, 1990.]

**8.04.070 Storage of other waste materials.**

A property owner shall not (A) allow waste material as defined in PMC 8.04.030(K) to remain scattered about the premises in an unsightly and unsanitary manner, (B) deposit such waste material upon other premises, or (C) otherwise store or allow waste material to accumulate on a premises within the city, except the officially designated disposal area, unless a special permit is obtained from the city council. [Ord. 997 § 1, 1990.]

**8.04.080 Refuse collection stations.**

Each refuse collection station shall be in the rear or side yard of the dwelling unit in a place easily accessible to the refuse collector. The station may be located on an alley, if there is one. For a commercial or other nondwelling facility, the refuse collection station shall, whenever possible, be in the rear of the facility. [Ord. 997 § 1, 1990.]

**8.04.090 License or franchise required for collection – Exceptions.**

No person may engage in the business of collecting refuse within the city, or haul refuse through a street or public right-of-way in the city, unless that person has been granted a franchise or license to do so by the city. However, the owner or occupant of a premises may transport refuse produced on its own premises to the refuse disposal area, subject to the requirements of PMC 8.04.140, pertaining to refuse transportation.

It is unlawful for any person to interfere in any manner with the lawful operations of the refuse collector. [Ord. 997 § 1, 1990.]

**8.04.100 License or franchise for collection.**

After notice given under Government Code Section 6066 and after a public hearing is held, the city council may provide for the collection of refuse and waste material within the city by the issuance of one or more franchises or licenses to private

refuse collectors. The terms and conditions, not inconsistent with this chapter, under which the refuse collector may be required to collect and dispose of refuse and waste material and the payment to be made to the refuse collector shall be specified in the applicable franchise or license. The franchise or license shall be authorized by resolution of the city council. [Ord. 997 § 1, 1990.]

**8.04.110 Frequency of service.**

Refuse shall be collected by the refuse collector from every occupied dwelling unit once each week, and from each commercial and nondwelling facility with such frequency as the code enforcement officer may require for sanitary reasons. Yard trimmings shall be collected from the refuse collection station or from the curb once each week or with such frequency as the code enforcement officer or the fire chief may reasonably require for sanitary or fire prevention reasons. [Ord. 997 § 1, 1990.]

**8.04.120 Time of service.**

Refuse may be collected only between the hours of 4:00 a.m. and 4:00 p.m., Monday through Saturday, inclusive. A regular collection of refuse may be made on Sunday in each business district zoned for and predominantly used by commercial establishments. [Ord. 997 § 1, 1990.]

**8.04.130 Regulations of service.**

The refuse collector is not required to (A) close gates which must be opened to obtain access to a refuse collection station, (B) replace a cover on the container after emptying it, or (C) pick up refuse which has been scattered on the premises by another. Yard trimmings and refuse containers shall be placed at the curb for collection not earlier than 5:00 p.m. on the day preceding the day of collection and not later than 4:00 a.m. on collection day. The owner of an empty refuse container shall remove it from the street not later than 8:00 p.m. on the date of collection. No person shall place a refuse container, bag or bundle at the curb so that either the sidewalk or street gutter is obstructed. No person shall place waste material excluded from the definition of refuse in PMC 8.04.030(G) at the curb or elsewhere for collection, except as may be provided in compliance with PMC 8.04.070. [Ord. 997 § 1, 1990.]

**8.04.140 Vehicles used to transport refuse.**

Each vehicle used for hauling refuse within the city shall be of such construction as to comply with all laws, rules and regulations of the state, and shall be of a type and construction to prevent leakage or overflow. All refuse in such vehicle shall be completely covered when in route from the last collection station to the disposal area to prevent any refuse from spilling or blowing from the vehicle. [Ord. 997 § 1, 1990.]

**8.04.150 Special collections.**

The following substances shall be the subject of special collections, upon request of the owner or occupant of a premises: caustics, liquids, loose building materials, sod and earth, sludge, corrosive substances, oil, sewage and industrial waste, boxes which are not placed in the standard container, any items exceeding 75 pounds in weight or five feet in length, and refuse in excess of the capacity of the standard container in regular use on the premises.

A special collection is at the expense of the owner or occupant upon request to the refuse collector. The refuse collector is not required to make a special collection. The refuse collector shall quote its rate before performing the special collection and complete the special collection within 48 hours of receipt of the request, excluding Saturdays, Sundays and holidays (unless otherwise requested by the owner or occupant). The rates quoted by the refuse collector for special collections are subject to approval by the city manager upon request of the owner or occupant, under PMC 8.04.180(B). [Ord. 997 § 1, 1990.]

**8.04.160 Dead animal disposal.**

A. Dead animals shall be disposed of by the animal control director of the county as provided in Chapter 416-12 of the Contra Costa County Code.

B. No person may deposit or place a dead animal upon or in the ground or upon the tidelands within the city limits. [Ord. 997 § 1, 1990.]

**8.04.170 Ownership of refuse.**

All refuse upon being moved by the refuse collector from the premises where produced becomes the property and responsibility of the refuse collector. All refuse taken to the disposal area by the occupant of the premises upon which the refuse was produced, shall, upon its delivery to the dis-

posal area, become the property and responsibility of the operator of the disposal area. [Ord. 997 § 1, 1990.]

**8.04.180 Designation of collection charges.**

A. The occupant of every premises in the city is liable for the payment of refuse collection service, except as provided in PMC 8.04.220. The city council shall fix refuse collection charges by resolution.

B. The charge for a special collection, for an additional standard container of refuse from a dwelling unit, or for a residential collection more often than once a week shall be by agreement between the refuse collector and the customer requesting the special services. If a dispute arises over the cost between the refuse collector and customer, the dispute shall be resolved by the city manager. The city manager's decision may be appealed to the city council in the manner provided in PMC 8.04.220(B). [Ord. 997 § 1, 1990.]

**8.04.190 Disposition of collection charges.**

All money collected by the city as refuse collection charges shall be credited to a special revenue account and shall be deposited in the general fund.

The city council may provide by franchise or contract that payment shall be made to the refuse collector no more frequently than twice a month. Payments to the refuse collector may be made, in accordance with the terms of the franchise or contract, without prior city approval of each payment.

In the case of payments made to the city, the finance director shall make periodic reports of the payments as directed by the city council. [Ord. 997 § 1, 1990.]

**8.04.200 Payment to refuse collector.**

If the city council issues a franchise or license to a refuse collector, the refuse collection charges to the occupants of the premises shall be paid directly to the refuse collector rather than to the city. [Ord. 997 § 1, 1990.]

**8.04.210 Collection of charges by refuse collector.**

A. Notwithstanding other provisions of this chapter, the franchise holder shall assume full responsibility for the collection of refuse charges to each user. Failure or refusal to pay the refuse col-

lection fees when due subjects the premises to immediate discontinuance of refuse collection.

B. Discontinuance of refuse collection may require the owner of the premises to comply with the provisions of Article III of this chapter, Mandatory Refuse Collection Subscription. [Ord. 997 § 1, 1990.]

#### **8.04.220 Exceptions to collection charges.**

A. The city manager may reduce or eliminate the refuse collection service fee for occupied residential premises where the owner or occupant can detail, in a written complaint, the extraordinary circumstances which reduce the need for refuse collection substantially below that required by the average similar premises within the city.

Upon receipt of the complaint, the city manager shall direct the refuse collector to make an investigation and written report within 30 days. The refuse collector's report shall include findings and recommendations whether the fee should be reduced, eliminated or remain unchanged.

After reviewing the report and making any further investigation considered necessary, the city manager shall notify the complainant and the refuse collector in writing and within 45 days of the original complaint of the city's manager's decision.

B. Either the complainant or the refuse collector may appeal the city manager's decision by filing a written notice of appeal with the city clerk within 15 days after notification of the decision. The city council shall hear the appeal after notice of the hearing date has been mailed to complainant and the refuse collector at least 10 days before the hearing date. The city council's decision is final. [Ord. 997 § 1, 1990.]

#### **8.04.230 Disposal area.**

A. The city may either:

1. Provide an official disposal area for the disposal of refuse collected from within the city; or
2. Designate as the official disposal area for the city a disposal area provided by another; or
3. By franchise agree to the use of a disposal area designated by the franchised or licensed refuse collector.

B. The city may designate the location of the official transfer station in Contra Costa County which must be used for all refuse collected from

within the city prior to its transport to the disposal area. [Ord. 997 § 1, 1990.]

#### **8.04.240 Operation of disposal area.**

A. The city council may by resolution or by franchise provide for the designated disposal area to be operated by a city department, by a franchised or licensed refuse collector, by another independent contractor or by another public agency.

B. The designated disposal area used for the disposal of refuse originating in the city must be operated in compliance with all applicable statutes, orders and regulations of the state, the county and other public agency having jurisdiction. If a disposal area inside the city is designated for use, the city council shall prescribe specific regulations to ensure a safe and sanitary operation which will not be detrimental to surrounding property. [Ord. 997 § 1, 1990.]

#### **8.04.250 Disposal by public.**

Owners and occupants of premises in the city may haul their own refuse, yard trimmings, and waste material to the disposal area or the transfer station from their own premises solely within the city in addition to the refuse collection service provided by the refuse collector. This section does not exempt an owner or occupant from the mandatory duty to subscribe with a refuse collector as provided by PMC 8.04.280. [Ord. 1032 § 1, 1992; Ord. 997 § 1, 1990.]

#### **8.04.260 Burning refuse.**

No person may burn refuse or lawn trimmings within the city, except in an incinerator which meets the requirements of the Bay Area Air Quality Management District or its successor. [Ord. 997 § 1, 1990.]

#### **8.04.270 Deposit of refuse in public places.**

No person may deposit refuse, or allow the collection of refuse to remain in any public street, highway, right-of-way, watercourse, waterway, levee or bank of a watercourse or waterway, or upon any public premises. [Ord. 997 § 1, 1990.]

### **Article III. Mandatory Refuse Collection Subscription**

#### **8.04.280 Subscription required.**

Every owner shall subscribe with a refuse collector for the collection and disposal of refuse. The refuse generated from the premises shall be stored in containers in compliance with PMC 8.04.050, between dates of collection and disposal. The collection and disposal service must be provided at least once weekly, in compliance with PMC 8.04.110. Failure of an owner to subscribe to the service or to otherwise comply with this section is an infraction. [Ord. 997 § 1, 1990.]

#### **8.04.290 Exemption from subscription requirement.**

The city manager may exempt a person from the requirements of PMC 8.04.280 who shows and only so long as the person can continue to show that:

- A. The premises are unoccupied; or
- B. No refuse is produced or stored on the premises. [Ord. 997 § 1, 1990.]

#### **8.04.300 Nuisance presumed to exist.**

If an owner fails to subscribe for the collection and disposal of refuse as required by PMC 8.04.280, and this service is not provided to the premises, a nuisance is presumed to exist upon the premises. [Ord. 997 § 1, 1990.]

#### **8.04.310 Collection notice for failure to comply.**

The city manager or designee shall serve written notice upon each person who fails to comply with PMC 8.04.280. The notice shall state:

- A. The requirements of PMC 8.04.280;
- B. That a nuisance is presumed to exist on the premises because of noncompliance;
- C. That subscription with a refuse collector or request for a hearing before the city manager must be made within 15 days from service of the notice;
- D. That if these notice instructions are not complied with, the city will abate the nuisance by subscribing with a refuse collector for the premises, for a period established by the city manager, but not to exceed one year;
- E. That the city's cost for the refuse collection including administrative costs incurred by the city

manager may be levied as a special assessment lien against the real property where the premises are located;

F. The estimated cost of abatement for the proposed subscription period;

G. The person's hearing rights under PMC 8.04.290 and 8.04.330, and that he or she may appear in person at the hearing or submit a sworn statement instead of appearing. [Ord. 997 § 1, 1990.]

#### **8.04.320 Mailing and posting collection notice.**

The notice specified in PMC 8.04.310 shall be considered served when it is deposited in the United States Post Office with postage prepaid, and addressed to the owner and to the person in control of the premises at the last known address according to the current county assessment roll or as known to the city. If no address is there shown or known, then the notice shall be mailed to General Delivery, Pittsburg, California, and posted on the premises. Failure of a person to receive notice given does not affect the validity of the abatement proceedings. [Ord. 997 § 1, 1990.]

#### **8.04.330 Request for hearing.**

A. A person subject to the requirement of PMC 8.04.280 that the person subscribe to the collection and disposal of refuse may have a hearing by filing a written request with the city manager on the question of why the person should not be required at their own cost to subscribe to a refuse collection service or why the city should not provide such service for the premises.

B. If a hearing is requested within 15 days of service of the notice, the hearing shall be held within 20 days of the request at a time and place fixed by the city manager. Notice of the hearing shall be mailed to the person requesting the hearing at least 10 days before the hearing date.

C. If no hearing is requested as provided in subsection (B) of this section and the city manager has not been advised in writing that subscription to a refuse collection service has been made, then the city manager is authorized to subscribe on behalf of the city with a refuse collection service for that premises. [Ord. 997 § 1, 1990.]

**8.04.340 Manner of holding hearings.**

Every hearing under this chapter shall be a public hearing held before the city manager or a designated hearing officer who may receive all evidence considered material. The hearing officer is not limited to the technical rules of evidence. The owner may either appear in person or submit a sworn written statement in time for consideration at the hearing. [Ord. 997 § 1, 1990.]

**8.04.350 Decision.**

If at the conclusion of the public hearing the hearing officer determines that no exemption under PMC 8.04.290 is applicable or that no subscription was made in a timely manner, then the hearing officer shall order abatement for the proposed subscription period by arranging for the provision of mandatory subscription service to the premises. The hearing officer shall determine the cost of abatement to be charged against the owner. The written order including the cost of abatement shall be mailed to the owner and any person who made a written presentation to the hearing officer for the hearing but did not appear. [Ord. 997 § 1, 1990.]

**8.04.360 Appeals.**

A person aggrieved by the decision of the hearing officer under this chapter may appeal to the city council by filing written notice of appeal with the city clerk within 10 days of the decision. The council shall hear the appeal after written notice of the time and place of the hearing has been mailed to the aggrieved person within 10 days before the hearing. The decision of the council is final. [Ord. 997 § 1, 1990.]

**8.04.370 Final abatement action.**

If the owner of the premises has not established an exemption from the requirement of PMC 8.04.280 after a hearing and decision as provided in PMC 8.04.340 through 8.04.360, or subscribed for refuse collection in a timely manner, then the city manager shall subscribe with a refuse collector for the proposed subscription period at the noticed cost. [Ord. 997 § 1, 1990.]

**8.04.380 Administrative expenses.**

A. The administrative costs in an abatement proceeding authorized by this chapter shall be based on (1) the actual expense incurred by the

city, and (2) payments made to a refuse collector. These abatement costs may not exceed the estimate in the costs noticed or the written decision (PMC 8.04.350), whichever is greater.

B. The city manager shall keep an account of these charges incurred for each parcel of real property served. [Ord. 997 § 1, 1990.]

**8.04.390 Lien and collection.**

The abatement cost is due and payable by the owner of the premises within 30 days after the order or the final disposition of an appeal from that order. If the owner fails to make the required payment within 30 days, the amount due shall be charged to the owner as a special assessment against the parcel of land under Government Section 38773.5. The assessment shall be collected at the same time and in the same manner as ordinary county taxes are collected, it shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to levy, collection and enforcement of municipal taxes apply to this special assessment. [Ord. 997 § 1, 1990.]

**8.04.400 Notice of special assessment.**

The city manager shall file with the tax collector a certificate substantially in the following form:

NOTICE OF SPECIAL ASSESSMENT  
(Mandatory Refuse Collection Cost)

Under Government Code section 38773.5 and Chapter 8.04 of Title 8 of the Pittsburg Municipal Code, City abated a public health nuisance on the parcel of real property described below, of which the named person(s) is the owner shown on the current assessment roll. The City fixed the below-shown amount as the cost and hereby claims a special assessment against the parcel for this amount.

AMOUNT OF ASSESSMENT: \$ \_\_\_\_\_

OWNER(S): \_\_\_\_\_

PARCEL: Real property in City of Pittsburg, Contra Costa County, California:

County's Assessor's parcel # \_\_\_\_\_

[Other description where needed]:

\_\_\_\_\_

Dated: \_\_\_\_\_ City of Pittsburg

**Chapter 8.05**

By: \_\_\_\_\_  
(City Manager)

**SOLID WASTE FACILITY REGULATION**

[Ord. 997 § 1, 1990.]

Sections:

- 8.05.010 Authority.
- 8.05.020 Findings and purpose.
- 8.05.030 Definitions.
- 8.05.040 Authorization required.
- 8.05.050 Authorization requirements.
- 8.05.060 Rate regulation.
- 8.05.070 Relationship to other laws.
- 8.05.080 Violation.

**8.05.010 Authority.**

This chapter is adopted under the authority of the Constitution and laws of the state of California, including without limitation the California Integrated Waste Management Act of 1989, Public Resources Code Sections 40000, et seq. (the "Act"). The Act grants the city the authority to regulate solid waste facilities. Section 40059 of the Act specifically authorizes a city to provide for the provision of solid waste handling services through a franchise agreement or other contract, license or permit. [Ord. 1075 § 1, 1994.]

**8.05.020 Findings and purpose.**

The city council finds that various aspects of solid waste handling are of local concern, and should be regulated by the city. These areas include without limitation the nature, location and extent of providing solid waste handling services, such as the establishment and operation of a solid waste transfer station and other facilities. Under this chapter the city intends to provide for fees to fund the implementation of the city's programs under AB 939 and to regulate rates charged by a solid waste facility in the city. The city council finds that the regulation of solid waste facilities in the city as described in this chapter is in the public interest and will protect the public health, safety and general welfare. [Ord. 1075 § 1, 1994.]

**8.05.030 Definitions.**

In this chapter, unless the context otherwise requires:

- A. "Act" means the California Integrated Waste Management Act of 1989.

B. "Authorization" means a franchise agreement, contract, license or permit issued by the city under this chapter.

C. "Solid waste" means waste as defined in Section 40191 of the Act, including for example all putrescible and nonputrescible solid, semisolid and liquid waste.

D. "Solid waste enterprise" means any individual, partnership, joint venture, unincorporated private organization or private corporation, which is regularly engaged in the business of providing solid waste handling services in the city.

E. "Solid waste facility" means a solid waste transfer station, a composting facility, a transformation facility, a disposal facility and a facility described in subsections (G)(1) through (3) of this section.

F. "Solid waste handling" or "handling" means the collection, transportation, storage, transfer or processing of solid wastes.

G. "Transfer station" means a facility utilized to receive solid waste, temporarily store, separate, convert or otherwise process the materials in the solid waste, or to transfer the solid waste directly from smaller to larger vehicles for transport. (Section 40200 of the Act.) "Transfer station" does not include any of the following:

1. A facility whose principal function is to receive, store, separate, convert or otherwise process manure in accordance with state minimum standards;

2. A facility whose principal function is to receive, store, separate, convert or otherwise process wastes which have already been separated for reuse and are not intended for disposal; or

3. The operations premises of a duly licensed solid waste handling operator who receives, stores, transfers or otherwise processes wastes as an activity incidental to the conduct of a refuse collection and disposal business in accordance with regulations adopted pursuant to Section 43309 of the Act. Under this exemption, no storing of more than 90 cubic yards of waste in covered containers may be made during any 72-hour period on the operations premises and no transfers may be made of uncontainerized refuse from smaller refuse hauling motor vehicles to larger refuse transfer motor vehicles for transport to the point of ultimate disposal.

H. "Transformation" means incineration, pyrolysis, distillation, gasification or biological

conversion other than composting. "Transformation" does not include composting. [Ord. 1075 § 1, 1994.]

#### **8.05.040 Authorization required.**

A. No person shall operate a solid waste enterprise or solid waste facility in the city without first obtaining and executing an authorization approved by the city council under this chapter. An authorization may be granted either with or without competitive bidding. An authorization shall be nonexclusive unless the city council finds that the public health, safety and well-being require an exclusive authorization. In that event, an authorization may be either partially or wholly exclusive as determined by the city council. An authorization issued under this chapter shall be considered a quasi-administrative act by the city council in order to implement the provisions of the Act, and shall not be considered a legislative action.

B. Nothing in this chapter shall be interpreted to prevent the city council from approving an authorization as a quasi-administrative matter in order to implement the terms of an approved conditional use permit for a solid waste facility. Any such authorization shall be subject to the provisions of this chapter, and shall not be considered a legislative action by the city council. [Ord. 1075 § 1, 1994.]

#### **8.05.050 Authorization requirements.**

A. The city council shall conduct a public hearing on an authorization considered for approval under this chapter. Notice of the public hearing shall be given in the manner required by law.

B. An authorization for a solid waste facility approved under this chapter shall provide that the city council has the authority to review, approve and control the rates to be charged to customers. The authorization shall include other provisions deemed necessary to protect the public health, safety and welfare.

C. An authorization approved under this chapter may include provisions which:

1. Require the imposition of tipping fees and other charges or surcharges on behalf of and for the benefit of the city and its residents;

2. Require the collection of fees on all solid waste and recyclables received at a solid waste facility in accordance with a rate schedule estab-

lished by the city council, and as may be required by the state of California under the Act;

3. Require a solid waste facility to collect program-specific fees on solid waste and recyclables for the city or other individual jurisdiction utilizing the facility as requested by the applicable jurisdiction and as approved by the city council;

4. Require a solid waste facility to provide the city with data reasonably required by the city, including without limitation data concerning the quantity and origin of material received by the solid waste facility;

5. Require a transfer station to study and report to the city council on the feasibility of shipping solid waste from the transfer station to the point of ultimate disposal by rail or other alternatives, and on the feasibility of other disposal alternatives; and

6. Require a transfer station to fund, develop and implement a public education program on proper handling and disposal of hazardous and nonhazardous waste. The program shall be submitted to the city for its review and approval, in a manner specified by the city manager. The cost of this program shall be paid by the solid waste enterprise operating the transfer station. The first \$5,000 in such cost shall be not be passed on to ratepayers; whether costs in excess of that amount are passed on to ratepayers shall be determined as part of the authorization approval or rate regulation process under this chapter.

D. The governing body of a jurisdiction which sends solid waste to a transfer station shall have the opportunity to review and comment on an authorization for the transfer station before approval. [Ord. 1075 § 1, 1994.]

#### **8.05.060 Rate regulation.**

A. The city council may, by resolution, establish a methodology for setting rates which may be charged by a solid waste enterprise for solid waste handling services at a solid waste facility. Any such resolution is intended to implement the Act and this chapter through supplemental quasi-administrative regulation, and shall not be considered a legislative action by the city council. Based upon that methodology, the city council may by resolution establish the various rates which may be charged by a solid waste facility.

B. The city council shall hold a public hearing before establishing a rate-setting methodology or specific rates under this section, and before amending either the methodology or rates. The governing body of a jurisdiction which sends solid waste to a transfer station shall have the opportunity before approval to comment on the methodology and specific rates, and on any amendment thereto, that would affect rates applicable to that jurisdiction.

C. The city council shall review a rate schedule established under this chapter every two years (approximately) in order to ensure that rates take into account any applicable closure or post-closure costs, and other economic impacts resulting from state and federal laws or regulations. If a resolution of rate methodology is not adopted, then rates shall be reviewed consistent with the terms of an approved authorization. [Ord. 1075 § 1, 1994.]

#### **8.05.070 Relationship to other laws.**

Nothing in this chapter allows the owner or operator of a solid waste facility to fail to comply with any other applicable local, state or federal laws. Nothing in this chapter allows the operation of a solid waste facility which is otherwise prohibited under another provision of law, such as without limitation PMC Title 18, Zoning. [Ord. 1075 § 1, 1994.]

#### **8.05.080 Violation.**

A person who violates this chapter is guilty of a misdemeanor and upon conviction shall be punishable in accordance with PMC 1.12.030. [Ord. 1075 § 1, 1994.]

**Chapter 8.06****COLLECTION OF RECYCLABLE WASTE MATERIALS<sup>1</sup>**

Sections:

**Article I. General Provisions**

- 8.06.010 Findings and purpose.
- 8.06.020 Enforcement.
- 8.06.030 Definitions.
- 8.06.040 Mandatory duty to recycle – Penalties.

**Article II. Residential Curbside Recycling Program**

- 8.06.050 Curbside recycling program established.
- 8.06.060 Fees for curbside recycling service.
- 8.06.070 Educational and promotional services.
- 8.06.080 Storage of recyclables for curbside collection.
- 8.06.090 Regulation of service.
- 8.06.100 Vehicles used to transport recyclables.
- 8.06.110 Collection of fee by recycling contractor.
- 8.06.120 Ownership of recyclable waste material.
- 8.06.130 Unauthorized collection prohibited.
- 8.06.140 Civil action by authorized recycling contractor.
- 8.06.150 Right of individual to dispose of recyclable waste material.

**Article III. Recycling at Nonresidential Establishments**

- 8.06.160 Recycling collection site plan required.
- 8.06.170 Approval of recycling collection site plan.
- 8.06.180 Appeal.

**Article IV. Food Packaging Recycling**

- 8.06.190 Voluntary phase-out period.

- 8.06.200 Returnable and recyclable food packaging.
- 8.06.210 Prohibited food packaging.
- 8.06.220 Retail food establishment reporting requirements.
- 8.06.230 Inspection of documents.
- 8.06.240 Exemptions.

**Article I. General Provisions****8.06.010 Findings and purpose.**

A. Existing landfill space for the disposal of municipal solid waste is rapidly diminishing. The California Integrated Solid Waste Management Act now mandates 25 percent landfill diversion by 1995 and 50 percent landfill diversion by the year 2000. (Public Resources Code Section 41780). The recycling of recyclable materials will help postpone the need for new landfill capacity, help the city meet its mandatory landfill diversion quotas and also reduce pollution and loss of resources which occurs when perfectly usable materials are discarded.

B. Take-out food packaging constitutes a significant and growing portion of the material in the city's waste stream. An additional concern is that much of the nonrecyclable take-out food packaging is made of polystyrene foam in which chlorofluorocarbons ("CFCs") were used as a blowing agent in the manufacturing process. Available scientific evidence indicates a strong probability that CFCs, when discharged into the atmosphere, degrade the earth's ozone layer. There are substitutes for these polystyrene take-out food packaging products which do not use CFCs in their manufacture. Requiring that take-out food packaging be made of non-CFC processed material be recyclable, reusable or made of recycled materials is an essential part of an effective integrated solid waste management program for the citizens of the city and others working or doing business in the city.

C. The health, welfare and safety of the people in the city are promoted by the use of returnable or recyclable materials in take-out food packaging and by the city-wide collection of recyclable waste materials. The purpose of this chapter is to mandate the collection and recycling of recyclable waste materials, establish a curbside recycling program to aid this requirement, and to reduce the use of

---

1. Prior legislation: Ord. 971.

take-out food packaging which is not reusable or recyclable. [Ord. 1019 § 1, 1991.]

#### **8.06.020 Enforcement.**

The code enforcement officer is assigned the duty and responsibility of enforcing this chapter. The city manager may designate additional city staff to enforce this chapter. [Ord. 1019 § 1, 1991.]

#### **8.06.030 Definitions.**

In this chapter, unless the context otherwise requires:

“Authorized recycling contractor” or “contractor” means the city or a person authorized by city contract to collect recyclable waste materials.

“CFC-processed food packaging” means any food packaging which uses chlorofluorocarbons (“CFCs”) as blowing agents in its manufacture. Chlorofluorocarbons are the family of substances containing carbon, fluorine and chlorine, having no hydrogen atoms and no double bonds.

“Curbside recycling program” means the city’s recycling program by which recyclables are picked up from single-family and multifamily residences without payment of any redemption value to the property owner.

“Designated recycling collection location” means the site where recycling bins are placed for the purpose of collection of recyclable waste materials through the curbside recycling program.

“Material” means the composition of products utilized to wrap, box, bag, carry, decorate or temporarily protect food and beverages sold at retail food establishments, and includes without limitation glass, aluminum, nonaluminum metal, cardboard, paper, paperboard, poly-coated paper, and polystyrene plastic.

“Multifamily residential” means a dwelling unit which includes two or more individual living units and which receives communal refuse and curbside recycling service.

“Nonresidential establishment” means business, commercial, industrial and other types of premises other than single-family and multifamily residential and includes without limitation all commercial use classifications provided in PMC 18.08.080, governmental and quasipublic use classifications provided in PMC 18.08.060, and all industrial use classifications provided in PMC 18.08.100.

“Polystyrene plastic” means a thermoplastic petrochemical material utilizing a styrene monomer and a blowing agent compound which is used to produce molded expanded or extruded polystyrene plastic foam.

“Post-consumer recycled material” means a finished material which would normally be disposed of as a solid waste having completed its life cycle as a consumer item, and which is separated or collected separately from the waste stream and made available for reuse as a raw material.

“Recyclable waste material” or “recyclables” means all items designated by the city to be collected within designated recycling collection containers during residential curbside recycling programs, including, but not limited to, glass, PET plastic, aluminum cans and newspapers; and all items designated by the city as commercial recyclables, including, but not limited to, paper, cardboard, glass, aluminum, plastic packaging, bi-metal cans, HDPE bottles, PET bottles, wood, sawdust and oil.

The city council may, by resolution, add additional items to the definition of recyclable waste material.

“Recyclables” do not include household hazardous waste as defined by PMC 18.84.297, or refuse as defined by PMC 8.04.030.

“Recycle” or “recycling” means the process of separating and collecting used materials which would otherwise become solid waste, for the purpose of reprocessing them to create new materials to be returned to the economic mainstream.

“Recycling collection facility” means a center for the acceptance by donation, redemption, or purchase of recyclable waste materials from the public and includes the facilities regulated by Chapter 18.84 PMC.

“Responsible person” means both the owner and the occupant of real property within the city. An obligation of a responsible person under this chapter is the obligation of both the owner and occupant.

“Retail food establishment” means all sales outlets, stores, shops, restaurants, vending machines, vehicles or other places of business located within the city which sell or convey ready-to-eat foods or beverages directly to the ultimate consumer for immediate consumption.

“Returnable” means take-out food packaging, such as but not limited to soft drink bottles and milk containers that are capable of being returned to the distributor or supplier for reuse as the same food or beverage container at least once.

“Single-family residential” means a dwelling which receives individual refuse and curbside recycling service.

“Solid waste” means all putrescible and nonputrescible solid, semisolid, and liquid waste, including garbage, refuse and rubbish as defined by this section, but does not include dead animals, corrosive substances, sludge, oil, or sewage.

“Take-out food” means prepared foods or beverages requiring no further preparation to be consumed and which are normally consumed within one hour of purchase. Take-out food includes food prepared for consumption on a restaurant’s premises but not entirely consumed by the purchaser, with leftovers boxed, bagged or wrapped for later consumption off premises. Take-out food does not include food packaged and sealed by a distributor or supplier prior to being received by a retail food establishment.

“Take-out food packaging” means all containers, boxes, bags, cups, lids, cans, trays, wraps, straws, utensils, and napkins provided with take-out food and beverages sold at retail food establishments. [Ord. 1019 § 1, 1991.]

#### **8.06.040 Mandatory duty to recycle – Penalties.**

A. A mandatory obligation is imposed on each responsible person as to every type of real property to separate and recycle all recyclable waste materials from the solid waste generated on the property.

B. Mandatory recycling may be facilitated through the use of the city’s curbside recycling program, or by use of a privately owned and operated recycling collection facility as described and regulated in Chapter 18.84 PMC.

C. No person may store or dispose of recyclables in a manner which is likely to provide harbor for rodents or other vermin, or which causes a public nuisance or public health hazard, or in a manner which violates this chapter.

D. Failure to comply with any provision of this chapter is an infraction, punishable as provided in PMC 1.12.020. [Ord. 1019 § 1, 1991.]

## **Article II. Residential Curbside Recycling Program**

### **8.06.050 Curbside recycling program established.**

A. A curbside recycling program is established to provide curbside recycling services to all single-family and multifamily residences within the city.

B. The city may provide the curbside recycling services through the use of one or more authorized recycling contractors.

C. Participation by a responsible person in the residential curbside recycling program is encouraged but is not mandatory. [Ord. 1019 § 1, 1991.]

### **8.06.060 Fees for curbside recycling service.**

A. A recycling fee is imposed on the owner of single-family residential property and the owner of multifamily residential property whether or not the owner participates in the curbside recycling program. The purpose of the fee is to pay for the curbside recycling service. No fee shall be payable unless a residential curbside recycling program is in place.

B. The city council shall fix the amount of the recycling fee by resolution. The rates adopted by the city council may be a single fee for all classes of users or a fee for each class of users, such as one fee for single-family residential property and another fee for owners of multifamily residential property.

C. If the city elects to enter into a contract with its refuse collector for the curbside collection of recyclables, the recycling fee may be collected by the contractor as a surcharge on the refuse collection rate provided for in any refuse contract pursuant to Chapter 8.04 PMC. [Ord. 1019 § 1, 1991.]

### **8.06.070 Educational and promotional services.**

The city may require the recycling contractor to provide community educational and promotional services for the recycling program. The city may also enter into a contract for additional community educational and promotional services with a separate advertiser or public relations services provider. Fees collected under PMC 8.06.060 may be used for the services described in this section. [Ord. 1019 § 1, 1991.]

**8.06.080 Storage of recyclables for curbside collection.**

A. The authorized recycling contractor shall provide each owner or occupant of a single-family residential unit with plastic reusable containers to use for storage of recyclables. Newspapers to be recycled shall be stored in one of the containers. All recyclable glass, aluminum and plastic shall be stored in the other container(s). Each responsible person shall place these containers in the rear or side yard of the dwelling or within the garage or interior of the dwelling on days other than curbside collection days.

B. The owner of a multifamily residential unit which receives communal refuse service shall provide and maintain space on-site for recycling bins. The recycling bins must be sited within or adjacent to each trash enclosure, or adjacent to each dumpster or other trash container. The authorized recycling contractor shall supply the recycling bins. The occupant of a multifamily residential unit shall use the recycling bins provided.

C. The plastic reusable containers and recycling bins remain the property of the city or its authorized recycling contractor, as specified by agreement between them. [Ord. 1019 § 1, 1991.]

**8.06.090 Regulation of service.**

A. The authorized recycling contractor shall collect recyclables from the plastic reusable containers and the recycling bins weekly on the same day as the regularly scheduled refuse collection referred to in Chapter 8.04 PMC.

B. Single-Family Residential. The responsible person shall ensure that each reusable plastic container for recyclable materials is placed at the curb for collection not earlier than 6:00 p.m. on the day preceding the day of collection and not later than 6:00 a.m. on collection day. After collection of the recyclable, the responsible person shall remove each empty container from the street not later than 8:00 p.m. on collection day. No person shall place a container so that either the sidewalk or street gutter is obstructed.

C. Multifamily Residential. The authorized recycling contractor shall collect recyclables from the recycling bins at their storage location. [Ord. 1019 § 1, 1991.]

**8.06.100 Vehicles used to transport recyclables.**

Each vehicle used for hauling recyclable materials within the city shall be of such construction as to comply with all applicable laws, rules and regulations, and shall be of a type and construction to prevent overflow. [Ord. 1019 § 1, 1991.]

**8.06.110 Collection of fee by recycling contractor.**

The authorized recycling contractor is responsible for the collection of the recycling fee on behalf of the city, on such terms and conditions as agreed between them. [Ord. 1019 § 1, 1991.]

**8.06.120 Ownership of recyclable waste material.**

Upon the placement of recyclable waste materials at the curbside or within the recycling bin for collection, the recyclable waste material becomes the property of the authorized recycling contractor. [Ord. 1019 § 1, 1991.]

**8.06.130 Unauthorized collection prohibited.**

During the 24-hour period beginning at 6:00 p.m. preceding the day designated for collection of recyclable waste material, no person other than an authorized recycling contractor shall remove recyclable waste material which has been placed at a designated recycling collection location. Each unauthorized collection from one or more designated recycling collection locations during the 24-hour period shall constitute a separate and distinct offense punishable as provided in this chapter. [Ord. 1019 § 1, 1991.]

**8.06.140 Civil action by authorized recycling contractor.**

This chapter does not limit the right of an authorized recycling contractor to bring a civil action against a person who violates PMC 8.06.130. A criminal conviction for such violation does not exempt a person from a civil action brought by an authorized recycling contractor. [Ord. 1019 § 1, 1991.]

**8.06.150 Right of individual to dispose of recyclable waste material.**

This chapter does not limit the right of a person to donate, sell or otherwise dispose of recyclable

waste material so long as the disposal complies with this chapter. [Ord. 1019 § 1, 1991.]

### **Article III. Recycling at Nonresidential Establishments**

#### **8.06.160 Recycling collection site plan required.**

A. Each responsible person for a nonresidential establishment shall ensure that a recycling collection site plan (“plan”) is submitted to the city’s planning director. The plan shall:

1. Include a waste audit on a form to be prescribed by the city which shall identify the categories and volume of recyclables generated on the property;

2. Designate space on the property to be used for collection of all recyclable waste materials generated on the property;

3. Identify the means of recycling to be used by the property, such as reverse vending machines, off-site collection facilities, mobile recycling units, on-site or off-site processing facilities;

4. Identify the means and frequency of any off-site transport of the recyclables;

5. Identify the contact person at the nonresidential establishment responsible for coordinating the recycling collection site plan.

B. The plan shall be submitted to the city’s community development department by June 30, 1992. [Ord. 1019 § 1, 1991.]

#### **8.06.170 Approval of recycling collection site plan.**

A. The planning director or his designee shall approve the plan if it conforms to the requirements and intent of this chapter and is otherwise consistent with provisions of the municipal code.

B. The applicant shall be notified in writing of the action taken by the community development director. An approved plan must be fully implemented within three months after the approval date.

C. If the plan is denied, the applicant must resubmit a revised plan within one month after the denial date. [Ord. 1019 § 1, 1991.]

#### **8.06.180 Appeal.**

Any determination of the planning director may be appealed in the time and manner specified by

PMC 1.08.060 through 1.08.080. [Ord. 1019 § 1, 1991.]

### **Article IV. Food Packaging Recycling**

#### **8.06.190 Voluntary phase-out period.**

The city encourages the immediate, voluntary phase-out of take-out food packaging sold or offered at retail food establishments within the city, that is neither returnable, made of materials all of which are readily recyclable, nor made with a significant amount of post-consumer recycled material. The provisions of this article are voluntary until January 1, 1993. On or after January 1, 1993, the provisions of this article are mandatory without further notice. [Ord. 1019 § 1, 1991.]

#### **8.06.200 Returnable and recyclable food packaging.**

A. On and after January 1, 1993, at least 25 percent by volume of each retail food establishment’s packaging in which take-out food is sold or provided to customers or which is kept, purchased or obtained for this purpose shall be returnable or recyclable.

B. On and after January 1, 1995, at least 50 percent by volume of each retail food establishment’s packaging in which take-out food is sold or provided to customers or which is kept, purchased or obtained for this purpose shall be returnable or recyclable. [Ord. 1019 § 1, 1991.]

#### **8.06.210 Prohibited food packaging.**

On and after January 1, 1993, no retail food establishment shall purchase, obtain, keep, sell, distribute or otherwise use in its business any polystyrene CFC-processed take-out food packaging except as provided in PMC 8.06.240. [Ord. 1019 § 1, 1991.]

#### **8.06.220 Retail food establishment reporting requirements.**

A. A retail food establishment shall maintain a written statement from the take-out food packaging supplier or manufacturer specifying:

1. The identity of the packaging’s manufacturer;

2. Whether the packaging is returnable;

3. Whether the packaging is recyclable;

4. The minimum amount of post-consumer recycled material in the packaging material;

5. That the packaging is not CFC-processed.

This written statement shall be made available to any person upon request.

B. It shall be unlawful for any food packaging manufacturer or retail food establishment to make any misstatement of material fact to the city manager or his designee regarding the returnable or recyclable nature of the packaging material or the use or nonuse of CFCs in the manufacture of the packaging material.

C. A retail food establishment shall maintain written records evidencing its compliance with this article.

D. A retail food establishment shall confirm its compliance with this chapter on its annual business license renewal form. [Ord. 1019 § 1, 1991.]

#### **8.06.230 Inspection of documents.**

All statements and documents required by this article shall be made available for inspection by the city manager or his designee. [Ord. 1019 § 1, 1991.]

#### **8.06.240 Exemptions.**

A. Food packaging required to be purchased under an existing contract entered into prior to the effective date of the ordinance codified in this chapter is exempt from the provisions of this chapter.

B. The city manager or designee may exempt a retail food establishment or a take-out food packaging material from the provisions of this article for a one-year period, renewable annually, upon proper written application and a showing of undue hardship or a showing that no appropriate substitute take-out food packaging is available. Such an application shall include a list of all food packaging suppliers or manufacturers contacted regarding the availability of substitute take-out food packaging. [Ord. 1019 § 1, 1991.]

## **Chapter 8.12**

### **ABANDONED VEHICLES**

#### Sections:

- 8.12.010 Findings and declarations.
- 8.12.020 Definitions.
- 8.12.021 Storage regulations.
- 8.12.022 Removal – Refusal prohibited.
- 8.12.030 Exemptions.
- 8.12.040 Regulation not exclusive.
- 8.12.050 Administration and enforcement.
- 8.12.060 Removal – Right of entry onto property.
- 8.12.070 Removal – Cost determination.
- 8.12.080 Removal – Authority.
- 8.12.090 Removal – Notice.
- 8.12.100 Removal – Hearing – Notice.
- 8.12.110 Removal – Hearing – Conduct and determination.
- 8.12.120 Removal – Decision appeal.
- 8.12.130 Disposal, sale or storage of removed vehicle.
- 8.12.131 Notice to Department of Motor Vehicles.
- 8.12.132 No reconstruction.
- 8.12.140 Removal – Cost assessment.

#### **8.12.010 Findings and declarations.**

In addition to and in accordance with the determination made and the authority granted by the state under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, as public nuisances, the city council makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, on private or public property, not including highways, is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private or public property, not including highways, except expressly as

hereinafter permitted, is a public nuisance which may be abated as such in accordance with the provisions of this chapter. [Ord. 664 C.S. § 1, 1973.]

#### **8.12.020 Definitions.**

As used in this chapter:

A. "Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

B. "Owner of the land" means the owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.

C. "Owner of the vehicle" means the last registered owner and legal owner of record.

D. "Public property" does not include "highway."

E. "Vehicle" means a device by which any person or property may be propelled, moved or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

F. "Inoperable" means a vehicle that is either of the following: unlicensed; nonoperational for purposes of the State Department of Motor Vehicles; does not have valid, current registration; is incapable of being operated; or is otherwise prohibited by state law from being driven or operated. [Ord. 97-1129 § 2, 2003; Ord. 664 C.S. § 1, 1973.]

#### **8.12.021 Storage regulations.**

It is unlawful and a misdemeanor for any person to abandon, park, store or leave or permit the abandonment, parking, storing or leaving of any licensed or unlicensed vehicle, or parts thereof, which is in an abandoned, wrecked, dismantled or inoperative condition upon any private property or public property, not including highways within the city, for a period in excess of five days, unless such vehicle, or parts thereof, is completely enclosed within a building as hereinabove described so that it is not plainly visible from the street or other public or private property, or unless such vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junkyard. [Ord. 935 § 9, 1987; Ord. 664 C.S. § 14, 1973.]

#### **8.12.022 Removal – Refusal prohibited.**

It is unlawful and a misdemeanor for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this chapter or state law where such state law is applicable. [Ord. 935 § 9, 1987; Ord. 664 C.S. § 15, 1973.]

#### **8.12.030 Exemptions.**

A. This chapter shall not apply to:

1. A vehicle, or parts thereof, which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

2. A vehicle, or parts thereof, which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

B. Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under provisions of law, other than Chapter 10 (commencing with Section 22650) of Division 2 of the Vehicle Code and this chapter. [Ord. 664 C.S. § 2, 1973.]

#### **8.12.040 Regulation not exclusive.**

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the city. It shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the city, and state or any other legal entity or agency having jurisdiction. [Ord. 664 C.S. § 3, 1973.]

#### **8.12.050 Administration and enforcement.**

Except as otherwise provided in this chapter, this chapter shall be administered and enforced by the chief of police of the city and his designated police officers. In the enforcement of this chapter, an officer may enter upon private or public property to examine a vehicle, or parts thereof, or obtain information as to the identity of a vehicle and to remove or cause the removal of a vehicle, or parts

thereof, declared to be a nuisance under this chapter.

The chief of police shall also designate which of his regularly employed and salaried police officers shall be authorized to make appraisals of the value of vehicles for the purpose of this chapter. [Ord. 935 § 9, 1987; Ord. 664 C.S. § 4, 1973.]

**8.12.060 Removal – Right of entry onto property.**

When the city council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle, or parts thereof, declared to be a nuisance pursuant to this chapter. [Ord. 664 C.S. § 5, 1973.]

**8.12.070 Removal – Cost determination.**

The city council shall from time to time determine and fix an amount to be assessed as administrative costs, as well as the actual cost of removal of any vehicle, or parts thereof, under this chapter. [Ord. 664 C.S. § 6, 1973.]

**8.12.080 Removal – Authority.**

Upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private property or public property within the city, the chief of police of the city shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this chapter. [Ord. 664 C.S. § 7, 1973.]

**8.12.090 Removal – Notice.**

A. Notice of Intention. A 10-day notice of intention to abate and remove the vehicle or part thereof as a public nuisance shall be mailed by registered or certified mail to:

1. The owner of the land where the vehicle is located (as shown on the last equalized assessment roll); and
2. The last registered and legal owners of record unless the vehicle is in such condition that identification numbers are not available to determine ownership.

B. Exception. Notwithstanding the notice requirement in subsection (A) of this section, a notice of intention is not required if:

1. The property owner and vehicle owner have signed releases authorizing removal and waiving further interest in the vehicle or part thereof; or

2. All of the following apply: the vehicle or part thereof is (a) on a parcel zoned for agricultural use not improved with a residence, (b) inoperable due to the absence of a motor, transmission or wheels and incapable of being towed, (c) valued at less than \$200.00, and (d) determined by the city to be a public nuisance presenting an immediate threat to public health or safety; provided, that the property owner has signed a release authorizing removal and waiving further interest in the vehicle or part thereof. If evidence of registration is recovered under PMC 8.12.131 the city shall provide notice to the registered and legal owners of intent to dispose of the vehicle before final disposition. If the vehicle or part is not claimed and removed within 12 days after notice, final disposition may proceed.

C. Notice to Land Owner. A notice of intention to the owner of the land on which the vehicle or parts are located shall be in substantially the following form:

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLE, OR PARTS THEREOF, AS A PUBLIC NUISANCE

(Name and address of owner of land)

As owner of the land located at \_\_\_\_\_ (address) \_\_\_\_\_, you are hereby notified that the vehicle or parts thereof described as follows \_\_\_\_\_

\_\_\_\_\_ and located on your property, constitutes a public nuisance under Pittsburgh Municipal Code Chapter 8.12.

You are hereby notified to abate the nuisance by removing the vehicle or parts within 10 days from the date of mailing of this notice. If you fail to do so, the vehicle or parts thereof will be abated and removed by the City of Pittsburgh and the costs, together with administrative costs, assessed to you as owner of the land.

You may, within 10 days after the mailing of this notice of intention, request a public

hearing before the Chief of Police or submit a sworn written statement denying responsibility for the presence of the vehicle on the land, with the reasons for the denial, in lieu of appearing. You may appear in person at any hearing requested by you or the vehicle owner. If such a request is not received within 10 days, the Chief of Police shall have the authority to abate and remove the vehicle, or parts, as a public nuisance and assess the costs without a public hearing.

Notice mailed: \_\_\_\_\_

\_\_\_\_\_  
Chief of Police

D. Notice to Vehicle Owner. A notice of intention to the last registered and legal owners of record of the vehicle shall be in substantially the following form:

**NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLE, OR PARTS THEREOF, AS A PUBLIC NUISANCE**

(Name and address of last registered and/or legal owner of record of vehicle – notice should be given to both if different)

As last registered (and/or legal) owner of record of (description of vehicle-make, model, license, etc.), you are hereby notified that the vehicle, or parts thereof, exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance under Pittsburg Municipal Code Chapter 8.12.

You are hereby notified to abate the nuisance by removing the vehicle (or parts) within 10 days from the date of mailing of this notice.

You may, within 10 days after the mailing of this notice of intention, request a public hearing. If such a request is not received by the Chief of Police within 10 days, the Chief of Police shall have the authority to abate and remove the vehicle (or parts)

without a hearing at your expense for towing, storage and administrative costs.

Notice mailed: \_\_\_\_\_

\_\_\_\_\_  
Chief of Police

[Ord. 935 § 9, 1987; Ord. 664 C.S. § 8, 1973.]

**8.12.100 Removal – Hearing – Notice.**

Upon request by the owner of the vehicle or owner of the land received by the chief of police within 10 days after the mailing of notices of intention to abate and remove, a public hearing shall be held by the chief of police of the city on the question of abatement and removal of the vehicle, or parts thereof, as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle, or parts of a vehicle, against the property on which it is located.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such 10-day period, the statement shall be construed as a request for hearing which does not require his presence. Notice of the hearing shall be mailed, by registered mail, at least 10 days before the hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within 10 days after mailing of the notice of intention to abate and remove, the city shall have the authority to abate and remove the vehicle, or parts thereof, as a public nuisance without holding a public hearing. [Ord. 664 C.S. § 9, 1973.]

**8.12.110 Removal – Hearing – Conduct and determination.**

All hearings under this chapter shall be held before the chief of police of the city who shall hear all facts and testimony he deems pertinent. The facts and testimony may include testimony on the condition of the vehicle, or parts thereof, and the circumstances concerning its location on the private property or public property. The chief of police of the city shall not be limited by the technical rules of evidence. The owner of the land may

appear in person at the hearing or present a sworn written statement in time for consideration at the hearing and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial.

The chief of police of the city may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purpose of this chapter. He may delay the time for removal of the vehicle, or parts thereof, if, in his opinion, the circumstances justify it. At the conclusion of the public hearing, the chief of police of the city may find that a vehicle, or parts thereof, has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle, or parts thereof, and the correct identification number and license number of the vehicle, if available at the site.

If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that he has not subsequently acquiesced in its presence, the chief of police of the city shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise to collect such costs from such owner of the land.

If the owner of the land submits to a sworn written statement denying responsibility for the presence of the vehicle on his land but does not appear, or if an interested party makes a written presentation to the chief of police of the city but does not appear, he shall be notified in writing of the decision. [Ord. 664 C.S. § 10, 1973.]

#### **8.12.120 Removal – Decision appeal.**

Any interested party may appeal the decision of the chief of police of the city by filing a written notice of appeal with the chief of police of the city within five days after his decision.

Such appeal shall be heard by the city council which may affirm, amend or reverse the order or take other action deemed appropriate.

The clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in PMC 8.12.090.

In conducting the hearing, the city council shall not be limited by the technical rules of evidence. [Ord. 664 C.S. § 11, 1973.]

#### **8.12.130 Disposal, sale or storage of removed vehicle.**

Five days after adoption of the order declaring the vehicle, or parts thereof, to be a public nuisance, five days from the date of mailing of notice of the decision, if such notice is required by PMC 8.12.110, or 15 days after such action by the governing body authorizing removal following appeal, the vehicle, or parts thereof, may be disposed of in the following manner:

A. If the vehicle is appraised at a value not exceeding \$200.00, the chief of police shall:

1. Within 48 hours after appraisal notify the Department of Justice in Sacramento of the removal of such vehicle;

2. Prepare a certificate which shall describe the vehicle, including the location of any license plates thereon, state the appraised value and that the vehicle will be junked or dismantled, and indicate that:

a. Notice of intent to junk or dismantle the vehicle has been mailed to the registered legal owners at the address of record with the department, or

b. The owner has signed a release under penalty of perjury disclaiming any future interest, which release shall be included with the certificate; however, in the event the owner has not signed a release and has not, within 15 days after official notification, reclaimed the vehicle, such action shall constitute a waiver of interest and the vehicle may be disposed of pursuant to this chapter,

c. The vehicle is in such condition that vehicle identification numbers are not available to determine owners of record with the department, in which event the vehicle may be disposed of;

3. Upon completion of the certificate, execute and deliver a bill of sale free of any lien for fees and penalties due and payable to the department, together with a copy of the certificate, to either the lienholder, who shall endorse the bill of sale to a licensed automobile dealer, or to the licensed automobile dismantler, or to the franchisee or contractor who has a franchise or contract with the city for removal or disposal of such vehicles, whichever has the vehicle in possession;

4. Forward the completed certificate to the Department of Motor Vehicles in Sacramento;

5. Notify all endorsees of the bill of sale that a vehicle which is the subject of a certificate prepared and forwarded pursuant to this section shall not be reconstructed or made operable;

6. Dispose of the proceeds of the bill of sale in the following manner:

a. First, to pay any cost of towing and storage involved in the removal,

b. The balance shall be forwarded to the Department of Motor Vehicles who may then recover therefrom any fees and penalties due and payable to it with respect to the vehicle and return any remaining balance to any legal or registered owner;

7. Apply for the disbursal of a proportionate share of the abandoned vehicle trust fund from the department of public works, pursuant to Section 22710 of the Vehicle Code.

B. If the vehicle is appraised at a value exceeding \$200.00, the chief of police shall:

1. Have the vehicle taken to the nearest garage or other place of safety or to a garage designated or maintained by the city, where the vehicle shall be placed in storage;

2. Immediately give or cause to be given notice in writing to the registered and legal owner of the fact of such removal, the grounds therefor and of the place to which such vehicle has been removed, and a copy of such notice shall be given to the proprietor of the garage; however, in the event the registered or legal owner is unknown or cannot be notified or the vehicle has not been returned to the owner within 120 hours (five days), the chief of police shall immediately send or cause to be sent a written report to the Department of Justice at Sacramento on a form furnished by said department and shall file a copy of the notice with the proprietor of the garage in which the vehicle is stored. [Ord. 664 C.S. § 12, 1973.]

#### **8.12.131 Notice to Department of Motor Vehicles.**

The city shall notify the Department of Motor Vehicles within five days after the date of removal, identifying the vehicle or parts thereof and any evidence of registration available, including, but not limited to, the registration and certificate of ownership or license plates. [Ord. 935 § 9, 1987.]

#### **8.12.132 No reconstruction.**

After a vehicle has been removed, it shall not be reconstructed or made operable, unless it is a vehicle which qualifies for either horseless carriage license plates or historical vehicle license plates, under Vehicle Code Section 5004, in which case the vehicle may be reconstructed or made operable. [Ord. 935 § 9, 1987.]

#### **8.12.140 Removal – Cost assessment.**

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to PMC 8.12.110 are not paid within 30 days of the date of the order or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the city clerk for collection. The assessment shall have the same priority as other city taxes. [Ord. 664 C.S. § 13, 1973.]

## Chapter 8.16

### ABATEMENT OF WEEDS AND RUBBISH

#### Sections:

- 8.16.010 Intent and purpose.
- 8.16.020 Definitions.
- 8.16.030 Weeds and rubbish prohibited.
- 8.16.040 Abatement procedure.

#### **8.16.010 Intent and purpose.**

Pursuant to the authority of Government Code Section 39501 et seq., the city council finds and declares that it is necessary to establish a procedure of the requiring and providing for the removal of weeds and rubbish from sidewalks, parking, or streets and from private property, and to provide for the cost of removal as a lien upon the subject property and for the enforcement of the lien by sale of the property. [Ord. 779 § 1, 1979.]

#### **8.16.020 Definitions.**

As used in this chapter:

A. "Weeds" includes, but is not limited to, weeds, when mature wingy or downy seeds, which will attain large growth as to become a fire menace when dry, or which or otherwise are noxious or dangerous.

B. "Rubbish" includes all putrescible or nonputrescible solid and semisolid waste, whether combustible or noncombustible, including both garbage and rubbish. [Ord. 779 § 1, 1979.]

#### **8.16.030 Weeds and rubbish prohibited.**

It is unlawful for the owner, agent, lessee or other person having charge or control of any piece or parcel of land within the city to allow weeds or rubbish to grow or to remain thereon, or upon the street or sidewalk in front of such piece or parcel of land. [Ord. 779 § 1, 1979.]

#### **8.16.040 Abatement procedure.**

In the event of a violation of PMC 8.16.030, the code enforcement officer shall proceed as follows:

A. Notice to Remove. The code enforcement officer is authorized to give written notice to the owner, agent, lessee or person having control of private property to order the removal of weeds or rubbish from the property or abutting public property within 10 days. The notice shall be by regis-

tered mail, addressed to the owner, agent or lessee or other person having control of the property at the last known address. If the written notice is returned to the post office because of inability to make delivery, the code enforcement officer shall cause a notice to be posted on the property allowing 10 days compliance with the order.

B. Request for Hearing. The notice shall also state the owner, agent, lessee or person having control of the property may within 10 days of the date of the notice request a public hearing regarding the intended abatement.

C. Action Upon Noncompliance. Upon the failure, neglect or refusal of the owner, agent, lessee or person having control of the property to request a hearing or remove the weeds and rubbish within 10 days of the date of the written or posted notice, the code enforcement officer is authorized to abate the nuisance by removal of the weeds and rubbish without holding a public hearing.

D. Costs of Abatement Billed to Property Owner. The city's administrative costs and costs of removal of weeds and rubbish shall be billed to the property owner and are due and payable within 30 days of the date of the bill.

E. Cost of Abatement a Special Assessment. If the administrative costs and the costs of removal which are charged against the owner of the property are not paid within 30 days of the date of the bill, the costs shall be assessed against the parcel of real property pursuant to Section 38773.5 of the Government Code and shall be transmitted to the city clerk for collection. The assessment shall have the same priority and will be collected in the same manner as property and other city taxes. [Ord. 1021 § 1, 1991; Ord. 779 § 1, 1979.]

## Chapter 8.20

### SMOKING IN PUBLIC AND WORKPLACES

#### Sections:

- 8.20.010 Findings.
- 8.20.020 Purpose.
- 8.20.030 Definitions.
- 8.20.040 City-owned facilities.
- 8.20.050 Prohibition of smoking in enclosed places.
- 8.20.060 Regulation of smoking in places of employment.
- 8.20.070 Optional smoking areas.
- 8.20.080 Posting requirements.
- 8.20.090 Vending machines.
- 8.20.100 Distribution of free samples and coupons.
- 8.20.110 Out of package sales.
- 8.20.120 Enforcement.
- 8.20.130 Penalties.
- 8.20.140 Nonretaliation.
- 8.20.150 Other applicable laws.

#### **8.20.010 Findings.**

The city council finds that:

A. The U.S. Environmental Protection Agency has determined that tobacco smoke is the major contributor of particulate indoor air pollution; and

B. Reliable studies have shown that breathing sidestream or secondhand smoke is a significant health hazard, in particular for elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function; including asthmatics and those with obstructive airway disease; and

C. Health hazards induced by breathing sidestream or secondhand smoke include heart disease, lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction and bronchospasm; and

D. Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing sidestream or secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same; and

E. The smoking of tobacco, or any other weed or plant, is a danger to health; and

F. The health care costs and lost productivity incurred by smoking-related disease and death represent a heavy and avoidable financial drain on our community; and

G. The free distribution of cigarettes and other tobacco products encourages people to begin smoking and using tobacco products, and tempts those who had quit smoking to begin smoking again; and

H. Free distribution of cigarettes and other tobacco products promotes unsightly litter, thereby increasing the costs to the public in cleaning the streets; and also causes pedestrian traffic congestion. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.020 Purpose.**

The compelling purpose and intent of this chapter includes, but is not limited to, generally promoting the health, safety and welfare of all people in the community against the health hazards and harmful effects of the use of addictive tobacco products, and compliance with California Labor Code Section 6405.4. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.030 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as hereafter set out, unless it is apparent that they have a different meaning:

“Area open to the public” means any area available to and customarily used by the general public.

“Bars” means a facility primarily devoted to the serving of alcoholic beverages for consumption by guests on the premises, in which the serving of food is incidental. Bar includes those facilities located within a hotel, motel or other similar transient occupancy establishment. However, when located within a building in conjunction with another use, including a restaurant, bar includes only those areas used primarily (more than half of the total gross sales are derived from the sale and service of alcoholic beverages) for the sale and service of alcoholic beverages. Bar does not include the dining areas of a restaurant, regardless of whether alcoholic beverages are served therein.

“Bowlers’ settee” means the area immediately behind the bowling lane in which score is kept and seating is provided for bowlers waiting their turn to bowl.

“Bowling center concourse” means that area separated from the bowling lane, bowlers’ settee and visitors’ settee by at least one step or a physical barrier.

“Bowling lane” means the bowler’s approach, the foul line and the lanes.

“Distribute” means to give, sell, deliver, dispense, issue or cause or hire any person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense or issue.

“Employee” means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit.

“Employer” means any person, partnership, corporation, including municipal corporation or public entities, who employs the services of two or more persons or two or more people to conduct business within the establishment.

“Enclosed” means closed in by a roof and walls with appropriate openings for ingress and egress.

“General public” means shoppers, customers, patrons, patients, students, clients and other similar invitees of a commercial enterprise or nonprofit entity.

“Place of employment” means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including but not limited to work areas, employee lounges, conference rooms and employee cafeterias. A private residence is not a place of employment unless it is used as a child care or health care facility.

“Smoking” means the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or the lighting or emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.

“Sports arena” means sports pavilions and stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, halls and other similar places where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports events.

“Vending machine” means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper bill, or other thing representative of value, which dispenses or releases a tobacco product and/or tobacco accessories.

“Visitors’ settee” means seating provided immediately behind the bowlers’ settee. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.040 City-owned facilities.**

Smoking is prohibited in all buildings, vehicles or other enclosed areas occupied by city employees, owned or leased by the city, or otherwise operated by the city. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.050 Prohibition of smoking in enclosed places.**

Smoking is prohibited in the following places within the city:

A. All enclosed areas available to and customarily used by the general public and all businesses patronized by the public, including, but not limited to, retail stores, the common areas of hotels and motels, pharmacies, banks, shopping malls, and all places of employment unless otherwise excepted herein;

B. Waiting rooms, hallways, wards and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors’ offices, except that health facilities shall also be subject to the provisions of PMC 8.20.060 regulating smoking in places of employment; except that patient smoking areas in long-term health-care facilities, as defined in Section 1418 of the Health and Safety Code are permitted;

C. Elevators, public restrooms, indoor services lines, busses, taxicabs and other means of public transit under the authority of public entities, and in ticket, boarding and waiting areas of public transit depots;

D. Museums and galleries;

E. Theaters, auditoriums, concert facilities and halls which are used for motion pictures, stage dramas and musical performances, ballets or other exhibitions, except when smoking is an integral part of any such production; provided, however, in outdoor facilities, designated smoking areas may be provided which shall be segregated from non-smoking areas. Where seating area is provided in an outdoor facility, no more than 40 percent of the total seats of the facility may be designated as smoking seats;

F. Retail food marketing establishments, including grocery stores, and supermarkets;

G. Public schools and other public facilities under the control of another public agency, which are available to and customarily used by the general public, to the extent that the same are subject to the jurisdiction of the city;

H. Sports arenas, both indoor and outdoor, and convention halls, except that smoking may be allowed in outdoor sports pavilions and stadiums as provided in PMC 8.20.070;

I. Bowling centers, including but not limited to bowling lanes, bowlers' settees, visitors' settees and game rooms; provided, however, that a designated smoking area may be provided on the bowling center concourse and bar. The owner, manager or operator of the bowling center shall post signs as prescribed by PMC 8.20.080 and remove all ashtrays from nonsmoking areas;

J. Private residences during hours of operation when used as child care or health care facilities. Board and care facilities shall provide smoke-free living quarters for nonsmoking boarders;

K. Bingo parlors, except a separate enclosed room, may be designated as a smoking room. The owner, manager or operator of the bingo parlor shall post signs as prescribed by PMC 8.20.080 and remove all ashtrays from the nonsmoking room;

L. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.060 Regulation of smoking in places of employment.**

A. Pursuant to Labor Code Section 6404.5(c), no employer shall knowingly or intentionally permit, and no person shall engage in, the smoking of tobacco products in an enclosed space at a place of employment.

B. The provisions of this chapter shall be communicated to all employees within three weeks of its adoption, and at least annually thereafter. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.070 Optional smoking areas.**

Notwithstanding any other provisions of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:

A. A private residence, including one which may serve as a place of employment, except when covered by PMC 8.20.050(J);

B. Outdoor patio areas of restaurants;

C. Bars, except as provided otherwise in this chapter; and until January 1, 1997, or until adoption of regulatory standards pursuant to Labor Code Section 6404.5(f)(1), (2) and (3), and compliance with those standards;

D. Licensed cardrooms until January 1, 1997, or until adoption of regulatory standards pursuant to Labor Code Section 6404.5(f)(1), (2) and (3), and compliance with those standards;

E. Hotel and motel rooms rented to guests; provided, however, that each hotel and motel designates not less than 35 percent of their guest rooms as nonsmoking rooms and removes ashtrays from these rooms;

F. Areas of the lobby in a hotel, motel or other similar transient lodging establishment designated for smoking by the establishment. Such an establishment may permit smoking in a designated lobby area that does not exceed 25 percent of the total floor area of the lobby or, if the total area of the lobby is 2,000 square feet or less, that does not exceed 50 percent of the total floor area of the lobby. For purposes of this paragraph, "lobby" means the common public area of such an establishment in which registration and other similar or related transactions, or both, are conducted and in which the establishment's guests and members of the public typically congregate;

Meeting and banquet rooms in a hotel, motel, other transient lodging establishment similar to a hotel or motel, restaurant or public convention center, except while food or beverage functions are taking place, including setup, service and cleanup activities, or when the room is being used for exhibit purposes. At times when smoking is not permitted in such a meeting or banquet room pursuant to this paragraph, the establishment may permit smoking in corridors and prefunction areas adjacent to and serving the meeting or banquet room if no employee is stationed in that corridor or area on other than a passing basis;

G. Retail stores that deal exclusively in the sale of tobacco and smoking paraphernalia;

H. "Private smokers' lounge" means any enclosed area in or attached to a retail or wholesale tobacco shop that is dedicated to the use of tobacco

products, including, but not limited to, cigars and pipes;

I. Outdoor sports pavilions and stadiums;

J. Medical research or treatment sites, if smoking is integral to the research and treatment being conducted;

K. In places of employment, employers may provide specific smoking areas for employees provided all of the following conditions are met:

1. Air from the smoking room shall be exhausted directly to the outside by an exhaust fan. Air from the smoking room shall not be recirculated to other parts of the building.

2. The employer shall comply with any ventilation standard or other standard utilizing appropriate technology, including, but not limited to, mechanical, electronic and biotechnical systems, adopted by the Occupational Safety and Health Standards Board or the Federal Environmental Protection Agency. If both adopt inconsistent standards, the ventilation standards of the Occupational Safety and Health Standards Board shall be no less stringent than the standards adopted by the Federal Environmental Protection Agency.

3. The smoking room shall be located in a nonwork area where no one, as part of his or her work responsibilities, is required to enter. For purposes of this subsection, "work responsibilities" does not include any custodial or maintenance work carried out in the breakroom when it is unoccupied.

4. The smoking area shall be completely separated from the remainder of the building by solid partitions or glazing without openings other than doors, and all doors leading to the smoking area shall be self-closing. The doors shall be provided with a gasket so installed as to provide a seal where the door meets the stop on both sides and across the top.

5. The smoking areas shall maintain a minimum negative pressure of 0.005-inch water column relative to nonsmoking areas.

6. The employer shall submit written verification and test results to the city manager or his designee prepared by a licensed mechanical contractor or engineer that the HVAC system has been designed and tested and meets the requirements set forth in subsections (K)(1) through (5) of this section.

7. If the HVAC system is part of a smoke removal system or pressurization system, any modifications to these systems to provide smoking areas will require approval from the fire district. Written verification of this approval shall be provided to the city manager.

8. If the specific smoking area is an employee break room, lunch room or other area which may be used by nonsmoking employees, then a separate nonsmoking break room, lunch room or other area shall be provided of equal or larger size and include at least equal facilities.

9. No employer is required to provide reasonable accommodation to smokers, or to provide breakrooms for smokers or nonsmokers. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.080 Posting requirements.**

A. "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other place where smoking is controlled by this chapter, by the owner, operator, manager or other person having control of such building or other place. Where smoking is permitted in designated areas of the building or structure, a sign stating "Smoking is Prohibited Except in Designated Areas" shall be posted at each entrance to the building or structure.

B. Every hotel or motel regulated by this chapter shall have posted at its entrance a sign clearly stating that nonsmoking rooms are available, and every patron shall be asked as to his or her preference.

C. Each restaurant shall post a sign outside, clearly visible at the entryway, indicating whether it permits smoking. Letters on the sign shall be not less than one inch in height. A sign indicating the international "No Smoking" symbol satisfies the requirements of this subsection. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.090 Vending machines.**

Coin-operated cigarette vending machines may be located only on those premises which have either a Type 42, Type 48 or Type 61 license from

the Department of Alcoholic Beverage Control. Cigarette vending machines must be located no less than 25 feet from any entry into the premises. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.100 Distribution of free samples and coupons.**

A. No person, firm, association or corporation in the business of selling or otherwise distributing cigarettes or other tobacco or smoking products for commercial purposes shall in the course of such business distribute, or direct, authorize or permit any agent or employee to distribute: (1) any cigarette or other tobacco or smoking product, including any smokeless tobacco product; or (2) coupons, certificates or other written material which may be redeemed for tobacco products without charge, to any person on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building.

B. No agent or employee of any person, firm, association or corporation in the business of selling or otherwise distributing cigarettes or other tobacco or smoking products for commercial purposes shall in the course of such business distribute: (1) any cigarette or product; or (2) coupons, certificates or other written material which may be redeemed for tobacco products without charge, to any person on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building.

C. For purposes of this section, "public ground" and "public building" include sports arenas as defined in PMC 8.20.030 and any entertainment facility whether enclosed or not (except a bar) for which a charge is made for admission, whether publicly or privately owned. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.110 Out of package sales.**

No person shall sell or offer for sale cigarettes or smokeless tobacco not in the original packaging provided by the manufacturer. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.120 Enforcement.**

A. Administration of this chapter shall be by the city manager or his designee.

B. Any citizen may register a complaint for an alleged violation of this chapter with the city manager.

C. Any owner, manager, operator or employer of any establishment controlled by this chapter may inform persons violating this chapter of the appropriate provisions hereof. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.130 Penalties.**

A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the restrictions of this chapter to fail to properly post signs required hereunder.

B. It is unlawful for any person to smoke in any area restricted by the provisions of this chapter.

C. Any person or business who violates subsection (A) or (B) of this section, or any other provision of this chapter, shall be guilty of an infraction, punishable as provided in PMC 1.12.020. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.140 Nonretaliation.**

No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this chapter. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

#### **8.20.150 Other applicable laws.**

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws, including but not limited to Labor Code Section 6404.5. [Ord. 1098 § 1, 1995; Ord. 1087 § 2, 1994.]

