

**REVISED LEGISLATIVE DIGEST**

(Amended in Board, 12/4/2018)

[Environment Code - Refuse Separation Compliance]

**Ordinance amending the Environment Code to require audits every three years of large refuse generators for compliance with refuse separation requirements; to establish enforcement measures applicable to large refuse generators found noncompliant; and affirming the Planning Department's determination under the California Environmental Quality Act.**

Existing Law

Chapter 19 of the Environment Code requires source separation of refuse into recyclables, compostables, and trash, and mandates subscription to refuse collection service. Chapter 19 sets forth requirements for owners or managers of multifamily and commercial buildings, and food vendors and events, to provide their tenants, employees, contractors, and/or customers with access to refuse containers and training on source separation. It also sets forth standards for refuse collectors, transfer stations, and processing facilities related to tagging refuse containers of noncompliant customers, and delivery and acceptance of refuse materials. Chapter 19 provides for inspections, administrative enforcement, and issuance of administrative penalties by various Departments for noncompliance. It incorporates Administrative Code Section 100, governing the imposition, enforcement, and appeal of administrative citations, in its entirety, except as otherwise provided in Chapter 19.

Amendments to Current Law

This ordinance would establish additional refuse separation compliance and enforcement measures applicable to large refuse generators and administered by the Director of the Department of Environment and his or her designees. Large refuse generators are defined as property refuse account holders and City-owned and operated facilities in the City that have roll-off compactor service, or generate 40 cubic yards or more of refuse per week. Large refuse generators would be subject to visual inspection audits of their refuse not less than every three years. The Director of the Department of Environment would issue to those large refuse generators found noncompliant a notice and order to comply.

This ordinance would require such noncompliant large refuse generators to appoint or otherwise engage staff or contractors whose exclusive function is to serve as zero waste facilitators, for a minimum of 24 consecutive months, upon receiving a Director's notice and order. A zero waste facilitator is a person serving exclusively in the capacity to manage refuse material sorting and movement. After 24 consecutive months of compliance with the Director's notice and order, a large refuse generator would be subject to a follow-up audit. A finding of compliance at this audit would result in a Director's order lifting the prior notice and

order, while failure of a compliance audit could result in additional mandated remedial steps and/or imposition of administrative penalties.

Notwithstanding the 24-month minimum requirement for engagement of zero waste facilitator(s), a large refuse generator who has engaged zero waste facilitator(s) for 12 consecutive months and taken all other ordered remedial steps may request a compliance audit from the Department of Environment at its own expense. Under this ordinance, the Director of the Department of Environment would have authority to impose, and hold in abeyance at his or her lawful discretion, administrative penalties at a maximum of \$1000 per violation of each aspect of a Director's order. Each day of continued noncompliance may constitute a separate violation.

For large refuse generators that are 100% affordable housing projects, non-profit food providers such as food banks and food pantries that provide food to indigent people at no cost or subsidized cost, non-profit wholesale food providers, and businesses whose primary source of revenue is the sale of fresh cut flowers, the ordinance would become operative on July 1, 2021.

For all other large refuse generators, the ordinance's operative date would be July 1, 2019.

#### Background

This legislation reflects amendments passed at first reading before the Board of Supervisors on December 4, 2018, the Budget and Finance Committee on November 1, 2018, November 15, 2018, and November 29, 2018, and previously at the Land Use and Transportation Committee on September 17, 2018, to the substitute ordinance introduced at the Board of Supervisors on September 11, 2018. This ordinance was initially introduced at the Board of Supervisors on June 12, 2018.

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