THE BUREAU OF
PLANNING &
SUSTAINABILITY

Administrative Rules

Commercial Collection Customers: ~~Solid Waste~~Garbage, Recycl~~ing~~ing~~ables~~ and Compost~~ables~~

Effective Date: January 1, 2025

Contents

1.0 Scope of rules

Administrative rules contained within this document are intended to articulate the standards and expectations for Commercial Collection Customers, as authorized in the City Code, Chapter 17.102.

2.0 Adoption and revision of administrative rules

A. City Administrator's Authority to Adopt Rules.

Under authority of the City Code, Chapter 17.102, the City Administrator is authorized to adopt rules, procedures and forms to implement provisions of that chapter which regulate the collection and disposal of commercial solid waste within the City.

B. Adoption and Revision of Rules.

All rules will be adopted or revised following the procedures outline in Chapter 1.05 of the City Code.

5.0 Business Standards

5.1 Definitions

See also Definitions in Portland City Code Section 17.102.020.

1. **Assessment** means a civil penalty assessed for an infraction as provided in City Code Chapter 17.102 ~~or in the franchise~~.

2. **BPS** means the Bureau of Planning and Sustainability.

~~2.~~3. **Bulky wastes** means any useless, unwanted or discarded item used in or around a household and generated by a household that does not fit inside a standard garbage or recycling roll cart, or that is longer than 36 inches in any one direction. This term includes items such as furniture, appliances, electronic devices, outdoor patio and garden items, personal vehicle items, doors, cabinets, toilets, or sinks, dimensional lumber, metal or glass. This term does not include household hazardous waste, asbestos containing materials, acceptable recyclable materials, gas cylinders, or any waste that can fit within a standard garbage or recycling roll cart.

~~3.~~4. **Business** ~~is~~ means any commercial entity, including industrial and institutional entities, nonprofit organizations and government facilities, but does not includ~~e~~~~ing~~ multifamily complexes or commercial entities ~~which~~ that occupy ~~less than~~ 50 percent or less of the floor area of a ~~residence~~structure.

~~4.~~5. **City Administrator** means the City of Portland's City Administrator or the designee.

~~5.~~6. **Collect** or **Collection** ~~means to accept, accumulate, store, process, transport, market or dispose of.~~ means the collection of solid waste, including, garbage, recyclables, and compostables. The term also includes accepting, accumulating, storing, processing, transporting, marketing, and disposing of solid waste as required by City code regulations, Metro, State of Oregon, and federal law.

~~6.~~7. **Commercial** means relating to an entity that is ~~non-residential in nature or, if residential, consists of five or more dwelling units.~~ a business, multifamily complex, or institution.

~~7.~~8. **Compostable** m~~M~~**aterial, compostables, and** c~~C~~**compost**~~able~~ ~~means primarily Food Scraps and includes coffee filters and BPI certified Compostable plastic liner bags.~~ refers to materials used for the controlled biological decomposition of organic material. For the purpose of these rules, this refers to the BPS published list of materials allowed in the City's compost collection system.

~~**Composting** means the series of activities, including separation and Processing, by which Compostable materials are recovered from or otherwise diverted from the Solid Waste stream for controlled biological decomposition. Composting includes Composting of Source Separated organics but not Composting of mixed waste.~~

~~8.~~9. **Covered food scraps generating business** means organizations that cook, assemble, process, serve, or sell food or do so as service providers for other enterprises.

~~9.~~10. **Customer** means a person that has arranged the collection of solid waste, recyclables, or compostables, including third-party contractors. ~~Materials~~ The term "customer" does not include ~~, excluding~~ residential collection service covered by a franchise. Where several businesses share containers and service, customer refers only to the person that arranges for the service. Where a multifamily complex has arranged for service, customer refers to the property owner or property manager.

~~10.~~11. **Day** for purposes of designating an infraction, means a single infraction consists of the failure to comply with any provision of these rules any number of times during a single 24-hour period, regardless of

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the number of customers affected by the infraction (e.g., violating nighttime collection restrictions). Generally, Saturdays, Sundays and legal holidays are excluded.

~~11.~~12. **Director** means the Director of the Bureau of Planning and Sustainability, or the Director's authorized representative, designee or agent.

~~12.~~13. **Disposal** means landfilling, illegal dumping, burning, municipal waste incineration, and mixed waste composting.

~~13.~~14. **Food Scraps** ~~means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, coffee grounds, and other food that results from the distribution, storage, preparation, cooking, handling, selling or serving of food for human consumption. Food Scraps includes but is not limited to excess, spoiled or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. Food Scraps does not include liquids or large amounts of oils and meats which are collected for rendering, fuel production or other non-disposal applications, or any food fit for human consumption that has been set aside, stored properly and is accepted for donation by a charitable organization and any food collected to feed animals in compliance with applicable regulations.~~ means all food from trim, spoilage, and plate scrapings, including meat, poultry, seafood, dairy, bread, fruits and vegetables, cheese, eggshells, rice, beans, pasta, coffee grounds, and filters, tea bags, bones, and other food products. Food scraps do not include liquids or large amounts of grease or oil.

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15. **Garbage** means solid waste collected for transportation to a landfill or for incineration.

~~14.~~16. **Generator** means an entity ~~which~~ that uses the ~~Solid Waste~~garbage, recycl~~ing,~~ing and/or compost~~ables~~ collection service and containers arranged for by a customer.

17. **Incident** for purposes of designating an infraction, means a single infraction consists of the failure to comply with any provision of these rules on an individual act, occurrence or generator basis.

~~15.~~18. **Independent commercial recycler** means a person who collects only recyclable and/or compostable materials from non-residential sources for the purpose of recycling or composting, and who does not collect garbage.

~~16.~~19. **Infraction** means ~~a failure to comply with City Code or rules promulgated thereunder. Infractions may be appealed to the City of Portland Code Hearings Officer pursuant to City Code Section 17.102.100.~~ a failure to comply with City Code or rules promulgated there~~-~~under.

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20. **Metro** means the metropolitan service district responsible for regional solid waste management and planning within Multnomah, Washington, and Clackamas counties.

~~17.~~21. **Mixed-use building** or **mixed-use** means a combination of multifamily and business uses within the same building.

~~18.~~22. **Multifamily complex** or **multifamily** means any multidwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as apartments, condominiums, mobile home parks, or houseboat moorages. Multifamily also includes certified or licensed residential care housing, such as adult foster care homes or group homes.

~~19.~~23. **Owner** with respect to the obligation to provide recycling for a condominium or cooperatively owned development~~,~~ means the owners' association or its equivalent.

~~20.~~24. **Paper and containers** includes, but is not limited to, aerosol cans, aluminum, aseptic packaging (drink boxes), corrugated cardboard and kraft paper, glass bottles and jars, magazines, ferrous and

nonferrous scrap metals, gable top paper cartons, newspaper, office paper, scrap paper, plastic bottles including milk jugs, steel "tin" cans, and telephone directories and other materials as may be designated by the City. The City ~~of Portland~~ will maintain a materials list that ~~shall~~ will be available at the BPS office and on the BPS website.

~~21.~~25. **Per day** shown as "D" for purposes of designating an infraction, means a single infraction consisting~~s~~ of the failure to comply with any provision of these rules any number of times during a single day, regardless of the number of customers affected by the infraction (e.g., collection schedule) on a single day.

~~22.~~26. **Per incident** shown as "I" for purposes of designating an infraction, means a single infraction consisting~~s~~ of the failure to comply with any provision of these rules on an individual act, occurrence or customer basis.

~~23.~~27. **Per month** shown as "M" for purposes of designating an infraction, means a single infraction consisting~~s~~ of the failure to comply with any provision of these rules at least once and up to any number of times during a single, continuous 30-day period, regardless of the number of customers or, in the case of an infraction by a generator or customer, number of tenants, affected by the infraction (e.g., inadequate vehicle identification markings, or convenience of Recycling systems at multifamily properties).

28. **Permittee** means any person providing solid waste collection services that has been granted a commercial collection permit under the provisions of Portland City Code.

~~24.~~29. **Person** means any individual, partnership, association, firm, trust, estate, public or private corporation, local government unit, public agency, the state, or any other legal entity.

~~25.~~30. **Processing** means an operation where collected source-separated recyclables or compostable materials are sorted, graded, cleaned, shredded, ground, densified or otherwise prepared, treated or converted for end use markets.

31. **Recyclable material** and **recyclables** means material designated by BPS as retaining useful physical, chemical, or biological properties after serving its original purpose or function~~, and that can be collected by Permittees as mixed Recyclables in a blue cart, glass Recyclables in a separate container, and materials from construction and demolition projects. " .~~

~~26.~~32. **Recycling** means any process by which solid waste materials are transformed into new products in a manner that the original products may lose their identity. For the purpose of these rules, this refers to the BPS-published list of materials allowed in the City's recycling collection system.

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~~27.~~33. **Self-haul** ~~when used in reference to Solid Waste~~garbage, ~~and/or~~ recyclables, ~~and/or compostables materials generated by a commercial entity, means the collection and transportation of such material from a commercial entity or commercial property where an o~~ when used in reference to garbage, recyclables, and/or compostables generated by a commercial entity, means the collection and transportation of such material from a commercial entity or commercial property where an owner or employee of a commercial entity hauls the material rather than hiring a permittee or independent commercial recycler to perform this function. ~~wner or employee of the a commercial entity hauls the material rather than hiring a permittee or independent commercial recycler to perform this function~~.

~~28.~~34. **Solid Waste** has the meaning given in the Oregon Revised Statues (ORS) 459.386 to 459.405, which includes garbage, recyclables, and compostables, but excludes: ~~means all useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard; useless or discarded commercial, industrial, demolition and construction materials; discarded~~

~~home and industrial appliances; manure; vegetable or animal solid and semi-solid materials; dead animals and infectious waste. Solid Waste does not include the following materials:~~

a. Sewage sludge, septic tank, and cesspool ~~d~~pumpings or other sludge;

b. Discarded or abandoned vehicles.

~~29.~~35. **Source Separate** ~~means that the person who last uses Recyclable or Compostable material separates the material from Solid Waste and keeps the Recyclable or Compostable material separate from Solid Waste.~~ means when a customer separates recyclables or compostables ~~material~~ from garbage and places the material into a container for purposes of recycling or composting.

~~30.~~36. **Third-party subcontractor** means an intermediary service provider, contracted to administer solid waste service with a permittee.

~~31.~~37. **Yard Debris** means leaves, grass clippings, sod, weeds, vines, vegetative material from the yard, pumpkins, and ~~prunings~~ trimmings of no greater than four inches in diameter or 36 inches in length. Yard debris does not include l~~L~~arge branches (greater than four inches in diameter or more than 36 inches in length), dirt, stumps, metal, rocks, ashes, ~~animal waste,~~ food, or animal waste. ~~and household Solid Waste are not considered Yard Debris.~~

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5.2 Recycling and solid waste requirements for commercial customers, generators, and self-haulers

A. General requirements

All businesses must separate recyclable materials from other solid waste and set out these materials for recyclables collection as described below. Covered food scraps generating businesses must separate food scraps from other solid waste for collection. All businesses are required to make efforts to prevent total waste (including both garbage and recycling) generated as measured by reducing weight, container sizes and/or frequency of collection. BPS will monitor~~ing of~~ compliance by ~~will be accomplished through~~ reviewing information reported by businesses~~'~~ and multifamily property owners, as well as through BPS inspections of onsite recycling and waste systems. The following general requirements apply:

1. Businesses must separate all paper and containers from other solid waste and set out for recycling collection. Businesses failing to recycle all paper and containers will be given the opportunity to demonstrate to BPS why they are unable to meet the requirement. BPS ~~shall~~ will work with businesses to address their limitations and increase recycling to the maximum extent practicable. (D/M)*
2. Businesses ~~and shall~~must separate paper and containers from other solid waste and set out these materials for recyclables collection in such a manner as to prevent contamination of the recyc~~lab~~linge and, where applicable, compost~~able materials~~. (D/~~M~~)*
3. Businesses tenants in buildings where garbage collection is provided as part of the rental or lease agreement ~~shall~~ must use the collection system for recycling~~ables~~ and compost~~ables~~ made available by the property owner or manager. (D/M)*
4. Businesses that separate glass for recycling collection must keep it separate from all recyclable materials. (B/M)*

~~4.~~5. **Fire Codes and Building Codes.** All placement and storage of solid waste containers must comply with the requirements of the State of Oregon Fire Code, Oregon Structural Specialty Code, Portland City Code Chapter 31, and Portland City Code Chapter 24.

B. Business requirements for recyclables

1. **Materials to be recovered by Businesses.**

    a. All Businesses ~~shall~~ must recycle all paper and containers. (D/M)*

    b. Covered food scrap generating businesses ~~shall~~ must separate all food scraps from ~~Solid Waste~~garbage and set them out for collection for one of more of the following uses: (D/M)*~~:~~

        i. Composting or anerobic digestion by a facility that is authorized by Metro, has an Oregon Department of Environmental Quality compost permit, or is regist~~ration~~ered or licensed as a composter by the State of Washington; or

        ii. A transfer facility authorized by Metro~~;~~ or

        iii. For animal feed or land application by facilities regulated by the Oregon Department of Agriculture. ~~(D/M)*~~

2. **Recycling Collection requirements.** To be in compliance with the recycling requirements, a business ~~shall~~ must not have any recyclables in their ~~Solid Waste~~garbage.

    If these conditions are not met, the business will be responsible for implementing the following best management practices established by BPS. BPS may also establish supplemental best management practices for businesses to implement as needed to come into compliance or if a business wishes to further improve recycling and waste prevention. (D/M)*

    a. Correctly label all interior and all exterior recycling and composting containers and provide accurate signs and instructions that identify the materials the business must recycle.

    b. Make internal and external recycling containers, including mixed recycling, glass recycling, and food scraps collection, at least as conveniently located as garbage containers.

    c. Conduct training ~~of~~ for new employees/new tenants and educate all employees/tenants.

    d. Establish waste hauling, property management, and janitorial services that enable businesses to meet waste prevention and recycling goals.

    e. Management ~~to~~ must review and sign off on best management practices committed to at a business and designate a point of contact for the City ~~of Portland~~ for all recycling and waste prevention activities within the business.

3. **Food Scraps Collection requirements.**

    To be in compliance with the food scraps separation requirements all covered food scrap generating businesses must:

    a. Separate for collection all food scraps that are controlled by the business and its~~,~~ agents~~,~~ and employees. This requirement also applies to student-generated food scraps from school cafeteria meals at K-12 schools. This requirement does not apply to food scraps controlled by customers or the public. At its discretion, a covered food scraps generating business may collect food scraps from customers or the public but must ensure that food scraps are free of non-food items.

b. Have correctly-labeled and easily-identifiable collection receptacles, as convenient for staff as garbage containers.

c. Arrange for food waste collection service as necessary~~, and~~

d. Comply according to the implementation schedule set by BPS staff.

Covered food scrap generating businesses may apply for a temporary compliance waiver. The City Administrator may grant such waivers after considering the situation and the criteria below. Waivers ~~shall~~ will not exceed 12 months, but annual renewal may be allowed. Criteria that warrant a temporary waiver include but are not limited to:

i. Less than 250 pounds per week of food in the disposed waste.

ii. Food scraps produced by the covered business are not suitable for inclusion in the program or cannot be made suitable without unreasonable expense.

iii. Physical barriers to compliance exist and cannot be immediately remedied.

iv. Compliance results in unreasonable capital expense.

v. Compliance results in a violation of other government ~~ordinance~~regulations, such as~~,~~ health or safety codes.

Failure to comply with requirements or to receive a temporary compliance waiver constitutes a violation. (D/M)*

4. **Responsibilities of owners and managers of properties with commercial tenants.**

a. Whe~~re~~n a customer rents, leases, or lets space to a business and includes provision of garbage collection service for any tenant as part of the rental or lease agreement, the customer is responsible ~~to~~ for providing~~e~~ a collection system for all business tenants for garbage, recycling~~ables~~, and compost~~ables.~~. If a business is a covered food scraps generating business, then the customer is also responsible for providing a collection system for food scraps. (A/M)*

b. Where the space rented or leased consists of non-office space, the system should consist of at least one recycling container at each waste container, obtained by the customer, and distributed by the customer to each tenant business. (B/M)*

c. Whe~~re~~n a customer provides janitorial services to its business tenants, the contract for janitorial services ~~shall~~ must include recycling and composting services that meet the best management practices listed above and support the collection system ~~for recyclable and compostables materials~~. (B/I)*

d. The customer ~~shall~~ must maintain and support communication between the providers of waste hauling, property management, and janitorial services to identify and resolve problems related to the collection system for recyc~~lab~~ling and compost~~able Materials~~. (B/M)*

e. At least once a year, the customer ~~shall~~ must distribute to all tenants information about how to use the onsite collection system. Property owners and managers ~~shall~~ must provide new tenants with this information within 30 days of tenant move-in. (C/M)*

5. **Reporting requirements.** All businesses and customers with business tenants ~~shall~~ must report as requested to ~~bps~~BPS on the status of implementing required best management practices. BPS may request

additional information or conduct additional site visits to verify the results reported by a business or customer and provide additional assistance if needed. If implementation of the best management practices is insufficient to meet recycling requirements, the City Administrator may require a business to implement and report on additional supplemental best management practices. Failure to accurately report on the status of implementing best management practices is an infraction. (B/I)*

6. **Mixed Dry Waste:** Except for mixed dry waste at construction/demolition sites, as listed under Part 4.2. C.6. Disposal Prohibition, the ~~C~~customer ~~shall~~ must not arrange for any ~~R~~recycling system ~~which~~ that involves mixing Recyclables with ~~Solid Waste~~garbage for post ~~C~~collection separation. (A/M)*

~~7. **Contamination.** Whenre an affected customer, or construction site general contractor, or property owner or manager, has an agreement with their waste hauler whereby the hauler may dispose of allegedly contaminated recyclingables or compostables whenever such contamination is encountered in the course of collection, that affected customer, contractor, or owner does not have a recycling system which complies with City Code and these rules.~~

~~8.~~7. **Pests and Odors.** If compost is~~able materials are~~ improperly prepared or stored in such a manner as to create pest or odor problems that pose a potential public health and safety concern, the City Administrator may require the customer ~~or Food Scraps~~ to remedy the problem so that collection of the compost~~able materials~~ may continue. The customer ~~or Food Scrapsshall~~ must work with the City and the permittee or independent commercial recycler to remedy the pest or odor problem caused by the improperly prepared or stored compost~~able materials~~. Failure to remedy a pest or odor problem caused by the improper preparation or storage of compost~~able materials~~ is an infraction. (B/I)*

C. Containers used by the general public

For ~~those~~ businesses that have collection areas where the public (non-employees) are throwing regulated materials directly into waste containers on a business's property, the ~~c~~City recognizes the challenge of capturing all recyclables. Those specific containers are exempt from the business recycling requirements; however, all other areas of the business still must comply with the requirements.

D. Service at multifamily complexes

1. **Minimum Service Levels.** A multifamily complex owner must provide minimum per unit service volumes equivalent to the following: ~~Solid Waste~~garbage:~~,~~ 20 gallons per week~~;~~, recycling~~:~~, 20 gallons per week~~;~~, glass~~:~~, 1 gallon per week. All material streams are collected at least weekly. On call services are exempt from collection frequency and minimum per unit service volume requirements. (B/M)*

2. **Recyclable Materials.** All recyclable materials are listed ~~under~~ on ~~Part 4.2 C.5.b~~the BPS acceptance list. Recyclable materials are required to be collected except food scraps, which is an optional service. Failure to provide such collection for recyclables at a multifamily complex is considered an infraction by the owner of the complex.

   Used motor oil is exempted from collection. Yard debris is exempted from collection if no yard debris is generated on-site, or if the customer meets one of the following conditions:

   a. Uses a landscape maintenance firm that transports yard debris to a Metro-authorized facility;

   b. Manages its yard debris on-site, such as composting or mulching;

   c. Self-hauls its yard debris to a Metro-authorized facility; or

   d. Uses another BPS-approved method. (A/M)*

3. **Bulky waste.** Bulky waste must be disposed of in a way that ensures compliance with Title 29: Property Maintenance Regulations.

4. **Convenience.** The recycling containers, including mixed recycling, glass, and food scraps, when applicable, at a multifamily complex ~~shall~~ must be placed in a location or locations at least as convenient to tenants as the garbage receptacles, including trash chutes. (B/M)*

5. **Central Collection.** A multifamily complex owner ~~shall~~ must make all reasonable efforts to ensure the provision of central collection containers for all services. If it is not feasible to provide a central collection system for recyclable materials at a multifamily complex, the owner ~~shall~~ must provide a two-sort collection system that utilizes individual recycling roll carts for each tenant. City-approved recycling containers of less than 18-gallon capacity ~~shall~~ will be provided to each tenant for the collection of glass. (A/M)*

6. **Signage.** Collection areas accessed by tenants must have up-to-date BPS-approved signage. (C/M)*

7. **Tenant Education.** Owners of multifamily complexes ~~shall~~ must distribute to all tenants at least once a year information about how to use the onsite collection system. Owners ~~shall~~ must provide new tenants with this information within 30 calendar days of tenant move-in. (C/M)*

8. **Compliance.** In evaluating compliance with the preceding paragraphs, ~~BPS~~ the City Administrator will consider how the inherent limitations of a multifamily site (including space and layout) affect the possibility of providing recycling according to BPS specifications.

9. **Hours of Collection.** Customer ~~shall~~ must not make ~~Solid Waste~~garbage, recycl~~able~~ingable, or compost~~able Material~~ collections at multifamily accounts between 10 p.m. and 6 a.m., unless early morning collections are needed ~~for~~ to address safety concerns. The customer must apply ~~with~~ to BPS to be approved for early collection services before 6 a.m.~~am. BPS~~ The City Administrator ~~staff~~ will evaluate the request with the customer and permittee to determine if the early morning request is warranted. This restriction does not apply where the multifamily use is part of a mixed-use building, where other commercial accounts are being served. (D/D)*

E. Construction, demolition, and deconstruction projects~~ RECYCLING AT BUILDING PROJECTS~~

1. Contractors are allowed to self-haul construction and demolition waste with their~~ier~~ own equipment. However, if a contractor does not self-haul such waste, then the contractor may only use a commercial solid waste permittee with a current valid City permit to collect or transport the waste, which will be subject to all applicable waste hauling fees (A/I)*

~~1.~~2. When~~re~~ a ~~building~~ construction project is valued at $50,000 or more, including both construction and demolition phases, the ~~general~~ contractor is required to ensure that at least 75% of the materials produced on the job site are recycled. ~~Where~~If no ~~general~~ contractor is named on an affected building permit, then this requirement is applicable to the property owner.

~~2.~~3. Every ~~general~~ contractor for a ~~building~~ construction project having a value of $50,000 or more (including both demolition and construction phases) ~~shall~~ must complete a City-provided Recycling Plan Form. On these forms the construction site ~~general~~ contractor ~~shall~~ must list or check off the materials to be recycled at an address and ~~shall~~must identify the type of collector for those materials. When~~re~~ there is an affected ~~building~~ construction project and no ~~general~~ contractor is named, then this requirement is applicable to the property owner. These forms must be returned to BPS at the address on the form.

~~3.~~4. For ~~building~~ construction projects having a total value of less than $50,000, every contractor is asked to commit to recycle in the maximum amount possible on the project. When~~re~~ a ~~building~~ construction project

is valued at $50,000 or more, including construction and demolition phases, the ~~general~~ contractor is required to recycle all the following materials generated at the site:

a. Wood;

b. Corrugated cardboard;

c. Metal;

d. Rubble (brick/masonry/concrete/asphalt); and

e. ~~and~~ Land clearing debris.

~~4.~~5. At construction sites, recyclable materials may be mixed with non-putrescible waste only if the materials are taken for post-collection sorting at a facility that reports to Metro. For an affected ~~building~~ construction project where there is no ~~general~~ contractor named on the building permit, then this requirement applies to the property owner. Failure of the general contractor or affected property owner to recycle these materials listed on the applicable recycling plan form is considered an infraction subject to an assessment. (A/M)*

~~5.~~6. The ~~general~~ contractor or property owner ~~shall~~ must ensure the provision of clearly marked recycling containers and storage space for the amount of each recyclable material that accumulates between collections.

F. Business container storage space requirements

1. **Authority:** These rules establish ~~standards for~~ space requirements for storage of containers of ~~Solid Waste~~garbage, recycling or compost~~ables~~ in new construction and when major alterations are made to existing buildings.

2. **Applicability:** During the application of a building or site development permit for the new construction or major alteration of a building(s) on commercial properties, the following prescriptive method ~~shall~~ must be used to ensure adequate storage is available on site and out of the public right~~-~~of~~-~~way for garbage, recycl~~ing, ables~~ and compost~~ables~~. The standards do not supersede additional requirements of any local, state, or federal authority~~,~~ including other City ~~of Portland~~ rules and regulations. All building plans submitted for review ~~shall~~ must illustrate and note where the containers will be stored on the commercial property. If an existing building undergoing a major alteration cannot meet the prescriptive size requirements because of zoning, property constraints, or other regulations, the applicant may request approval of an alternate minimum size through the technical review process, outlined in the current edition of the Stormwater Management Manual.

3. **Prescriptive Method:** The following ~~table~~ specifications ~~is~~ are a minimum prescriptive standard for new construction or major alteration of a building(s) on a commercial property. A standard garbage and recycling storage area or enclosure should include space for garbage, mixed recycling, glass, and food waste collection, when applicable. For mixed-use buildings, the minimum storage area ~~shall~~ must be the sum of the requirements for each occupancy type in the building. The storage area may be combined into one space or separated into smaller storage areas. Each storage area ~~shall~~ must comply with all other City ~~of Portland or~~ and other applicable requirements. Additional requirements must be met to adhere to standards through the Bureau of Environmental Services (BES), Portland Permitting and Development (PPD), and Portland Bureau of Transportation (PBOT). These are minimum requirements.

   Minimum Storage Area Specifications~~Table~~
   Minimum Storage Area for garbage, recycling and food waste containers on commercial properties (square

feet). Storage area based on the Oregon Structural Specialty Code's current occupant load table factors. Minimum storage areas need to incorporate the minimum service level requirements detailed in ~~s~~Section D1.

a. Non-food Occupancies and Food Occupancies

Occupant Load	Non-food Occupancies	Food Occupancies
1-59	1.3 sq. ft. per occupant	100 sq. ft.
60-124	1.2 sq. ft. per occupant	1.7 sq. ft. per occupant
125-199	150 sq. ft.	200 sq. ft.
200-349	150 sq. ft.	250 sq. ft.
350-500	200 sq. ft.	300 sq. ft.

b. Multifamily (more than four units): Properties containing more than four units that house occupants overnight for sleeping purposes ~~shall~~must use a minimum of 7 sq. ft. per sleeping unit. Recycling containers at a multifamily complex ~~shall~~must be placed in a location or locations at least as convenient to tenants as the garbage receptacles, including trash chutes.

c. Education: Elementary ~~S~~schools use 150 sq. ft. min.~~,~~; ~~M~~middle ~~S~~schools use 200 sq. ft. min.~~,~~; ~~H~~high ~~S~~schools use 235 sq. ft. min.

d. All properties that exceed 500 occupants require a letter or plans stamped by a design professional registered in the State of Oregon determining anticipated garbage, recycling, and food waste consumption and area needed on property for collection. Plans ~~shall~~must include required area.

e. Detached container enclosures/areas ~~shall~~must be sized based on the type of occupancies and occupant loads of the building(s) using the containers.

f. Grease/oil waste by food occupancies is considered a ~~R~~recyclable and is accounted for in the food occupancy size factors.

~~Occupant Load~~	~~Non-food Occupancies~~	~~Food Occupancies~~	~~Multifamily (more than 4 unit)~~	~~Education~~
~~1-59~~	~~1.3 sq. ft. per occupant~~	~~100 sq. ft.~~	~~Properties containing more than 4 units that house occupants overnight for sleeping purposes shall use a minimum of 7 sq. ft. per sleeping unit. Recycling containers at a multifamily complex shall be placed in a location or locations at~~	~~a. Elementary Schools use 150 sq. ft. min.~~
~~60-124~~	~~1.2 sq. ft. per occupant~~	~~1.7 sq. ft. per occupant~~		
~~125-199~~	~~150 sq. ft.~~	~~200 sq. ft.~~		~~b. Middle Schools use 200 sq. ft. min.~~
~~200-349~~	~~150 sq. ft.~~	~~250 sq. ft.~~		

350-500	200 sq. ft.	300 sq. ft.	least as convenient to tenants as the garbage receptacles, including trash chutes.	c. High Schools use 235 sq. ft. min.
501+	All properties that exceed 500 occupants require a letter or plans stamped by a design professional registered in the State of Oregon determining anticipated garbage, recycling and food waste consumption and area needed on property for collection. Plans shall include required area.			

a. Detached container enclosures/areas shall be sized based on the type of occupancies and occupant loads of the building(s) using the containers.

b. Grease/oil waste by food occupancies is considered a recyclable and is accounted for in the food occupancy size factors.

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G. Other

1. **Customer and generator rResponsibilitiesy.**

   a. Customers are responsible for providing adequate and safe collection space and access for containers. (D/M)*

   b. Generators are responsible for placing infectious wastes in appropriate containers. Generators should not place these items into containers for collection with Solid Wastegarbage, compostables, or recyclingables, or compost. (B/I)*

   c. Generators are responsible for ensuring mixedsource-separated recycling, yard debris, and food scraps are is properly prepared and free of contamination. If applicable, Food Scraps generators are responsible for ensuring source-separated yard debris and/or food scraps are properly prepared and free of contamination. (DD/IM)*

2. **Misrepresentation**

   a. The customer must and Food Scraps shall not represent to tenants or employees that placing recyclables into any Solid Wastegarbage container is an acceptable method of handling recyclables or provide any information that is contrary to the requirements of Part 4.45.2 (Customer and Generator Requirements), except for mixed dry waste at construction/demolition sites, as listed above. (B/M)*

   b. The customer and Food Scraps shallmust not represent that materials collected as recyclables are being recovered if the customer or Food Scraps knows that the material is not actually being recovered. This applies whether the material in question is listed in these administrative rules as a recyclable that permittees are required to collect. (B/M)*

   c. Misrepresentation of the proper separation or actual disposition of recyclables is a failure to comply with this rule. (B/M)*

3. **Graffiti.** Their Owners shall maintain containers and carts so as to be free of graffiti. Within ten days of receipt of notice from the City's Graffiti Abatement Program of any container with graffiti, the entity owning the container shall remove the graffiti or give the City Graffiti Abatement Program manager written permission to do the graffiti removal. Permittees and independent recyclers are allowed to charge the

~~Owner of the container or cart for the cost of replacing or cleaning the container or cart. (D/M, per container)~~

~~4.~~3. **Containers provided by BPS.** Recycling containers provided by BPS are to be serviced directly by the permittee and should not be used by the customer to transport recyclable materials to a container serviced by the permittee. Compost~~able~~ containers provided by BPS may be used by the customer or covered food scraps generating business to transport compost~~able materials~~ to a container serviced by the permittee. BPS does not provide permittees, customers, or covered food scraps generating businesses any containers for collecting or storing yard debris or ~~solid waste~~garbage. (D/M, per container)*

H. City inspection

1. In evaluating whether a customer or covered food scraps generating business is in compliance with the above provisions, BPS may conduct an inspection of the premises and ~~consider~~evaluate:
    a. The presence, location, and capacity of ~~Solid Waste~~garbage, recycling, and compostables collection containers.
    b. The presence and quantities of recyclables in recycling containers, compost~~ables~~ in compostables containers, or either in ~~Solid Waste~~garbage containers
    c. The presence of contamination in recycling and compost~~ing~~ containers.
    d. The presence of signs, flyers, container labels, and other information ~~which~~ that promotes recycling and composting.
    e. Discussion with employees, tenants, managers and owners, janitorial service providers, permittees, and independent commercial recyclers.
    f. Other evidence as necessary to assess compliance.
2. Such inspections are only for purposes of providing assistance with and enforcement of ~~Solid Waste~~garbage, recycling, and compost~~ables~~ collection regulations.

5.3A Business compliance and enforcement: customers, generators, and self-haulers

A. Violations of City Code

For the purposes of compliance and enforcement, violations of City Code will be addressed in the same manner as violations of these ~~R~~rules. Penalties for violations of City Code will be made in accordance with City Code Section 17.102.090.

B. Standard of proof

Occurrence of an alleged violation must be demonstrated by a "preponderance of the evidence."

C. Investigation of alleged violation

1. **Compliance verification.** To ensure compliance with these rules by businesses and multifamily complexes, BPS may ask a permittee to verify services provided to the customer to determine whether the recycling

and/or compost systems required by code or these rules are in place and being used on the customer's property.

2. **Basis for initiating an investigation**. BPS may initiate an investigation of an alleged violation based on staff observations or a complaint received by BPS. BPS will maintain the confidentiality of complainants to the greatest extent possible.

3. **Investigation of alleged violation**. BPS will investigate each alleged violation and may contact any known complainant, witness, or the alleged offender(s) before deciding whether there is sufficient evidence of a potential violation. BPS may visit a premises to verify whether the required recycling and compost collection system is in place and being used. BPS will not issue a notice of alleged violation without contacting the affected business, multifamily complex, or construction site contractor or property owner.

4. **Assignment of responsibility**. If BPS determines that a customer has set up a satisfactory recycling and/or compost collection system but that the system is not being used by generators who use the customer's waste disposal system, BPS will pursue the noncompliance of the generators, not the customer. (In this situation, the generators would normally be the tenants in a commercial building, and the customer would be the owner or property manager. See Definitions.)

5. **Waiver**. Except for the food scraps collection waiver, a renewable six (6) month waiver of the business or multifamily solid waste disposal requirements is available upon request. Before the extension is granted, the business or property manager or owner must submit in writing an explanation of:

    a. Why the City's suggested solutions do not work for the business; and

    b. A plan on how they will be in compliance at the end of the extension.

D. Notice of alleged violation

1. **Notice of alleged violation**. If, after its investigation, BPS has reason to believe that there is a violation, BPS will notify the business, multifamily complex, or construction site contractor or property owner of the alleged violation. The notice will give the business, multifamily complex, or construction site contractor or property owner an assistance period of at least 30 days from the date of the notice of alleged violation to achieve compliance. During this period, BPS staff will offer assistance in setting up a satisfactory recycling and/or food scrap collection system and achieving participation.

2. **Opportunity to respond**. In addition to and concurrent with the assistance period described in Subsection D.1 above, the alleged offender will be given 10 days from the date of mailed notice of the alleged violations to provide BPS with a written explanation of the pertinent events and circumstances relative to the alleged violation. BPS will use this information to determine if a violation has occurred. The alleged offender can request additional time to respond, up to 4 days, for reasonable cause.

E. Finding of no violation

Within 30 days of a BPS determination that no violation has occurred, BPS will notify the alleged offender in writing of such determination.

F. Notice of violation

1. **Form and delivery of notice**. If BPS determines that a violation has occurred, the BPS Director or the Director's designee will deliver a written notice of violation to the alleged offender, specifying the violation and the findings that support the violation and stating the penalty amount and deadline for payment. This notice will also include information on the procedure for requesting a hearing to appeal the determination.
2. **Timeline for notice of violation**. BPS will issue the notice of the violation in a timely manner dependent on the length and complexity of the investigation.
3. **Accumulation of violations**. A notice of violation may be issued for each section of these rules that is violated and for each day or instance when the violation occurs. More than one violation, involving different sections of these rules, may be accrued simultaneously.

G. Payment of penalty or appeal

1. **Payment of penalty or appeal**. The alleged offender must, within 10 days of BPS' issuance of the written notice of violation and penalty, pay to BPS the stated penalty or request an appeal hearing by the Code Hearings Officer as set forth in Section H.4. below. (D/I)
2. **Payment required upon failed appeal**. If the Code Hearings Officer sustains the finding of violation and penalty, payment of the penalty must be received by BPS or postmarked within 15 days after the decision becomes final. (D/I)*
3. **Interest on penalty**. A penalty that is not paid within the time provided in these rules will accrue interest at a rate consistent with the City's established accounting practices.
4. **Legal action by the City**. The City may take legal action to collect any penalties that are not paid when due.

H. Penalties

1. **Violation classifications**. Each rule is given a violation notation consisting of 2 letters, such as (A/I).
    a. **First letter**. The first letter represents the level of penalties as show on the chart below.
    b. **Second letter**. The second letter reflects the classification of the standard, and whether a violation will be on a "per day," "per incident," or "per month" basis. "I" means per incident; "D" means per day; and "M" means per month. For example, an (A/I) designation means that a $500 assessment would be applied for the first single "incident" within a 365-day period but would increase to $1500 for the third or subsequent incident within that same period.
2. **Penalty fee and frequency**. A violation of these rules will result in a penalty being assessed in accordance with the following:
    a. **Fee amounts**

Category	First violation	Second violation	Third/subsequent violations
A	$500	$1000	$1500

B	$400	$800	$1200
C	$300	$600	$900
D	$200	$400	$600

b. **Penalty frequency**:

i. "Per day" means a designation given to a classification of a specific section of these rules regulating activity where a single violation consists of the failure to comply with that section of these rules any number of times during a single day.

ii. "Per month" means a designation given to a classification of a specific section of these rules regulating activity where a single violation consists of the failure to comply with that section of these rules any number of times during a single month.

iii. "Per incident" means a designation given to a classification of these rules regulating activity where a single violation consists of the failure to comply with that section of these rules on an individual act, occurrence, or customer basis.

c. **Criteria for determining assessment.** The City Administrator will consider the following criteria in determining the amount of assessments to be imposed under this Section:

i. The nature and extent of the person's involvement in the violation;

ii. Whether the person was seeking any benefits, economic or otherwise, through the violation;

iii. Whether the violation was isolated and temporary, or repeated and continuous;

iv. The length of time from any prior violations;

v. The magnitude and seriousness of the violation;

vi. The costs of investigation and remedying the violation;

vii. Whether any criminal prosecutions have occurred in regard to the violation; and

viii. Other relevant applicable evidence bearing on the nature and seriousness of the violation.

3. **Subsequent violations of the same section.** The incremental increases in violation assessments will apply to subsequent violations of the same section of these rules. The amount of the assessment for a violation will be determined by totaling the number of violations of the same section of these rules that have occurred since the previous violation(s).

4. **Right of appeal**. Any person receiving a notice of violation and penalty must, within 10 days of issuance of the notice either pay to the City the stated amount of the penalty or request an appeal hearing by the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10 of the City Code. The filing of an appeal request will stay the effective date of the penalty until the Code Hearings Officer

renders a determination on the appeal. If the Code Hearings Officers orders payment of the penalty, payment must be received by the Director or postmarked within 15 days after the ~~ruling~~order is final.

I. Delivery of notices

Any notice provided for under these rules will be sufficient if in writing and accomplished by any of the following means: (1) delivered personally to the entity being notified or (2) deposited in the United States mail, first class, postage prepaid. Any such notice, communication, or delivery will be deemed effective and delivered upon the earliest to occur of either: (1) actual personal delivery to the entity's office address, during normal business hours or (2) 5 business days after depositing in the United States mail as aforesaid.

~~**A. INITIAL INQUIRY**~~

~~1. Compliance verification. To ensure compliance with these rules by Businesses and Multifamily complexes, the City Administrator may ask a Permittee to verify services provided to the Customer to determine whether the require Recycling and/or Compostables systems required by code or these rules are in place and being used on the Customer's property. The City Administrator may initiate an inquiry on their own or upon receiving a complaint.~~

~~2. Inspection of Premises. The City Administrator may visit a premise to verify whether the required Recycling and Compostables Collection system is in place and being used. The City Administrator will not issue a Notice of Potential Noncompliance without contacting the affected Business, Multifamily complex, or construction site general contractor or property Owner. Refusal to allow entry shall serve as the basis for the Director to apply for and obtain an administrative warrant as provided in City Code Chapter 17.102.~~

~~3. Assignment of Responsibility. Where the City Administrator finds that a Customer has set up a satisfactory Recycling and/or Compostables Collection system but that the system is not being used by a Business who uses the Customer's waste Disposal system, BPS will pursue the noncompliance of the Business(s), not the Customer. (In this situation, the Business(s) would normally be the tenants in a multi-tenant Commercial building, and the Customer would be the Owner or property manager. See Definitions).~~

~~4. Waiver. A one-time, six (6) month waiver of the Business or Multifamily Recycling Requirement will be granted by the City Administrator upon request. Before the extension is granted, the Business or property manager or owner shall submit in writing an explanation to BPS of:~~

~~a. why the City's suggested solutions do not work for the Business, and~~

~~b. a plan on how they will be in compliance at end of extension.~~

~~**B. DELIVERY OF NOTICES.**~~

~~Any notice provided for under these rules is considered sufficient if in writing and accomplished by any of the following means: (1) delivered personally to the alleged offender's advertised Business location; (2) deposited in the United States Mail, first class, postage prepaid, addressed to the alleged offender's advertised Business location, or to its mailing address as found in the County Assessment and Taxation records; (3) sent by commercial courier to the alleged offender's advertised Business location; (4) sent by email to the entity's email address if such has been provided by the entity to BPS. Any such notice, communication or delivery is deemed effective and~~

delivered upon the earliest to occur of either: (1) actual personal delivery to the alleged offender's advertised Business location during normal Business hours; (2) three (3) Business days after depositing in the United States Mail as aforesaid; (3) one (1) Business day after shipment by commercial courier as aforesaid; or (4) the same day as email transmission (or the first Business day thereafter if emailed on a Saturday, Sunday or legal holiday).

C. FOLLOW-UP AFTER INSPECTION OF PREMISES

1. Letter of Potential Noncompliance. If, after investigation, the City Administrator has reason to believe that there is a condition of noncompliance, they will direct BPS to notify the Business, Multifamily complex or construction site general contractor or property Owner of the potential noncompliance.

2. Assistance Period. The letter will give the Business, Multifamily complex, or construction site general contractor or property Owner an assistance period of at least 30 days from the date of the letter to achieve compliance. During this period, BPS staff will offer assistance in setting up a satisfactory Recycling and/or food scrap Collection system and achieving participation.

D. BPS INVESTIGATION OF ALLEGED INFRACTIONS

The City Administrator shall investigate each potential Infraction and may contact any known complainant, witness and the alleged offender before making its determination.

E. FINDING OF NO INFRACTION

Within 30 calendar days of a determination that compliance has been achieved, BPS shall notify the alleged offender of such determination.

F. NOTICE OF ASSESSMENT

1. Form and Delivery of Notice. If, after the assistance period, the City Administrator determines that noncompliance still exists, and an Infraction has occurred, BPS shall deliver a written Notice of Assessment to the offender, specifying the Infraction, the findings that support the Infraction and stating the amount of the Infraction Assessment and deadline for payment. This notice shall also include information on the procedure for requesting a hearing to appeal the determination. Where BPS can demonstrate an attempt to properly deliver the Notice, a refusal by the offender or offender's representative to accept the Notice in person, or failure of offender to accept certified mail, shall not constitute a failure by BPS to fulfill the requirement for the delivery of notice.

2. Accumulation of Infractions. A Notice of Assessment may be issued for each rule and for each instance when the Infraction occurs. More than one Infraction, involving different rules, may be accrued simultaneously.

5.3B Business Compliance and Enforcement: Containers in the Right of Way (CROW)

A. Prohibition on storing containers

No customer or ~~Food Scraps~~ generator will ~~shall~~ cause any container for garbage, ~~compostable or~~ recycl ingable, or compost ~~materials~~ to be stored in the public right-of-way in violation of Portland City Code. Examples of cause may include, but are not limited to, an agreement to store a container on the right-of-way; requesting a container that is larger than any of the entry points to the storage area within the customer's or generator's place of business; or directing employees to store the container in the right-of-way. For the purposes of these rules, storage means leaving containers in the right-of-way for more than 2 hours either before or after collection during normal business hours. If collection occurs after normal business hours, containers may be placed in the right-of-way at the close of business but must be removed from the right of way by the start of the following business day or within 24 hours of set out, whichever occurs first. (D/M, per container) *

B. Follow-up after investigation

1. **Determining the Offender(s).** In its investigation, the City Administrator ~~shall~~ will make a determination regarding responsibility for noncompliance among the business, the property owner, the permittee, and/or the independent commercial recycler. Allocating r~~R~~esponsibility for noncompliance and resulting assessments ~~shall~~ will follow this determination.

2. **Letter of Noncompliance.** If, after its investigation, the City Administrator determines that there is a condition of noncompliance, they will direct BPS to issue a letter of noncompliance to the responsible party(ies). BPS will notify the property owner as identified in the county assessment records as well as any other persons who reasonably appear to have an interest.

   The letter of noncompliance ~~shall~~ will give the responsible party(s) a period of 14~~30~~ days from the date of the letter to achieve compliance. During this time (compliance period), the offender(s) and other interested parties may request assistance from BPS in identifying solutions that remedy the CROW condition.

3. **Extensions of Compliance Period.** The City Administrator may grant an extension beyond the initial 30 days to achieve compliance if the offender(s) has undertaken a good faith effort to come into compliance. The extension period cannot extend beyond 90 days after BPS issues the initial letter of noncompliance.

4. **New service.** For purposes of CROW rules, a service is considered to be a new service if after May 1, 2008, a service is started by a permittee or independent recycler or if any of the garbage, recycling, or compost~~able~~ containers are replaced. If, in its investigation, the City Administrator determines that a permittee or independent recycler has established a new service with a customer and is responsible for placing containers in the right-of-way, the City Administrator may take immediate enforcement action against the responsible permittee or independent recycler, including the issuance of an order to remove the non-compliant container(s).

C. Limited term extreme economic hardship exemption

If the City Administrator determines that the business or property owner is a responsible party for the violation, they are entitled to apply for a limited term extreme economic hardship exemption (exemption).

1. Exemptions, either initial or renewal, will be for a period of one year. Property or business owners may re-apply for one additional exemption at the expiration of the initial granted exemption.

2. **Eligibility for Exemption**

   a. The applicant ~~(Applicant)~~ must be an owner of the business or property that is in violation of CROW requirements and identified as a responsible party for the violation.

b. To apply for an extreme economic hardship, the applicant must: (1) demonstrate that they have considered all reasonable options for correcting the violation; and (2) explain why none is viable. It is at the City Administrator's discretion whether these requirements haves been met.

c. A business / property owner who does not meet both requirements is not eligible to apply for an exemption. The City Administrator shall will take enforcement action at the end of the compliance period.

3. The merits of each application for a hardship exemption will be considered individually.

4. **Initial Application**

a. An application for hardship will be considered when complete. All materials must be received by BPS by the end of the initial 30 day compliance period or, if applicable, by the end of the extended compliance period granted by the City Administrator. Incomplete applications or applications received after the end of the compliance period will not be considered, and the business or property will immediately be considered to be in a state of noncompliance at the end of the compliance period.

b. **Initial Exemption Application Requirements.** Applications for an initial exemption must include all of the following:

i. **Application Fee.** BPS shall will charge a processing fee to all applicants. The fee amount is listed in the fee schedule included in these administrative rules. All application fee payments shall will be final. No payments will be returned, regardless of whether the exemption is approved or disapproved.

ii. **Consideration of all Reasonable Alternatives.** The applicant must submit a list of all actions considered in attempting to comply with the CROW requirement and the specific reason why each is not capable of achieving compliance within the compliance period. Applicant shall must provide documentation of each alternative sufficient for the City Administrator to evaluate its merits. Such documentation may consist of items such as names, dates, and contact information for people consulted to achieve compliance, for example, the owner of a neighboring business who was asked if they would share collection service with the applicant and the reason given for refusal.

iii. Applicant must submit three bids from licensed contractors for construction work that would meet the minimum storage space requirements as shown in Subsection 5.2 F of these Administrative Rrules. Bids must be dated no more than 60 days prior to the submission of the application.

iv. Applicant must submit copies of the previous three years federal tax returns filed by the business or property owner identified by the City Administrator as a responsible party for the violation to document financial hardship.

c. Ruling on Application.

i. Applicant's gross income average (GIA) will be determined by averaging the gross income from the previous 3 years as stated in their federal tax returns submitted to BPS as part of their application materials.

ii. Applicant will be categorized as a "small business" if the business,'s or the applicant's? GIA is less than $680,000.

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iii. Applicant qualifies for an exemption if the lowest bid submitted for meeting the space requirements is:

1. More than 4% of their GIA if they are a "small business" as defined in this section of the rules; or

2. More than 5% of their GIA if they are not a "small business" as defined in this section of the rules.

iv. The City Administrator will issue its determination on the application within 30 calendar days of receipt of completed application.

v. The hardship exemption ~~shall~~ will be for a period of 12 months, effective on the day that the decision is issued by the City Administrator.

vi. If the application is denied, the applicant is considered to be in a state of non- compliance and subject to enforcement actions immediately upon the mailing of the rejection of the application unless the applicant submits a request for an appeal as described in Subsection 5.3B C~~D~~.9~~11~~ of these administrative rules.

5. **Renewal Application**

a. A business or property owner who has a current exemption may apply for one additional exemption that would take effect upon the expiration of the initial one.

b. The application for renewal will be considered when complete. All materials must be received by BPS at least 60 days prior to the expiration of the initial exemption. Incomplete applications or applications received less than 60 days prior to the expiration of the initial exemption will not be considered and the business or property will immediately be considered to be in a state of non-compliance at the end of the initial exemption.

c. **Renewal Exemption Application Requirements.** Applications for a renewal exemption must include all of the following:

i. **Application Fee.** BPS ~~shall~~ will charge a processing fee to all applicants. The fee amount is listed in the fee schedule included in these ~~administrative~~ rules. Payment of the application fee is final, regardless of the final determination upon the application.

ii. **Progress Summary.** The applicant must submit a list of all actions taken in an attempt to comply with the CROW rules since the time their initial exemption was granted, including the specific reason why applicant was unable to achieve compliance within the initial exemption period.

iii. Applicant must submit three bids from licensed contractors for construction work that would meet the minimum storage area for garbage, recycling, and food waste containers as determined in Subsection 5.2.~~-~~F of ~~BPS's Business Solid Waste, Recycling and Compostables Administrative Rules~~these ~~administrative~~ rules. Bids must be dated no more than 60 days prior to the submission of the application.

iv. Applicant must submit copies of the previous three years federal tax returns filed by the business or property owner identified by the City Administrator as a responsible party for the violation to document financial hardship.

d. Upon receipt of a complete application package, the City Administrator ~~shall~~ will schedule a public hearing and will mail a notice of the applicant's request, including the time, date, and location of the hearing, to the recognized organization(s) in which the property is located, to self-identified interested parties, and to all organizations recognized by the City's Office of Community and Civic Life that are within 400 feet of the property.

e. **Ruling on Application.**

i. Applicant's gross income average (GIA) will be determined by averaging the gross income from the previous 3 years as stated in the federal tax returns submitted to BPS as part of the application materials.

ii. Applicant will be categorized as a "small business" if their GIA is less than $680,000.

iii. Applicant qualifies for an exemption if the lowest qualified bid submitted for meeting the space requirements is:

1. More than 6% of their GIA if they are a "small business" as defined in this section of the rules; or

2. More than 7% of their GIA if they are not a "small business" as defined in this section of the rules.

iv. The City Administrator will issue a written determination within 30 calendar days of the public hearing. BPS will mail notice of the decision to the recognized organization(s) in which the property is located, to all recognized organizations within 400 feet of the property and to any person who submitted comments at the public hearing or in writing prior to the hearing.

v. Exemptions will be limited to 12 months, starting on the day that the initial exemption is granted, and expiring one year later.

vi. If the application is denied, the property is considered to be in a state of non- compliance and subject to enforcement actions immediately upon the expiration of the initial exemption unless the applicant submits a request for an appeal as described in Subsection 5.3.B.C.~~11~~9 of these ~~administrative~~ rules.

f. A business or property owner is eligible for no more than one renewal exemption. At the expiration of a renewal exemption, the property will be in a state of noncompliance and subject to immediate enforcement action.

6. The City Administrator may confirm the authenticity and/or accuracy of any of the claims or documents in the application process. They may request that the applicant provide additional information or documentation to support the application. They will either approve or deny an exemption based on the materials submitted in the application. They may also refer to other City records, such as any City maintained case history.

7. Exemptions are neither transferable nor assignable. The exemption will terminate immediately, without any action by the City, if there is any transfer of ownership of the business or change in location.

8. **Revocation of Exemption.** The City Administrator may conduct a review at any point during the exemption period and may request updated information from the applicant. The City Administrator may revoke any

exemption if they subsequently determine that the applicant provided inaccurate information in support of the application.

a. It is the responsibility of the applicant to inform BPS if the tax returns submitted in their application to document hardship are amended in a way that changes the gross income such that the GIA exceeds the threshold.

b. Changes to construction bids or new construction bids will not be considered after submission of completed application package.

c. If the City Administrator revokes an exemption for just cause, the property will be considered to be in a state of non-compliance and subject to immediate enforcement actions.

9. **Appeal Process**

a. Any person filing an appeal, whether for decision on an initial exemption or a renewal, must do so in accordance with procedures set forth in Title 22 of the City Code except for variances as described in these ~~administrative~~ rules.

b. **Initial Exemption.** An applicant for an initial exemption may appeal the denial of an exemption to the Code Hearings Office in accordance with the procedures set out in Chapter 22 of the Portland City Code. The appeal must be submitted to BPS within ten (10) ~~B~~business days of the day the notice of decision is mailed.

c. **Renewal Exemption.** An applicant for an exemption renewal, or the neighborhood association where the Business property is located, may appeal the City Administrator's decision to the Code Hearings Office. The appeal must be submitted to BPS within ten (10) Business days of the day the notice of decision is mailed.

d. **Appeal Fee.** If the applicant requests an appeal to the Code Hearings Office, they must include payment of the appeal fee, as stated in Subsection 5.3.~~B~~B.C.~~11.~~j9 of these ~~administrative~~ rules, along with their written request for a hearing to BPS. Failure to submit a written request or the appeal fee within ten (10) business days of the day the notice of decision is mailed is jurisdictional and the appeal ~~shall~~ will be dismissed.

e. **Refund of Appeal Fee.** If the Code Hearings Officer rules in favor of the applicant, BPS will refund the appeal fee within 45 days of the issuance of the Hearings Officer's Order.

f. The filing of an appeal will stay any enforcement action of the CROW requirements against the property until the appeal is determined by the Code Hearings Officer. The Code Hearings Officer will consider only the issues raised and documentation submitted by the appellant in their written appeal.

~~g. If, pursuant to the said appeal hearing, the denial, suspension, or revocation is sustained by the Code Hearings Officer, the permittee servicing the property shall cease all collection of Solid Waste and/or recyclables and/or compostables in Portland no later than 15 calendar days after the order becomes final unless the Code Hearings Officer decision is appealed to circuit court by writ of review. If a denial, suspension or revocation decision is appealed to the state courts and is upheld, permittee shall cease all collection of Solid Waste and/or recyclables and/or compostables in Portland no later than 15 calendar days after final resolution of the judicial proceedings.~~

~~h.~~g. If the Code Hearings Officer overturns the City Administrator's denial of an exemption, the business or property owner will be granted a one-year exemption. The exemption begins on the effective

date of the Hearings Officer's decision if the application is for an initial exemption, or on the day following the expiration of the current exemption if the application is for a renewal.

~~i.~~h. If the Code Hearings Officer overturns the City Administrator's granting of a renewal exemption, the applicant is considered to be in a state of non-compliance and subject to enforcement actions immediately upon the expiration of the initial exemption.

~~j.~~i. Economic Hardship Fee Schedule. BPS may assess the following fees for the administration of the CROW Limited Term Extreme Economic Hardship Exemption program:

Description	Fee Amount
Application for Exemption (initial or renewal) – nonrefundable	$250
Appeal of Denial for Exemption to Code Hearings Officer – refundable if Code Hearings Officer decides in favor of appellant	$500

D. Notice of assessment

Form and Delivery of Notice. If, after the compliance period, it is determined that noncompliance still exists, and an infraction has occurred, the City Administrator may direct BPS to deliver a written notice of assessment to the offender, specifying the infraction, the findings that support the infraction and stating the amount of the infraction assessment and deadline for payment. This notice ~~shall~~ will also include information on the procedure for requesting a hearing to appeal the determination. Notice of infraction is considered effective as of the mailing date by certified mail.

E. Order to remove containers

If, after the compliance period or any other stays of enforcement, such as pending a decision after appealing to the Code Hearings Officer, it is determined that noncompliance still exists and an infraction has occurred, the Director may deliver a written notice to the business / property owner and any and all contracted permitted haulers, independent commercial recyclers or other owners or service providers of containers violating CROW rules ordering the removal of the non-compliant container(s) within ten (10) ~~B~~business days. Failure to comply is a violation of the ~~City's Commercial Solid Waste, Recycling and Compostables Administrative Rules~~se rules.

~~Part 5.3C Business Compliance and Enforcement: Common Aspects~~

~~A. STANDARD FOR MAKING DETERMINATION OF INFRACTION~~

~~In determining whether an infraction has occurred, the City Administrator shall evaluate the totality of the circumstances related to the infraction.~~

~~B. PAYMENT OF INFRACTION ASSESSMENTS~~

~~1. Payment of Assessments Required or Appeal. The alleged offender shall, within ten (10) Business days of BPS issuance of the written notice of Assessment, pay to BPS the stated civil penalty or request an appeal hearing~~

by a Code Hearings Officer as set forth in Portland City Code Title 22.

2. Appeal Fee. The appellant may be assessed a fee of up to$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.

a. Refund of Appeal Fee. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

3. 15-Day Payment Required Upon Failed Appeal. If, pursuant to said appeal hearing, an Infraction Assessment is ordered, payment of said Assessment must be received by BPS or postmarked within 15 calendar days after the order becomes final. (D/I)

4. Interest on Assessment. An Assessment which is not paid within the time provided shall accrue interest at the rate set by the Council until paid.

5. City May Take Legal Action to Collect Assessments. The City Administrator make take legal action to collect Assessments, which are not paid when due.

C. INFRACTION CATEGORIES AND ASSESSMENTS

1. Infraction Classifications. Each violation of a rule for which an infraction is assigned is given a dollar amount which reflects the City Administrator's evaluation of both the seriousness of the matter and the frequency with which the violation is committed. The lowest amount, $200, is assigned to the first occurrence of the least serious infraction while the highest amount, $1500, is assigned to the most serious infraction on the third or subsequent occurrence. Each infraction notation consists of two letters, such as (A/I) which reflect the seriousness of the infraction.

a. First Letter. The first letter represents the level of Assessment as show on the chart below. These range from category A-D, with category A representing the most serious and category D representing the least serious infractions.

b. Second Letter. The second letter reflects the classification of the standard, which is whether an infraction will be on a "Per Incident," "Per Day" or "Per Month" basis (see Definitions). The following abbreviations apply:

"I" means on a Per Incident basis; "D" means on a Per Day basis; "M" means on a Per Month basis, and

For example, an (A/I) designation means that a $500 Assessment (as shown under category A on the chart below) would be applied for the first single "incident" within a 365-day period but would increase to $1500 for the third or subsequent incident within that same period.

2. Infraction Assessment Schedule. An infraction according to these rules shall result in an Infraction Assessment in accordance with the following schedule:

Category	First Infraction	Second Infraction	Third and Subsequent Infractions

A	$500	$1000	$1500
B	$400	$800	$1200
C	$300	$600	$900
D	$200	$400	$600

~~The Assessment amounts shown throughout these rules are for the first infraction of a givensubsequent infractions, as shown above. The total Assessment will be the sumamounts. For example, three separate infractions of the same rule with an Assescategory of "B" above will result in a total Assessment of $400 + $800 + $1200 = $2400.~~

The ~~Director~~ City Administrator ~~has the discretion to adjust the assessment amount when considering the following criteria:~~ will consider the following criteria in determining the amount of assessments to be imposed under this Section:

1. The nature and extent of the person's involvement in the violation;
2. Whether the person was seeking any benefits, economic or otherwise, through the violation;
3. Whether the violation was isolated and temporary, or repeated and continuous;
4. The length of time from any prior violations;
5. The magnitude and seriousness of the violation;
6. The costs of investigation and remedying the violation;
7. Whether any criminal prosecutions have occurred in regard to the violations; and
8. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.