

ORDINANCE NO. 1987-_____

AN ORDINANCE OF THE CITY OF SAN BRUNO ADDING CHAPTER 10.14 TO TITLE 10 OF THE SAN BRUNO MUNICIPAL CODE, ESTABLISHING A PROGRAM FOR THE SEPARATE COLLECTION OF RECYCLABLES FROM THE RESIDENCES, BUSINESSES AND INSTITUTIONS OF THE CITY OF SAN BRUNO

WHEREAS, reduction of the amount of solid waste and the conservation of recyclable materials is an important public concern by reason of the growing problem of solid waste disposal and its impact upon the environment; and

WHEREAS, recycling conserves valuable material resources and energy, promotes greater efficiency in the local economy, and provides employment; and

WHEREAS, recycling will reduce the overall amount of solid waste presently requiring disposal, and thus reduce storage, collection, transportation, and disposal costs; and

WHEREAS, the current Solid Waste Management Plan for the County of San Mateo, Chapter X-(B) designates the local public entities as responsible for implementing programs for initiating and regulating curbside recycling programs; and

WHEREAS, the Solid Waste Management Policy for the State of California of 1979 provides as an objective the creation of local recycling programs throughout the State; and

WHEREAS, Title 7.3 of the California Government Code, "The Solid Waste Management and Resource Recovery Act of 1972" authorizes the establishment of local programs for recovery of recyclable materials; and

WHEREAS, California Assembly Bill 2020, known as the "California Beverage Container Recycling and Litter Reduction Act" encourages the local creation of curbside recycling programs;

The City Council of the City of San Bruno does ordain as follows:

SECTION 1: That Title 10, Chapter 10.14, including Sections 10.14.010 through 10.14.140, is added to the San Bruno Municipal Code to read as follows:

CHAPTER 10.14

RECYCLABLE MATERIALS

Sections:

- 10.14.010 Purpose
- 10.14.020 Definitions
- 10.14.030 Recyclable Materials Disposal--General Requirements
- 10.14.040 Collection Service--Establishment
- 10.14.050 Collection Contract
- 10.14.060 Authorized Recycling Agent--Duties
- 10.14.070 Provisions Declared Minimum Standards
- 10.14.080 Separation of Recyclables and Placement for Removal
- 10.14.090 Receptacle--Specifications
- 10.14.100 Authorized Recycling Agent--Insurance Required
- 10.14.110 Authorized Recycling Agent--Rights Under Contract
- 10.14.120 Authorized Recycling Agent--Receipt of Charges
- 10.14.130 Private Disposal of Recyclable Materials
- 10.14.140 Collection by Unauthorized Persons Prohibited--Penalty

10.14.010 Purpose

The City Council finds and determines that a municipal program for the collection and recycling of newspapers, metal food and beverage containers, glass, old corrugated cartons, graded or sorted waste paper, waste motor oil (residential), and PET plastic beverage containers, within the City of San Bruno, and the licensing of persons engaged herein, is in the public interest and serves to promote the general welfare of the City of San Bruno.

This ordinance is hereby enacted to increase participation rates, improve recyclable material recovery rates, reduce landfill dependency, and ultimately maintain a cost effective overall garbage, rubbish, refuse or recyclable program for the citizens, businesses and institutions of the City of San Bruno.

It is also recognized that the recycling program hereby established may be victimized by unauthorized scavengers; and that the theft of recyclable materials before they can be picked up by the authorized collector would be destructive to the economic viability of the program, as well as detrimental to the economic interests of the City of San Bruno at large, and the citizens, businesses and institutions in particular. It is the

additional purpose of this ordinance to define clear ownership of recyclable materials and to provide for the protection of those ownership rights.

10.14.020 Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings as set forth hereinafter unless the context appears otherwise:

(a) "Authorized recycling agent" means that person, partnership, joint venture or corporation authorized by contract with the City of San Bruno to collect recyclable materials pursuant to this chapter.

(b) "Charitable entity" means any organization or other entity maintained for community service, education or the public good, including service clubs, scouting organizations, religious and educational organizations and recognized charities.

(c) "Collect" means to take physical possession of materials at any commercial location, institutional location, multi-residential complex or residential unit of another.

(d) "Commercial entity" means any business, retail, office, professional or industrial premises or site including but not limited to motels, hotels and automobile courts. Such definition includes non-profit activities such as churches, synagogues, charitable organizations, fraternal, service and social clubs.

(e) "Commercial location" means the premises or site of a commercial entity.

(f) "Designated collection location" means the place where an authorized recycling agent is to pick up segregated, recyclable materials. The location is identified by contract between the authorized recycling agent and the City of San Bruno and will customarily be the curbside of a residential neighborhood or the service alley of a commercial or institutional entity.

(g) "Institutional entity" means any location operated by a governmental entity, including city, county, state and/or federal buildings, public schools, colleges, and public recreational sites.

(h) "Institutional location" means the premises or site of an institutional entity.

(i) "Multi-residential complex" means any residential building, boardinghouse, apartment building, condominium complex, stock cooperative complex, or flats consisting of more than three (3) independent dwelling units. "Multi-residential complex" does not include motel, hotel or automobile court.

(j) "Person" means any tenant, lessee, business, occupant or owner of real property within the City of San Bruno.

(k) "Recyclable materials" means any one or more of the following categories of materials collected and recycled or salvaged from within the City of San Bruno:

(1) newspapers

(2) metal food and beverage containers

- (3) glass
- (4) old corrugated cartons
- (5) graded or sorted waste paper
- (6) waste motor oil (residential)
- (7) PET plastic beverage containers

(l) "Recycling" means the process of sorting, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of using the altered form. "Recycling" does not include merely sorting, shredding, stripping, compressing, storing, land filling with, or otherwise disposing of waste or other discarded materials.

(m) "Residential unit" means any single-family dwelling, duplex, triplex, apartment house of 3-dwelling units or less, or condominium complex of 3-dwelling units or less. For the purposes of this chapter, each apartment, flat, or dwelling unit of a duplex, triplex, 3-unit or less apartment house, or 3-unit or less condominium complex shall be considered as a separate dwelling.

(n) "Segregated recyclable materials" means those recyclable materials which have been separated:

- (1) by the person from whom they are being collected;
- (2) from refuse; and
- (3) from all other recyclable materials to form one readily identifiable category or materials as set forth in Section 10.14.020(j) that is saleable without further sorting.

10.14.030 Recyclable Material Disposal -- General Requirements

It is unlawful for any person to keep, deposit, bury or dispose of any recyclable materials, except as in this chapter provided, in or upon any private or public property, street, alley, sidewalk, gutter, park or upon the banks of any stream or creek in the City of San Bruno, or in or upon any of the waters thereof; and every person in the City of San Bruno who disposes of recyclable materials shall dispose of same only in the manner provided in this chapter.

10.14.040 Collection Service -- Establishment

A. A recyclable materials collection service program is established and shall be available to all persons, residences, businesses and institutions in the City of San Bruno for the purpose of providing for the orderly and regular collection of recyclable materials within the City of San Bruno under this program. Creation and operation of a collection program does not preclude the operation of certified recycling centers created pursuant to Division 12.1 of the California Public Resources Code and/or charitable entity recycling programs.

B. Recyclable materials for donation, sale, or collection by or to any person or entity other than the authorized recycling

agent, may not be stored or transferred by use of the recycling receptacles described in this chapter, or any other containers used for recycling provided by the authorized recycling agent. Storage of recyclable materials at the designated collection location other than for pickup by the authorized recycling agent as defined herein, is prohibited.

10.14.050 Collection Contract

A. The City Council may, with or without having invited bids therefor, enter into an exclusive contract with any responsible individual, association, firm, organization or other business entity, whether or not said entity is operated for profit, for the collection of any or all recyclable materials within the City of San Bruno. Where such a contract provided for has heretofore or hereafter been entered into between the City of San Bruno and a contractor for the collection of any or all recyclable materials as herein provided, said contractor shall be the authorized recycling agent for the City of San Bruno.

B. If in the determination of the City Council said contractor shall have satisfactorily performed such contract, the City Council, without inviting bids or proposals therefor and without giving notice of its intention to do so, may, either prior to or after the expiration of such contract, extend or renew the same for such a period and on such terms and conditions as the City Council shall deem necessary and appropriate.

10.14.060 Authorized Recycling Agent -- Duties

The City of San Bruno's official authorized recycling agent must offer recyclable materials collection service to all persons, residences, businesses and institutions within the City limits pursuant to the terms and conditions of any exclusive contract for such service. The City Council may establish standard regulations for the methods of collection of recyclable materials, collection service charges, frequency of pickup, and the civil and/or criminal remedies available for enforcing this chapter.

10.14.070 Provisions Declared Minimum Standards

The provisions of this chapter shall be the minimum requirements for the protection of the public health, safety, convenience and general welfare.

10.14.080 Separation of Recyclables and Placement for Removal

A. Persons desiring to participate in the San Bruno Recycling Program shall prepare and separate those recyclable materials that the City has contracted for pickup by the

authorized recycling agent from other garbage and refuse as required by the collection contract, and thereafter have the segregated recyclable materials placed within receptacles as required by this chapter, or within the designated collection location, which shall be collected by the authorized recycling agent.

B. Receptacles containing recyclable materials for residential units shall be placed at curbside for collection by the authorized recycling agent; but shall not be placed at curbside earlier than 12 hours prior to the date and time for scheduled collection, nor left remaining at curbside longer than 12 hours following the date and time for scheduled collection.

C. Receptacles containing recyclable materials for multi-residential complex, commercial and/or institutional locations shall be of a size and serviceability agreed to by the authorized recycling agent and thereafter placed at the designated collection location.

10.14.090 Receptacle -- Specifications

A. Pursuant to the terms and conditions of any exclusive contract between the City of San Bruno and the authorized recycling agent, each residential unit shall be provided with suitable and sufficient receptacles to store segregated recyclable materials to be made available for curbside pick-up. The color, style and markings of such receptacles shall be mutually agreed upon between the City of San Bruno and the authorized recycling agent.

B. Initial provision of residential receptacles shall be made at no charge to persons participating in the San Bruno Recycling Program. All such residential receptacles shall be and remain the property of the authorized recycling agent, and shall not be used for any purpose other than the segregation and curbside placement of recyclable materials. Participating persons relocating out of the City of San Bruno shall leave all residential receptacles at the premises.

C. It is the duty of every person participating in the San Bruno Recycling Program to maintain receptacles in a reasonably safe and secure manner; and all such receptacles shall be so placed and kept at the designated collection location so as to be readily accessible for removal and collection therefrom and placed such that they will not be a public nuisance or in any degree offensive.

10.14.100 Authorized Recycling Agent -- Insurance Required

The City of San Bruno's official authorized recycling agent contracted with, in accordance with this chapter, shall be

considered as and shall be an independent contractor and shall act under its own directions as to the manner of performing its work; and it shall keep itself and all of its employees insured against all liability under California Workers' and Employees insurance, compensation and safety laws and against public liability and property damage, including all such liability for use or operation of motor vehicles used in the performance of work hereunder. Such public liability insurance shall be to the extent of one million dollars for each incident of death or injury to persons and/or property. Evidence of such insurance shall be filed with the City of San Bruno upon request.

10.14.110 Authorized Recycling Agent -- Rights Under Contract

An award of such contract shall confer upon the entity to whom the contract is awarded the exclusive right as the City of San Bruno's official authorized recycling agent hereunder, during the term of the contract, to collect, transport, sell and dispose of all recyclable materials collected within the City of San Bruno as provided herein, and all provisions of this chapter applicable to the authorized recycling agent shall constitute and be part of any contract awarded hereunder.

10.14.120 Authorized Recycling Agent -- Receipt of Charges.

A charge shall be collected by the City of San Bruno's official authorized recycling agent from the tenant, lessee, owner or occupant of each residential unit, as well as for each multi-residential, commercial and/or institutional entity situated within the City limits, at rates to be established by contract between the City of San Bruno and the official authorized recycling agent, said rates to be subject to change upon approval of an agreement between the City of San Bruno and said official collector.

10.14.130 Private Disposal of Recyclable Materials

A. Nothing contained in this chapter shall preclude any person, business or other entity from disposing of segregated recyclable materials without utilizing the City of San Bruno's official authorized recycling agent, provided that the recyclable materials are disposed of by such persons individually or by his or her employee or employees to an authorized recyclable materials collection site or station that has been duly approved and authorized as such by an appropriate governmental authority or other appropriate authority.

B. Nothing herein contained shall prevent any person, business or other entity from allowing recyclable materials to be picked up, dropped off, or otherwise donated to any charitable entity.

C. The use of receptacles or other containers provided by the authorized recycling agent or the pick-up of such recyclable materials from any designated collection location is prohibited by anyone other than the authorized recycling agent.

D. Nothing herein contained shall inhibit, regulate or restrict any recycling center, nonprofit dropoff program or recycling processor as permitted by "The Solid Waste Management Resource and Recovery Act of 1972" or the "California Beverage Container Recycling and Litter Reduction Act" of 1986.

10.14.140 Collection by Unauthorized Persons Prohibited --
Penalty

A. It is unlawful for any person, business or other entity, not otherwise excepted by the provisions of this chapter, or by state or federal law, to collect recyclable materials in the City of San Bruno; provided however, the collection of segregated recyclable materials with the intent to recycle all such materials collected by one who has an arrangement to and does recycle all such materials collected shall not be prohibited. The receipt of money or other consideration by the collector in addition to the materials collected creates the presumption that the collection of such materials is not for the purpose of recycling.

B. From the time of placement of recyclable materials at curbside, or other appropriate designated collection locations or in any container used for recycling provided by the authorized recycling agent, said recyclable materials shall be and become the property of the authorized recycling agent.

C. Any person engaged in the unauthorized collection of recyclable materials is guilty of an infraction. Any such unauthorized collections from one or more locations within the City of San Bruno shall constitute a separate and distinct offense.

D. As an alternative to criminal enforcement, both the City of San Bruno and the authorized recycling agent have the independent authority to civilly enforce any provisions of this chapter, to and including the authority to seek treble damages pursuant to California Government Code Section 66764. The San Bruno City Manager may invoke these remedies, or any of them, whenever he or she deems it appropriate.

SECTION 2: Exclusive Franchise, Contract, License or Permit.

A. The "Solid Waste Management and Resource Recovery Act of

1972" provides in general, and Government Code Section 66757(b) provides in particular that local governments have the discretion to enter into non-exclusive or exclusive franchises, contracts, licenses or permits for solid waste handling, including the handling of recyclable materials, according to the needs of the local entity.

B. It is the intent and purpose of the City of San Bruno to enter into an exclusive franchise, contract, license or permit for the collection and hauling of recyclable materials from all participating residences, multi-residences, businesses and institutions in the City of San Bruno pursuant to this Ordinance.

C. It is recognized that implementation of a city-wide exclusive franchise, contract, license or permit for the recovery of recyclables may involve gradual phasing in order to be implemented, particularly in an economically feasible manner consistent with the City's economic objectives in establishing this Program for City-wide Collection of Recyclables.

D. Consequently, the individual, partnership, corporation or other entity securing the exclusive franchise, contract, license or permit is permitted one-year from the date of granting the franchise, license or permit, or one-year from entering into a contract with the City of San Bruno, whichever is later, in order to accomplish city-wide recyclable collection from all residences, businesses and institutions in the City of San Bruno.

SECTION 3: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of San Bruno hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4: The City Council finds, pursuant to Title 14 of the California Administrative Code, Section 15378, that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that:

A. It is not a Project as provided by the Act, in that it does not have a potential for resulting in a detrimental physical change in the environment, directly or ultimately as provided in Title 14, Section 15378(a);

B. In that it is further exempt under the definition of

Project in Section 15378(b)(3) in that it concerns general policy and procedure making;

C. In that it can be seen with certainty that there is no possibility that the activity may have a significant effect upon the environment pursuant to Title 14, Section 15061(b)(3); and

D. In that the action taken is an action by a regulatory agency that will both enhance and protect the environment and thereafter categorically exempt pursuant to Title 14, Section 15308.

SECTION 5: The City Clerk shall publish this Ordinance according to law. .

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney