

1 [Waiver process for garbage receptacle enclosure requirements on residential property.]

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3 **Ordinance amending San Francisco Public Works Code Section 170 concerning**
4 **garbage receptacles to authorize a waiver process to the enclosure requirements for**
5 **residential properties.**

6 Note: Additions are *single-underline italics Times New Roman*;
7 deletions are *strikethrough italics Times New Roman*.
8 Board amendment additions are double underlined.
9 Board amendment deletions are ~~strikethrough normal~~.

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Be it ordained by the People of the City and County of San Francisco:

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11 Section 1. Environmental Findings. The Planning Department has determined that the
12 actions contemplated in this Ordinance are in compliance with the California Environmental
13 Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is
14 on file with the Clerk of the Board of Supervisors in File No. and is incorporated herein
15 by reference.

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16 Section 2. The San Francisco Public Works Code is hereby amended by amending
17 Section 170, to read as follows:

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18 SEC. 170. GARBAGE RECEPTACLES.

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19 (a) Garbage Receptacles Prohibited on Sidewalk, Street, or Any Public Right-of-Way.

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20 Except as otherwise provided in Sections 170.1 and 173, Chapter X, Part II, San Francisco
21 Municipal Code (Public Works Code), no person, firm or corporation occupying or having
22 charge or control of any premises shall place or cause to be placed, or suffer to remain, upon
23 the sidewalk, street or any other dedicated public right-of-way, any can, container or
24 receptacle used for the collection of garbage, refuse, ashes, cinder, sludge, offal, broken
25 glass, crockery, tins, boxes, animal or vegetable matter, rubbish or other like matter, recycling,

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1 or green waste, except on the day the contents of said receptacle are to be collected by the
2 licensed collector thereof or after the hour of 6:00 p.m. of the day immediately prior to the day
3 of said collection.

4 (1) Any person, firm, or corporation occupying or having charge of any commercial
5 premises shall remove any such receptacle from the sidewalk, street, or other dedicated
6 public right-of-way immediately after the contents of said receptacle have been collected or
7 immediately upon opening said premises for business on the day of said collection.

8 (2) Any person, firm, or corporation occupying or having charge of any residential
9 premises shall remove any such receptacles from the sidewalk, street or other dedicated
10 public right-of-way within twenty-four hours after ~~placing said receptacles out for collection and~~
11 ~~after~~ the contents of ~~the~~ said receptacle~~s~~ have been collected.

12 (3) Said receptacles shall be returned to an enclosed area or other area that blocks
13 views of the receptacles from the public right-of-way. Under no circumstances are said
14 receptacles to be stored in plain sight of the public when viewed from any public right-of-way,
15 unless said receptacles have been placed out for collection or a waiver has been granted
16 pursuant to Section 170(a)(4).

17 (4) Waiver for residential property. Within 30 days of receiving the first notification of
18 violation of Subsection (a), an owner of residential property may make a written request for a waiver of
19 the enclosure requirements. The request shall state the basis for the waiver and may include any
20 additional information, such as photographs, that the owner believes would support the waiver. Such
21 waiver shall be granted automatically, unless the Director of Public Works or the Director's designee,
22 in his or her discretion, provides a written decision rejecting the waiver pursuant to this Section. The
23 Director's decision to reject a waiver is final and may be reached only when the Director has
24 determined that the subject residential property has a reasonably accessible storage area that meets
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1 the requirements of this Section. Such decision also shall account for any physical impairment that a
2 residential owner may have which restricts the resident's ability to move a receptacle from the
3 sidewalk, street, or any public right-of-way to any storage area within the residential property.

4 (A) The Director shall maintain a list of all residential properties that have received waivers or
5 where a waiver request was rejected.

6 (B) No waiver is available for commercial properties.

7 (5) In addition to the requirements set forth in this Section, the Director, after a public
8 hearing, may adopt such orders, policies, regulations, rules, or standard plans and
9 specifications as he or she deems necessary in order to preserve and maintain the public
10 health, safety, welfare, and convenience.

11 (b) The Director of Public Works, in issue any written notice to abolish, abate and
12 remove a nuisance under Section 174.1 of this Article, may direct any person, firm or
13 corporation occupying or having charge of any commercial premises, to securely lock every
14 can, container or receptacle placed for collection pursuant to Section 170(a) on any area open
15 to the public, to prevent access to the contents thereof by any person other than the licensed
16 refuse collector. Any such written notice shall by issued as set forth in Section 174.1.

17 (c) ~~Each violation of Subsection (a) shall constitute an infraction and shall be punishable by a~~
18 ~~fine of not less than \$80.00 nor more than \$100.00; for a second offense by a fine not less than \$150.00~~
19 ~~nor more than \$200.00; and for each additional offense by a fine not less than \$250.00 nor more than~~
20 ~~\$500.00. In the alternative, an administrative penalty not to exceed \$250.00 may be assessed for each~~
21 ~~violation. Such penalty~~ Penalties for violation of Subsection (a) shall be assessed, enforced,
22 notified and collected in accordance with Section 39-1 of the Police Code, as follows:-

23 (1) First violation shall incur a fine of \$100.00; provided, however, that in the case of
24 residential property, payment shall not be due until 60 days have elapsed from the date of first
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1 notification, during which time a residential owner will be permitted to apply for an automatic waiver
2 of the requirements of Subsection (a);

3 (A) Should a waiver be granted pursuant to Subsection (a)(4), the fine amount shall be
4 automatically excused.

5 (2) Second violation shall be a fine of \$150.00;

6 (3) Third and subsequent violations shall be a fine of \$500.00.

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8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

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11 By: _____
12 John D. Malamut
13 Deputy City Attorney

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