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**Title:** An Ordinance to Amend Chapter 26, Solid Waste Ordinance, Sections 2:1, 2:2, 2:3, 2:5, 2:7, 2:9, 2:10 and 2:13 to Implement Commercial Recycling Recommendations (Ordinance No. ORD-09-03)

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2/17/2009	1	City Council	Postponed	Pass
2/2/2009	1	City Council	Amended	Pass
2/2/2009	1	City Council	Approved on First Reading	Pass
2/2/2009	1	City Council		

An Ordinance to Amend Chapter 26, Solid Waste Ordinance, Sections 2:1, 2:2, 2:3, 2:5, 2:7, 2:9, 2:10 and 2:13 to Implement Commercial Recycling Recommendations (Ordinance No. ORD-09-03)  
The attached language initiates the consideration through first reading regarding proposed amendments to Chapter 26, the Solid Waste Ordinance, and related ordinance amendments, to implement the "Commercial Recycling Implementation Recommendations" prepared by the Commercial Recycling Implementation Committee of the Environmental Commission.

Proposed ordinance changes include updated definitions, a description of franchised and licensed commercial haulers, recycling requirements for businesses, points of storage, exemptions and penalties.

In addition to moving forward with the proposed amendments, implementation of the commercial recycling recommendations will involve the following steps:

- Authorization of a contract for commercial refuse collection with Waste Management of Michigan selected through a competitive procurement process (RFP708).
- Authorization for staff to engage the business community and the Commercial Recycling Implementation Committee in final stages of development of recycling container placement requirements and a commercial waste rate schedule, as part of the implementation

recommendations.

- Integration of the implementation plan into the proposed FY 2009-2011 budget being prepared for Council's consideration, including all details required to prepare that budget.

The recommendations have been developed through an extensive process of input from the business community, a thorough procurement process for the commercial waste collection contract and detailed financial modeling of the impact of the proposed revenues and expenditures on the City's Solid Waste Enterprise Fund.

The recommended ordinance amendments result from collaborative work with the business community and the City's legal staff following guiding principals that were part of the Commercial Recycling Implementation Recommendations.

The results of this effort indicate that the recommended programs can be implemented to enable the City to achieve 50% diversion of its commercial waste stream while maintaining a positive net impact on the Solid Waste Enterprise Fund.

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Reviewed by: Susan F. McCormick, Public Services Administrator

Approved by: Roger W. Fraser, City Administrator

ORDINANCE NO. ORD-09-03

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Effective: March 18, 2009

SOLID WASTE MANAGEMENT

AN ORDINANCE TO AMEND SECTIONS 2:1, 2:2, 2:3, 2:5, 2:7, 2:9, 2:10 AND 2:13 OF CHAPTER 26 (SOLID WASTE MANAGEMENT) OF TITLE II OF THE CODE OF THE CITY OF ANN ARBOR.

The City of Ann Arbor Ordains:

Section 1. That Sections 2:1, 2:2, 2:3, 2:5, 2:7, 2:9, 2:10 and 2:13 of Chapter 26 of the Code of the City of Ann Arbor be amended to read as follows, including the renumbering of subsections as needed:

2:1. Definitions.

(1) Building material means wood with nails, other wood scrap, pane glass, dry-wall pieces or debris, plaster, carpeting, eaves troughs and shingles, structural demolition material and other items as defined by the solid waste regulations.

(2) Bulk items means appliances, furniture and other large household items as defined by solid waste regulations, and containers or items which exceed the capacity or weight limits for curbside pickup as defined by the solid waste regulations.

(3) City provided recycling service means the recycling containers and collection services provided to residential and commercial locations by the City or its agents, contractors or licensees.

(4) Commercial location means any commercial, industrial and institutional building located within the City.

(5) Commercial location owner means the owner, as listed in City records, of a commercial location.

- (6) Commercial location manager means a person representing a commercial location owner for a particular commercial location.
- (7) Commercial location occupant means a person or organization occupying some or all of a commercial location.
- (38) Commercial waste means the solid waste from commercial locations and all other activities and land use other than residential occupancy.
- (49) Compostables suitable for collection by the City means leaves, brush, tree limbs up to 6 inches in diameter and 4 feet in length, vegetative prunings, Christmas trees, and other garden or yard waste and other organic material as may be specified in Solid Waste Regulations. Compostables suitable for home composting are specified in the solid waste regulations and City-provided fact sheets.
- (10) Construction and demolition waste means waste building material, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on houses, commercial or industrial buildings, and other structures.
- (511) Curbside cart means a lightweight plastic container that the City requires to be used and has provided for a fee to residential and commercial locations. A curbside cart ranges in size from 30 to 105 gallons, is equipped with wheels to allow it to be easily rolled to the curb, is used for collection of refuse or recyclables or other designated solid waste, and is able to be mechanically lifted and emptied into a collection truck.
- (612) DDA means the Downtown Development Authority as defined in Chapter 7 of the City Code.
- (713) Dumpster means a metal or plastic container in sizes that range from 1 cubic yard to 12 cubic yards, equipped with fixtures that allow the container to be dumped by a rear-loading or front-loading refuse or recycling truck.
- (14) Exemption means the granting by the city administrator of the right to comply with this chapter through completion of alternate performance requirements provided for in section 2:9, as long as the exempted party has established and maintains the alternate performance requirements to support the City's recycling and environmental goals as required to protect the public health, safety and welfare, as provided for in the solid waste regulations.
- (15) Franchisee or franchised hauler means contractual arrangements the City has made by having the City and an exclusive service provider selected by the City perform collection services that are structured to support the City's recycling and environmental goals as required to protect the public health, safety and welfare, as provided for in the solid waste regulations.
- (816) Garbage means all putrescible food wastes such as animal, fish, fowl, fruit or vegetable matter incident to the use, preparation and storage of food for human consumption. It also includes paper or containers containing these wastes except as excluded by solid waste regulations. It does not include prohibited materials specified in section 2:5 or in the solid waste regulations.
- (917) Hazardous material means hazardous waste, medical waste, radioactive material, explosives and other material listed in Michigan Public Act 641 or in the solid waste regulations.
- (1018) Hazardous waste means solvents, pesticides, flammables, oil paints, and other substances listed in Michigan Public Act 641, or Public Act 64 or in the solid waste regulations.
- (1119) Household waste means the solid waste discarded at residential dwellings, including single- and multi-family units.
- (20) Licensee or licensed hauler means contractual arrangements the City has made with refuse haulers servicing those commercial locations granted exemptions under section 2:9, to perform collection services that are structured to support the City's health, environmental and recycling goals to protect the public health, safety and welfare, as provided for in the solid waste regulations.
- (21) National or regional refuse collection contract means an arrangement for refuse collection services at a commercial location made by a controlling entity of the commercial location owner

located outside of the City that requires that commercial location to use a refuse hauler provided by the controlling entity and thus prevents the commercial location owner from using the refuse collection services provided by the City.

(1222) Prohibited materials means all items which may damage equipment or pose a safety threat to collectors or the environment, all items listed in section 2:6 or items defined as prohibited in the solid waste regulations. These materials will not be collected by the City.

(1323) Recyclables means all containers, paper, cardboard, and other materials specifically designated as recyclable by the solid waste regulations.

(24) Recycling compliance plan and recycling compliance report means an annual plan and status report, required to be filed with the City by a commercial location owner and/or commercial location manager that has applied for and received an exemption, as provided in section 2:9, documenting the continued provision of recycling collection containers and collection services and occupant training and incentives required for separation of recyclable materials from refuse as required by this Chapter, with timing, format and submittal procedures established by regulation.

(1425) Refuse means all rubbish and garbage which is not deemed recyclable or compostable as defined in this chapter or by the Solid Waste Regulations. It does not include hazardous material or other prohibited materials.

(1526) Rubbish means miscellaneous nonputrescible waste material resulting from housekeeping and ordinary mercantile enterprises, including paper, cardboard, metal containers, crockery, plastic, rubber, building materials, and bulk items. It does not include hazardous waste or other prohibited materials.

(1627) Solid waste means refuse, rubbish, recyclables, and compostables discarded by residents and commercial establishments and which qualifies for removal by the City of Ann Arbor. It does not include hazardous material or other prohibited materials. Solid waste includes construction and demolition waste only in quantities able to be disposed of in containers provided for removal by the City of Ann Arbor.

(1728) Solid waste containers means any containers approved by the solid waste regulations for deposit of solid waste, including containers for refuse, recyclables or compostables.

(1829) Surplus refuse means refuse that exceeds the capacity of or otherwise does not fit in a curbside cart.

## 2:2. Collection frequency, services and fees.

(1) Except as otherwise provided in this chapter, the City shall collect residential and commercial solid waste generated within the City. Unless prevented by weather conditions, labor disputes or other circumstances beyond its control, the City shall collect refuse from each residential location at least once a week. Different collection intervals and fees may be established by regulation for the collection of recyclables, compostables and refuse from residential and commercial locations. Fees may be charged for the collection of commercial refuse and single-family residential refuse with a weekly capacity greater than 64 gallons or as pro-rated by the City for multi-family locations eligible for curbside pickups.

(2) As suits the current best interest of the City, and to better enable the City to regulate and control the services provided to the users of solid waste services in order to protect the public health, safety and welfare, the City may provide for an exclusive service provider for the collection and disposal of solid waste for commercial, industrial, institutional and multifamily users through City operations and/or by competitive procurement of 1 (or more) contracts with qualified licensed service providers. Nothing in this section or anywhere in this chapter shall be construed as a surrender by the City of its legal authority as the sole and exclusive hauler of all solid waste generated by residential, commercial, industrial, institutional and multifamily properties in the City.

(3) Effective May 1, 2009, a license and/or franchise is required as provided in this section, unless

an earlier compliance date is specified for an action or event.

a. No person or entity shall engage in the business of collection, transportation or disposal of solid waste, from any commercial, industrial, institutional or multifamily building within the City without first having secured a license and having made payment of the license fee as provided in this subsection 2:2 (3).

b. No person or entity shall engage in the business of collection, transportation or disposal of solid waste, from any commercial, industrial, institutional or multifamily building within the City that have been granted exemptions pursuant to the circumstances outlined in subsection 2:9 (2), without first having secured a license and having made payment of the license fee as provided in this subsection 2:2 (3).

c. No person or entity shall engage in the business of collection, transportation or disposing of solid waste, from any commercial, industrial, institutional and multifamily building within the City that has not been granted an Exemption pursuant to subsection 2:9 (2) without first having secured an exclusive franchise and license and made payment of the license fee as provided in this subsection 2:2 (3).

d. All commercial, industrial, institutional and multi-family buildings shall be serviced by the exclusive solid waste franchisee(s) selected by the City unless serviced directly by the City. No person or entity owning or occupying a commercial, industrial, institutional or multifamily building shall enter into a contract for solid waste collection with a person or entity other than the exclusive franchisee unless said commercial location has been granted an exemption pursuant to subsection 2:9 (2).

e. All licensed haulers shall provide collection services in the manner specified in this ordinance to enable the City to prevent a nuisance or a threat to the City's health, environmental and recycling goals to protect the public health, safety and welfare, as provided for in the solid waste regulations. The site and containers for storage of waste materials shall meet the requirements of health, sanitation and safety established in the regulations.

f. In the event an Exemption is granted to a commercial location, then the solid waste hauler servicing the building must obtain a license from the City. Provision of solid waste services to any commercial location without a hauler license is a violation of this ordinance.

g. License application: Solid waste haulers seeking to obtain a license from the City shall submit to the City no later than March 31 of each year (starting March 31, 2009 or 45 days from 2nd reading, whichever comes later) an administratively complete application for a hauler license to become effective May 1st of that year and demonstrate compliance with all requirements of this section. An administratively complete application shall include, at a minimum, a notarized statement of intent to comply with all hauler licensing requirements pursuant to this Ordinance and the regulations including all reporting and service feature requirements, an inventory of all vehicles and vehicle numbers expected to be used to provide services within the City, certificates of insurance showing the City as additional insured, and a list of accounts located within the City that the hauler is currently serving including service details (e.g. dumpster inventory, dumpster size, dumpster location, and dumpster service frequency, etc.) and account details (e.g. address, billing and service contacts, etc.).

h. Fees. Each licensee or franchisee under this chapter shall pay the applicable franchise fee(s) at the time of application for a license as provided for in subsection 2:2 (3) g, or at a different time if specified by resolution of the city council. Applicable fees for licenses shall be set by city council resolution.

i. General duties of franchisees and licensees. Each licensee or franchisee under this chapter shall perform all services required pursuant to this chapter including reporting and service features, maintain its equipment used in the designated services in good repair and working order, perform its operations efficiently and faithfully, and shall punctually perform all obligations imposed on it pursuant

to this chapter. All collection equipment used by the licensee or franchisee must have the name of the firm clearly displayed on both sides of vehicles and on the front of refuse containers. The City shall have the right to inspect all relevant equipment of the licensed hauler as needed to assure compliance with the provisions of this ordinance.

j. Recycling monitoring and compliance requirements of licensed haulers: Licensed haulers must report to the City when it is found that a refuse dumpster or cart for a commercial location is more than 50% full of recyclable materials. If the licensed hauler finds that a commercial location is not capturing their recycling as provided or elsewhere in this Ordinance, the licensed hauler agrees to work with the City and the commercial location to assure the commercial location's compliance with recycling requirements of this Ordinance. The licensed hauler agrees to comply with requirements to adjust refuse dumpster and frequency of pickup downward as required to enable the commercial location to comply with the recycling requirements of this Ordinance.

k. Reporting and examination of records. Each licensee or franchisee under this chapter shall provide reports on a schedule and in a format determined by the city administrator as part of the regulations and shall make and keep proper books and accounts in which complete entries shall be made of all transactions relating to the licensed or franchised services (separate and apart from all other records and accounts of the licensee or franchisee), which books and accounts shall be made available to inspection by the City. The City shall have the right to inspect all relevant records of the licensed hauler as needed to assure compliance with the provisions of this ordinance.

l. Additional standards and specifications. All licensees or franchisees under this chapter shall meet any other standards and specifications with respect to service, fees and collection thereof, and manner of performance, as may from time to time be required by agreement of the City and such licensee or franchisee.

m. Indemnification of City; insurance. All licensees and franchisees under this chapter shall indemnify, save and keep harmless the City from any and all loss, cost, damage, expense or liability of any kind whatsoever which the City may suffer or which may be recovered against the City from or on account of the issuance of the license or franchise agreement or on account of any activity advocated or permitted by the City. Licensees and franchisees shall furnish the City a certificate of insurance for the insurance amounts indicated in the hauler licensing agreement, as established by the city administrator or designee, and shall obtain additional insured coverage protecting the City for the required amounts of insurance, which additional insured status shall be reflected in the certificate of insurance.

(4) Revocation of franchise or license.

a. Authority of city administrator. The city administrator has the authority to temporarily revoke the license or franchise of any licensee or franchisee whose practices present an immediate threat to the health, safety and well-being of the community or any persons therein. The city administrator has the right of permanent revocation for violation of any of the provisions of this chapter upon notice and after a hearing as provided for in subsection 2:2 (4) c. iii. In addition to the provisions contained in this chapter, the city administrator shall have the authority to establish regulations for the conduct of a hearing relating to the revocation or suspension of a franchise or license.

b. Grounds. The city administrator is hereby given the authority to revoke or suspend a franchise or license if the city administrator finds:

i. The franchisee or licensee has not complied with applicable codes, ordinances, statutes, laws, policies or rules and regulations.

ii. The franchisee or licensee has made fraudulent, false or misrepresentative statements in the application for the franchise or license.

iii. The franchisee or licensee owes the City required fees or outstanding fines or penalties.

c. Contents and service of notices.

i. Contents. All notices required to be given in accordance with this section shall be in writing,

setting forth the reasons for the denial or revocation of the franchise or license. The notice shall inform the franchisee or licensee that the franchisee or licensee has the right to request a hearing before the city administrator.

ii. Service. All notices shall be sent by certified mail, return receipt requested, to the franchisee or licensee specified in the franchise or license. Notice shall be considered given on the date such notice is mailed.

iii. Hearings. The city administrator or designee shall send notice of intent to revoke a franchise or license. A franchise or license shall not be revoked unless the franchisee or licensee has had an opportunity to present evidence in the franchisee's or licensee's behalf. The city administrator or designee shall, within 5 business days of the hearing, issue a written order of the findings. Such written order shall be sent to the franchisee or licensee in accordance with the notice provisions of subsection (c) of this section. If, within 10 days of the notice, the franchisee or licensee does not request a hearing in writing, the franchise or license shall be revoked.

### 2:3. Point of collection.

The City shall collect solid waste only if it is at the following locations on the collection day:

(1) For residential dwellings and other locations not served by dumpsters, the point of collection shall be curbside. Leaves are collected each year from the street in accordance with the solid waste regulations.

(2) All other solid waste shall be collected at the point of storage, provided that the location is permitted by the solid waste regulations and is accessible to City solid waste collection equipment.

(3) The City may refuse to collect solid waste where such materials are which is not stored in compliance with the solid waste regulations including where snow and ice have not been removed properly.

### 2:5. Solid waste containers.

(1) No person shall deposit or remove solid waste in the solid waste container of another person without permission of the owner or property manager. Proof of violation of this section must be based on evidence showing the deposit of at least 1 cubic foot of material into or removal of any material from another person's solid waste container.

#### (2) Residential Curbside Containers

##### a. Refuse.

i. The City mandates the use of curbcarts for residential refuse service. Refuse curbcarts are provided by the City in a manner described in the solid waste Regulationsregulations.

ii. All refuse must be stored within the curbside.

iii. The weight of the refuse inside the curbcarts must not exceed 224 pounds for a 64 gallon curbside or a pro-rated amount for a different sized curbside.

iv. Applicable fees for the collection of refuse from the curbcarts shall be set by City Councilcity council by resolution. If the charges are not paid, they may be assessed against the property pursuant to Section section 1:292 of Chapter chapter 13 of the City Code.

v. A resident or property owner who obtains a replacement curbside shall pay for the replacement curbside. This requirement shall be waived administratively if the curbside has been stolen, if the curbside was broken by collection vehicle or the curbside is more than ten years old.

##### b. Recycling.

i. Residential recyclables shall be separated from refuse and placed in recyclables collection containers in a manner determined by the City Administratorcity administrator through the Solid solid Waste waste Regulationsregulations.

ii. Recyclable containers and bundles must not exceed 50 pounds.

##### c. Compostables.

- i. Compostables shall be separated from refuse and placed in compostable containers in a manner determined by the City Administrator/city administrator through regulations and applicable state law.
- ii. Paper yard waste bags and bundles are acceptable for the collection of compostables. City approved compostable curbside carts are also acceptable.
- iii. The weight of compostable bags or bundles shall not exceed 50 pounds. The weight of compostables inside a 96 gallon curbside cart shall not exceed 336 pounds.
- iv. The purchase price for compostable carts available from the City shall be set by City Council/city council by resolution. If the charges are not paid, they may be assessed against the property pursuant to Section section 1:292 of Chapter chapter 13 of the City Code.

(3) Multi-Family Containers.

- a. Every multi-family dwelling unit shall be provided with refuse and recycling container space. Each unit shall be equipped with approved refuse and recycling containers stored outside of the dwelling unit, sufficient to contain the refuse and recycling generated by that location until collected. The city administrator may adopt regulations for the minimum specifications for the containers.
- b. Multi-family dwellings with 10 or more units must use dumpsters to meet the container requirements for refuse.
- c. Recycling containers will be provided by the City in accordance with the solid waste Regulations/regulations; refuse curbside carts will be provided to multi-family structures with less than 10 units in accordance with the solid waste Regulations/regulations.
- d. A certificate of occupancy may be revoked for dwellings not meeting the requirements of this subsection, but the City shall not decline to collect refuse because a location has failed to provide recycling containers.

(4) Commercial Containers

- a. Refuse: Prior to July 1, 2009, Commercial locations must be equipped with sufficient containers to contain the refuse generated by the locations until collected. Applicable fees for the collection of refuse shall be set by City Council/city council. If the charges are not paid, they may be assessed against the property pursuant to Section section 1:292 of Chapter chapter 13 of the City Code.

Effective July 1, 2009, the following provisions of subsection 2:5 (4) a. and c. through g. shall apply to commercial refuse unless a different compliance date is specified for an action or event. The City reserves the right of the city administrator to adjust the dates in subsection 2:5 (4) to later dates to accommodate the transition period for the franchise implementation.

- i. The City mandates the use of approved refuse containers for commercial refuse service. The City, independently or through its franchised waste hauler, will provide all such containers, which containers shall be used by the cCommercial Building/location oOwner, mManager and oOccupants.
- ii. All refuse must be stored within the curbside cart or dumpster.
- iii. Commercial locations must be equipped with sufficient approved refuse containers to contain the refuse generated by the locations until collected. Refuse curbside carts, including shared curbside carts, will be provided by the City in accordance with the solid waste regulations to those commercial locations determined to be suitable for refuse curbside carts. Dumpsters, including shared compacting dumpster units will be provided by the City in accordance with the solid waste regulations to those commercial locations determined to be suitable for dumpsters. The city administrator may adopt regulations for minimum specifications for the containers, their locations and for the use of those containers.
- iv. Applicable fees for the collection of commercial refuse shall be set by city council resolution and shall be charged quarterly in advance. If the charges are not paid, they may be assessed against the property pursuant to section 1:292 of chapter 13 of the City Code after appropriate collection



steps are taken with the commercial location owner, manager or occupant of record for the unpaid fees.

b. Recycling: Prior to July 1, 2009, Commercial recyclables shall be separated in a manner determined by the City Administrator/city administrator through the Solid waste Regulations/regulations.

Effective July 1, 2009, the following provisions of subsection 2:5 (4) b. through g. shall apply to commercial recycling unless different compliance dates are specified for an action or event.

i. Commercial recyclables shall be separated from refuse and compost and placed in recyclables collection containers by occupants of commercial locations in a manner determined by the city administrator through the solid waste regulations.

ii. The City mandates the use of curbside carts, dumpsters, cardboard corrals and other approved containers for commercial recyclables service. The city administrator may adopt regulations for minimum specifications for the containers and their locations.

iii. All recyclables must be stored within the curbside cart, dumpster, cardboard corral or other approved container.

iv. Recycling containers and recycling collection services will be provided by the City in accordance with the solid waste regulations.

v. Commercial locations must be equipped with sufficient approved recyclable containers to contain the recyclables generated by the locations until collected.

vi. Commercial location owners and/or commercial location managers shall work with the City to locate and maintain the recyclables collection containers at each commercial location.

vii. The City shall provide for an administrative approval process for the location of recyclables containers at each Location, including all required physical improvements necessary for those recyclables containers (e.g. concrete pads, screening).

viii. Commercial location owners and/or commercial location managers shall include compliance with the requirements of this section in all lease agreements with commercial location occupants and in all contracts for custodial services for the commercial locations.

ix. Commercial location owners and/or commercial location managers shall communicate recycling requirements to commercial location occupants at least annually and cooperate with the City to facilitate additional City sponsored communication regarding recycling requirements.

x. Commercial location owners and/or commercial location managers subject to this subsection shall have until July 1, 2011/2012 to comply with its requirements, after which time the enforcement provisions of subsection 2:13 of this chapter shall become effective. Prior to July 1, 2011/2012, the City will utilize a progressive enforcement program based on non-financial penalty Notices of Violation initiated by the offering of Recycling Containers and Recycling Services as described in subsection 2:5 (4) b.v.

c. The commercial location owner and/or commercial location manager is responsible for full compliance with the requirements of subsection 2:5 (4).

d. Locations shall provide the space allocation necessary to demonstrate compliance with the requirements of this subsection.

e. Locations shall provide screening as required by chapter 62, section 5:604.

f. Any person providing a location for dumpsters used for commercial recyclables and related screening shall first apply to the planning and development services unit for a zoning compliance permit to do so. Application for such permit shall contain all information, including drawings, required and necessary for the determination of whether the Location and related screening would be contrary to the provisions of this chapter, or any other applicable ordinance.

g. As provided for in chapter 57, site plans submitted for new and or renovated commercial locations shall include sufficient solid waste information including necessary space allocation as to demonstrate compliance with the requirements of this subsection.

2:7. Solid waste facilities.

All nonhazardous solid waste, including refuse, recyclables and compostables, collected by the City and/or its agents or licensees shall be taken to Persons may discard nonhazardous solid waste at the City's designated solid waste processing facilities currently located within the W. R. Wheeler Service Center, including the material recovery and waste transfer facility, the drop-off station, compost center and other facilities as may be established by City Councilcity council action. Different types of waste may be accepted at each of these facilities. The rates for using these facilities shall be determined by the City Councilcity council. Any person may discard their nonhazardous solid waste at these facilities except that Personpersons who have not met any applicable residency requirements or have not prepared materials in a manner determined by the City Administratorcity administrator through regulations, or who have not paid facility charges, may be refused permission to deposit materials at the facility. Compostables and recyclables not separated according to the solid waste regulations will not be accepted for processing at the City's solid waste facilities.

2:9. Variances.

(1) In cases of extreme hardship or practical difficulties, the City Administratorcity administrator may authorize variances to this chapter's requirements regarding solid waste containers, container locations, collection frequency and points of collection.

(2) Request for exemption from franchised service.

a. Any commercial location owner and/or commercial location manager may request, in writing, to the city administrator or designee, that they be exempted from the franchised service if they can document that a national or regional refuse hauling contract was in effect no later than January 31, 2009, the signing of which was outside the person's or entity's control and that the refuse hauler providing those services has secured and maintained a valid hauler license with the City. The request for exemption must be submitted annually by May 15th of each year to document the continuation into the next 12-month period (beginning July 1) of the conditions under which the Exemption was granted. Said exemption is effectively terminated if and when the conditions cited as the reason for the exemption status cease to exist. It shall be the responsibility of the commercial location owner and/or commercial location manager to inform the City of this change in status within 30 days of occurrence.

b. Any commercial, industrial, or institutional user that can document that it has a valid contract for refuse services in effect no later than January 31, 2009 and that the refuse hauler providing those services has secured and maintained a valid hauler license with the City may request and will be granted an exemption from the franchised service up to the initial contract termination date or through June 30, 2010 2011, whichever is earlier, at which time exemptions granted for such purposes shall be terminated without option. For the purposes of this section the initial contract termination date is defined as the end of the current contract period and does not include any renewals or extensions, automatic or otherwise. Contracts signed after January 31, 2009 shall be valid only through June 30, 2009.

c. Any commercial, industrial, or institutional user that has been granted an exemption from the exclusive franchise or has a valid contract for refuse services as provided for in subsection 2:2 (4) b shall utilize only a hauler that is licensed by the City.

d. Regardless of an exemption being granted, such commercial locations must comply in full with all requirements of this chapter and regulations including requirements for separation of recyclables from refuse in separate recyclables containers.

(3) Request for exemption from City provided recycling services.

a. Effective July 1, 2011 2012, any commercial location owner and/or commercial location manager may request, using on-line forms made available by the City, to the city administrator or

designee, that they be exempted from use of the City provided recycling service. The request shall specify the circumstances that necessitate such exemption status, which may include but are not limited to a corporate contract whose provisions are outside the person's or entity's control, or a specialized service that cannot be provided by the City service.

- b. The request for exemption shall be submitted with a Recycling compliance plan and Recycling compliance report for the commercial locations under question.
- c. A commercial location granted an exemption under this section must maintain compliance with all other provisions of this Ordinance or said Exemption shall be administratively revoked.
- d. The request for exemption must be submitted annually by May 15th of each year to document the continuation into the next 12-month period (beginning July 1) of the conditions under which the Exemption was granted. Said exemption is effectively terminated if and when the conditions cited as the reason for the exemption status cease to exist. It shall be the responsibility of the commercial location owner and/or commercial location manager to inform the City of this change in status within 30 days of occurrence.
- e. Regardless of an exemption being granted, such commercial locations must comply in full with all requirements of this chapter and regulation including requirements for separation of recyclables from refuse in separate recyclables containers.

#### 2:10. Solid waste regulations.

The Administrator may adopt regulations implementing this chapter, including regulations on the design, location, maintenance and access to solid waste containers, handling of prohibited materials and the proper separation of and preparation of recyclables, compostables and special pickups and to implement its solid waste management strategy. Those regulations shall take effect 30 days after being filed with the City city Clerk clerk unless modified or disapproved by the City Councilcity council.

#### 2:13. Penalties.

- (1) Authority. The primary authority and responsibility for the enforcement of the provisions of this chapter shall be vested in the administrator or his/her designee(s). Upon a determination that a person is in violation of this chapter, the City shall give notice or issue a citation that indicates the person is in violation of a section in this chapter.
- (2) Upon a finding that a section of this chapter has been violated, the violator shall be subject to one or more of the penalties provided in this section. The following classifications, when used in this chapter, shall determine the penalty for any violation of any provision of this chapter.
- (3) Each violation of this chapter shall be a civil infraction punishable by a civil fine of up to \$1,000.00, plus costs and all other remedies available by statute. Violation of this chapter shall be punishable by a civil fine of not less than \$100.00 for the first offense, not less than \$250.00 and up to \$500.00 for the second offense, and not less than \$500.00 and up to \$1,000.00 for each additional or subsequent offense within a 2-year time period, plus costs and all other remedies available by statute. The maximum fine for any offense shall not exceed \$1,000.00. Each day of violation shall be a separate violation except in a case when the maximum fine is levied. If the penalty is not paid within 45 days, it may be assessed against the parcel under Section section 1:292 of this Code.
- (4) The city administrator shall establish procedures, incorporated into the regulations for this chapter, establishing progressive enforcement programs applicable to specific sections of this chapter, designed to assure compliance over a specified time period with the provisions of this section. Enforcement actions in each progressive enforcement program may include designated time periods for technical assistance and dispute resolution prior to violation notices consistent with subsection 2:13 (3) of this chapter.

Section 2. That this ordinance shall take effect on the tenth day after legal publication.

As Amended by Ann Arbor City Council on February 2, 2009, and including non-substantive corrections and clarifications for second reading.