

Chapter 9

COLLECTION AND DISPOSAL OF REFUSE

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Article 1. General Provisions

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Sec. 9-1.1 **Findings--Determinations--Goals.**

- (a) The council of the City and County of Honolulu (the "city") makes the findings and determinations set forth in this section:
- (1) The council of the city has heretofore determined it to be in the best interest of the city and necessary for the health and safety of the residents of the city to provide for environmentally sound disposal of solid waste generated and collected in the city.
 - (2) Pursuant to HRS Section 340A-3, the council of the city enacted Ordinance No. 79-32 to amend this chapter, among other things, to provide that the chief of the refuse division of the department of environmental services of the city may require all solid waste, whether transported by said division, licensed collectors, businesses or individuals, to be disposed of at disposal facilities (as defined in this chapter) or in areas designated by such person if it is found to be in the best public interest.
 - (3) In furtherance of the aforesaid determination and the implementation of the powers granted in this chapter, it is in the best interest of the city and its residents to further amend this chapter to redefine certain terms and to define certain additional terms and to authorize the designation of facilities as a part of a disposal system of the city for the processing and disposal of solid waste generated in the city and to prescribe procedures for the enforcement of the aforesaid powers granted to the chief.
 - (4) In order to provide for the environmentally sound and systematic disposal of solid waste generated in the city, it is in the best interest and necessary for the health and safety of the residents of the city to create a city-wide disposal system of the city for processing and disposal of solid waste generated in the city and for the director of the department of environmental services of the city to designate from time to time the disposal facilities or private disposal facilities constituting a part of such system and the methods for such processing and disposal.
 - (5) In order to permit reusable materials to be recovered from solid waste, to achieve the solid waste volumes

necessary to meet the minimum operating requirements of the Honolulu resource recovery facility hereinafter defined and to lessen the demand for landfill sites in the city, it is in the best public interest of the city and its residents for the director of the department of environmental services of the city to designate a particular solid waste processing disposal and resource recovery and electric generating facility of the city to be constructed at the Campbell Industrial Park (hereinafter defined as the "H-POWER project") as a part of the disposal system to be created pursuant to this chapter.

- (6) It is in the best interest of the city and its residents to approve the form and the terms, provisions and conditions of a contract for waste processing and disposal services (the "disposal contract") between the city and Honolulu Resource Recovery Venture, a Hawaii general partnership, as contractor, pursuant to and under authority of HRS Section 46-85, and to approve the execution and delivery thereof by the appropriate officials of the city.
- (b) (1) In addition to the findings and determinations made under this section, the council establishes the following goals:
 - (A) By the end of 2007, at least 65 percent of the solid waste generated within the city be recycled, reused, composted, used for the generation of power, fuel or electricity through a waste-to-energy or other alternative technology facility, or otherwise diverted from placement in a landfill;
 - (B) By the end of 2010, at least 75 percent of the solid waste generated within the city be recycled, reused, composted, used for the generation of power, fuel or electricity through a waste-to-energy or other alternative technology facility, or otherwise diverted from placement in a landfill; and
 - (C) By the end of 2015, at least 90 percent of the solid waste generated within the city be recycled, reused, composted, used for the generation of power, fuel or electricity through a waste-to-energy or other alternative technology facility, or otherwise diverted from placement in a landfill.
- (2) The percentage goals in this subsection shall be reviewed annually by the department of environmental services, which shall recommend to the council any necessary revisions. For the purpose of these goals, "solid waste" includes source separated waste generated in the city, but not introduced into the disposal system.

(Sec. 9-1.0, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 89-114, 99-32, 06-40)

Sec. 9-1.2 Definitions.

Unless otherwise expressly stated, whenever used in this chapter the following terms shall have the following meanings:

"Agricultural solid waste" means the solid waste that results from the rearing of animals and the harvesting of crops.

"Association of apartment owners" means all of the apartment owners of a multi-unit residential building acting as a group in accordance with the bylaws and declaration.

"Automated collection" means refuse collection service using a city-provided refuse receptacle (cart) which requires no manual moving and no manual lifting by city personnel.

"Business" means any individual proprietorship, partnership, corporation, association, joint venture or project operated, which carries on commercial or industrial activity for gain or profit, including any hotel or hotel-apartment.

"Chief" means the chief of the refuse division of the department of environmental services of the City and County of Honolulu.

"Commercial cooking oil waste" means the same as defined under Section 14-5A.1.

"Commercial FOG waste" means the same as defined under Section 14-5A.1.

"Days" means calendar days, including weekends and holidays, unless otherwise indicated.

"Department" means the department of environmental services, City and County of Honolulu.

"Director" means the director of the department of environmental services of the City and County of Honolulu.

"Director of budget and fiscal services" means the director of budget and fiscal services of the City and County of Honolulu.

"Director of customer services" means the director of customer services of the City and County of Honolulu.

"Disposal facilities" means all the facilities controlled by the city for the disposal of solid waste, including but not limited to incinerators, composting plants, landfills, shredding plants, transfer stations, convenience centers and resource recovery facilities.

"Disposal system" means the city-wide system for processing and disposing of solid waste generated in the city and consisting of disposal facilities or private disposal facilities, or a combination thereof, or methods designated by the director from time to time for processing and disposing of solid waste in the city and declared to constitute a part of the city's system of processing and disposing of solid waste.

"Division" means the refuse division of the department of environmental services of the City and County of Honolulu.

"Frontloader collection service" means refuse collection service using an owner-provided, three-cubic-yard

container which requires no manual moving, no manual lifting by city personnel and is lifted over the front of the collection vehicle.

"Hotel" or "hotel-apartment" means an establishment operating under a license issued pursuant to the provisions of HRS Section 445-92.

"Incinerator" means any incinerator owned or controlled by the city where refuse is disposed of by incineration.

"Inspector" means any individual designated by the department of environmental services to issue notices of violation and/or citations to enforce the provisions of this chapter.

"Licensed collector" means and includes any person who has been licensed by the city to collect refuse in accordance with Article 2 of this chapter.

"Manual collection" means refuse collection service using an owner-provided refuse receptacle or bag which requires manual moving and manual lifting by city personnel.

"Multi-unit residential building" means a building consisting of two or more dwelling units.

"Owner" means the person assessed the real property tax as shown by the records of the director of budget and fiscal services and the records, if any, in the office of the assistant registrar of the land court.

"Person" means any individual, partnership, corporation, trust, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

"Private disposal facilities" means facilities in the city for the disposal of solid waste, including but not limited to incinerators, composting plants, landfills, shredding plants, transfer stations and resource recovery facilities owned and operated by private interests.

"Recyclable materials" include, but are not limited to, the following discarded materials for which a market exists and which are delivered to a point where they are converted to a material for later manufacture or reprocessing:

- (a) "Aluminum can" means a can which is designed and intended to hold a beverage or other substance and is manufactured of aluminum alloy.
- (b) "Battery" means any lead acid battery or dry cell battery discarded in the city independent of intended use.
- (c) "Corrugated cardboard" means kraft, jute or test liner pulp which is made by combining two or more webs of paper and formed or shaped into wrinkles or folds or into alternate ridges and grooves and discarded by commercial, industrial and agricultural businesses.
- (d) "Food waste" means all animal, vegetable, and beverage waste which attends or results from the storage, preparation, cooking, handling, selling or serving of food. The term shall not mean commercial cooking oil waste or commercial FOG waste.
- (e) "Glass container" means any container which is manufactured from a mixture of silicates, borates or phosphates.
- (f) "Green waste" means tree branches under nine inches in diameter, hedges and plant cuttings, palm and coconut branches, vines and similar materials.
- (g) "Metal scrap" means any metal, in whole or in parts, from buildings, equipment, machinery and vehicles discarded by commercial, industrial and agricultural businesses.
- (h) "Newspaper" means a publication which is printed and distributed and contains news articles, opinions, features and advertising, and is manufactured of impermanent wood pulp material.
- (i) "Office paper" means computer paper, and white and colored ledger paper, which is discarded by commercial, industrial and agricultural businesses.
- (j) "Paperboard" means a sheet of fibrous material made from either virgin wood fiber or recycled paper stock or a combination of these sources.
- (k) "Plastic container" means a container which is designed and intended to hold a beverage or food product and is manufactured of polyethylene terephthalate (PET), high-density polyethylene (HDPE) and other synthetic materials.
- (l) "Steel can" (also referred to as "tin can" due to a protective coating of tin) means a can made primarily of steel and manufactured to hold food or other items.
- (m) "Used oil" means a petroleum-based oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

"Refuse" means:

- (a) Garbage consisting of all organic wastes resulting from the preparation and serving of food, but not commercial cooking oil waste and commercial FOG waste;
- (b) Rubbish, other than recyclable materials as defined in this section, consisting of and including such materials as paper, cardboard, clothes, shoes, bottles, cans, china, glass, grass, hedge cuttings, tree branches under nine inches in diameter and any other material of similar character; and
- (c) Bulky wastes consisting of such materials as lumber, iron pipes, tree branches over nine inches in diameter, refrigerators, stoves, radios, television sets, phonographs, bedsteads, bed springs, tables, sofas, chairs, water heaters, sinks and other similar materials or equipment of a weighty or bulky nature.

"Resource recovery facility" means solid waste processing and disposal and resource recovery and electric generating facilities located in the city which have been designated by the director as a part of the disposal system of the city, together with related and appurtenant structures and equipment, whether such resource recovery facilities are owned by the city or by private interests.

"Semiautomated collection" means refuse collection service using a city-provided receptacle (cart) which requires manual moving but no manual lifting by city personnel.

"Sidewalk" means that portion of a street between a curblineline or the pavement of a roadway, and the adjacent private or public property line, whichever the case may be, intended for the use of pedestrians, including any setback areas acquired by the city for road widening purposes.

"Solid waste" means all refuse, soil, rock, construction debris, demolition debris and all similar materials.

"Source separated waste" means recyclable materials which are set aside at their point of generation for segregated collection and transport to specialized waste processing sites or final manufacturing markets.

"Special wastes" means any refuse which must be handled in an exceptional and uncommon manner because of its characteristics.

"Street" means the entire width between the property lines of every way publicly owned and maintained when the part thereof is open to the use of the public for purposes of vehicular travel or any private street, highway or thoroughfare which for more than five years has been continuously used by the general public.

"Transshipment facilities" means any city-operated or city-contracted site used to bale and/or ship refuse to an off-island site.

(Sec. 9-1.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 89-113, 95-16, 99-32, 02-14, 06-09, 10-2, 10-16)

Sec. 9-1.3 Collection of refuse and recyclable materials by the division.

(a) The division shall have charge of and shall administer the collection and disposal of refuse and the collection and processing of recyclable materials as designated by the director. No refuse shall be collected from any building or place when:

- (1) The owner thereof has made provision for refuse collection by the owner's own vehicles or by a licensed collector.
- (2) The owner thereof has installed or provided the premises with private incineration equipment or other refuse disposal facilities which have been approved by the director as being adequate and safe and which have been approved by the state department of health as conforming to the provisions of HRS Chapter 322, relating to nuisances and sanitary regulations.

(b) Any refuse or recyclable materials removed by the city and any solid waste accepted by the city shall become the property of the city.

(Sec. 9-1.2, R.O. 1978 (1983 Ed.); Am. Ord. 07-45)

Sec. 9-1.4 Preparation and placement of refuse and recyclable materials by owner.

(a) The types of refuse and recyclable materials hereinafter described shall be prepared for collection as follows:

- (1) In areas provided with manual collection, tree branches set out for collection shall not exceed nine inches in diameter and green waste shall be cut into lengths not exceeding three feet. All green waste shall be tied in bundles which shall not weigh more than 50 pounds each or prepared in a manner determined by the director in accordance with Section 9-1.12(b)(3). In areas with automated green waste collection, green waste shall be placed in the city-provided green waste cart as designated by the director such that the cart lid fully closes.
- (2) In areas provided with manual collection, all empty cardboard and other fibrous cartons, wooden boxes and crates, and other similar empty containers shall be flattened and securely tied in bundles not exceeding three feet in length nor weighing more than 50 pounds each. In areas with automated mixed recyclable materials collection, all empty corrugated cardboard boxes shall be flattened and placed in the city-provided mixed recyclable materials cart as designated by the director such that the cart lid fully closes.
- (3) All other refuse except that mentioned in subdivisions (1) and (2) of this subsection shall be placed in city-provided refuse carts as designated by the director, or in areas provided with manual collection, in durable or nondurable containers described as follows:
 - (A) Durable Containers. The interior surface of the container shall be smooth with no projections and the top diameter shall be equal to or larger than the bottom diameter. The container shall have a capacity of at least 10 gallons but not more than 35 gallons. The maximum weight of an empty container shall be 25 pounds. The maximum weight of a filled container shall be 75 pounds. Every container holding any garbage shall have a tight fitting lid.
 - (B) Nondurable Containers. Nondurable containers made of plastic film, paper or cardboard may be used if such containers are able to contain their contents securely at all times. The maximum weight for filled nondurable containers shall be 50 pounds. Such containers shall be collected together with their contents.

- (4) All rubbish consisting of ashes, powders, dust, sawdust, broken bottles, glass or china or other materials likely to cause injury to persons collecting the same shall be securely wrapped or contained before being placed in the city-provided refuse cart as designated by the director for automated collection or in the resident-provided container for manual collection.
 - (5) Except for food waste that the director designates as a recyclable material, garbage shall be drained and securely wrapped before being placed in the container.
 - (6) Recyclable materials designated by the director, except newspaper or other paper which is used to wrap or hold garbage or other refuse not designated as recyclable materials, shall be prepared or placed in the city-provided mixed recyclable materials cart as designated by the director and shall be collected under procedures determined by the director.
- (b) On or the evening before the scheduled day of collection, all refuse, green waste, and other recyclable materials as designated by the director prepared for collection as hereinabove provided, shall be placed on the street, so as not to impede vehicular traffic, or sidewalk, so as not to impede pedestrian use, in a location readily accessible to the collector. The lateral location for each owner's refuse within the sidewalk area shall be limited to the street frontage abutting the owner's property or where approved by the division. In apartment and business districts, refuse, green waste, and other recyclable materials as designated by the director may be placed within 20 feet of the curb, as defined in this subsection. Refuse, green waste, and other recyclable materials as designated by the director may be placed for collection within the sidewalk area (as defined in this subsection) of private roads and nonstandard private roadways when all of the following conditions are met:
- (1) All of the residents along the roadway shall want such collection;
 - (2) The roadway shall serve at least three residences;
 - (3) The roadway shall have an unobstructed width of at least 12 feet not including parking lanes;
 - (4) Horizontal and vertical curves of the roadway shall meet subdivision standards;
 - (5) Maximum roadway grade shall not exceed 19 percent;
 - (6) The owners of the roadway shall provide and maintain an all-weather road surface;
 - (7) The roadway shall have an adequate turnaround. If there is no turnaround, reversing of the truck shall not exceed a distance of 100 feet; and
 - (8) Reversing on a grade exceeding 10 percent shall not be required.
- (c) Containers shall not be left on the street or sidewalk area after the day of collection. In cases of hardship, as determined by the director, automated carts may be left on the street or sidewalk area.
- (d) Bulky wastes shall be collected under procedures determined by the director. Bulky wastes shall be placed on the street, so as not to impede vehicular traffic, or sidewalk, so as not to impede pedestrian use, for collection no earlier than the evening before the scheduled day(s) of collection.
- (1) In the event bulky wastes are placed on the street or sidewalk fronting a property earlier than the evening before the scheduled day(s) of collection, the owner of the abutting property shall be responsible for the removal and storage of such bulky wastes.
 - (2) In the event bulky wastes are placed on the street or sidewalk fronting a multi-unit residential building earlier than the evening before the scheduled day(s) of collection, the property owner or the association of apartment owners of the abutting property shall be responsible for the removal and storage of such bulky wastes as set forth in Section 9-3.4(b).
- (e) Three cubic yard containers designed for mechanical handling, if used, shall not be placed on the street or sidewalk, but shall be placed within the property to be served in locations directly accessible to the pickup forks of the collection truck. Access roadway requirements for the collection of three cubic yard containers shall be that required for collection on private roads and nonstandard private roadways as provided in subsection (b) of this section, except that maximum roadway grade shall not exceed 12 percent.
- (Sec. 9-1.3, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 89-113, 93-19, 95-16, 99-32,06-09, 07-45, 10-16)

Sec. 9-1.5 Limitations to collection by refuse crews.

The division shall not collect:

- (a) Any soil, rock, concrete, explosives, liquids, radioactive materials, construction debris, demolition debris, commercial cooking oil waste, or commercial FOG waste; except that used oil may be collected under a curbside collection service established pursuant to Section 2-23.2;
- (b) Any refuse, green waste, and other recyclable materials as designated by the director not prepared for collection as provided by Section 9-1.4;
- (c) Any refuse, green waste, and other recyclable materials as designated by the director not placed for collection as provided by Section 9-1.4;
- (d) Any rubbish consisting of tree branches, plant cuttings, vines and other similar materials exceeding one cubic yard in volume for any single regular collection in manual collection areas;
- (e) Any refuse, green waste, and other recyclable materials as designated by the director placed for collection in a place which is unsafe or is likely to cause injury to the persons collecting said refuse, green waste, and other

recyclable materials; or

- (f) Any refuse from any business where the owner thereof shall have failed to pay the service charges hereinafter provided.

(Sec. 9-1.4, R.O. 1978 (1983 Ed.); Am. Ord. 89-113, 89-118, 02-14, 07-45, 16-29)

Sec. 9-1.6 Disturbing receptacles prohibited.

No person shall:

- (a) Remove or disturb any refuse, green waste, and other recyclable materials as designated by the director from the place where the same has been placed for collection;
- (b) Collect or haul away any refuse, green waste, and other recyclable materials as designated by the director from the place where the same has been placed for collection;
- (c) Transport any refuse, green waste, and other recyclable materials as designated by the director; provided, that authorized persons may remove, disturb, collect, haul away or transport any refuse from the place where the same has been placed for collection. For purposes of this section, "authorized persons" shall mean:
- (1) Owner;
 - (2) Division employees during authorized working hours; or
 - (3) Licensed collector.
- (d) This section shall not apply to bulky wastes placed on the street or sidewalk earlier than the evening before the scheduled day(s) of collection, in which case the property owner or the association of apartment owners of the abutting property shall remove and store such bulky wastes in accordance with Sec. 9-1.4(d).

(Sec. 9-1.5, R.O. 1978 (1983 Ed.); Am. Ord. 07-45, 10-16)

Sec. 9-1.7 Acceptable and nonacceptable refuse at disposal facilities.

- (a) Except as directed by the director or the director's authorized representative and as provided otherwise under the mandatory recycling program for city government established under Section 9-1.11, the division shall accept or cause to be accepted the following solid waste within the disposal system: paper, cardboard, yard trimmings, bottles, cans, plastic, garbage, lumber and tree branches less than five feet long and less than nine inches in diameter.

Except during a suspension by the director of the requirements of Section 14-5A.2(a) and/or (b), and as authorized by the director during the suspension, the division shall not accept into the disposal system any commercial cooking oil waste or commercial FOG waste.

- (b) The division may conduct an examination of any truckload of refuse or other solid waste delivered or transported to a disposal facility:
- (1) At any time that the division has cause to believe that the truckload contains (A) 25 percent or more of those recyclable materials designated by the director or (B) any commercial cooking oil waste or commercial FOG waste; or
 - (2) Periodically and on a random basis to determine compliance with the prohibition of subsection (a).
- (c) The division shall accept the following types of solid waste only at specific disposal sites designated by the chief: large household appliances, tree trunks, dirt, rock, concrete, reinforcing steel, metal pipe, metal roofing, automobile parts and bed springs.
- (d) The division shall not accept deliveries of any refuse or recyclable materials which are not made during hours of operation as posted at each facility.
- (e) The chief may divert all or part of the incoming refuse away from a disposal facility, or limit the area to be served by a disposal facility when, in the chief's judgment, such action is necessary to undertake repairs or to maintain the facility, or where the facility lacks the continued capacity to handle the incoming refuse, or so as to prolong the life of the facility.
- (f) The director, or the director's authorized representative, may designate from time to time those disposal facilities or private disposal facilities, or a combination thereof, and the methods for the processing and disposal of solid waste generated in the city constituting a part of the disposal system created by this chapter. The director or the director's authorized representative may require that all solid waste, whether transported by the division, licensed collectors, businesses or individuals, be disposed of at specific disposal facilities or private disposal facilities within the disposal system as designated by such person if it is found to be in the best public interest; provided, that agricultural solid waste and source separated waste transported for recycling purposes shall not be subject to the provisions of this section; and provided further, that if regional transfer stations are designated, transportation to the stations shall be considered so as to minimize the operating costs of the collector. The best public interest shall be found if disposal at the designated disposal facility or private disposal facility within the disposal system shall:
- (1) Result in reusable materials being recovered from solid waste;
 - (2) Achieve the solid waste volumes necessary to meet a resource recovery facility's minimum operating requirement;

- (3) Lessen the demand for landfill sites; or
- (4) Conserve natural resources.

(Sec. 9-1.6, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 89-113, 89-117, 02-14, 04-10)

Sec. 9-1.8 Removal of dead animals.

- (a) Every owner of dead animals shall remove such animals, or cause the same to be removed, within a reasonable time after death or before the same shall constitute a nuisance.
- (b) Any person who has actual knowledge of the dead animal shall cause such animal to be removed within a reasonable time after death, or before the same shall constitute a nuisance.
- (c) Dead animals weighing up to 70 pounds will be collected and disposed by the division, provided they are placed in an open area which is accessible to the collector, or such animals will be accepted at any municipal incinerator during operating hours.
- (d) Dead animals weighing over 70 pounds will be accepted at disposal areas other than the municipal incinerators during operating hours.

(Sec. 9-1.7, R.O. 1978 (1983 Ed.))

Sec. 9-1.9 Office of recycling coordinator established--Duties.

- (a) There is established within the division a recycling coordinator. Subject to council authorization and the availability of council appropriations, other positions within the division may be established and filled to serve under and assist the recycling coordinator in the performance of duties. The recycling coordinator and, if any, subordinate employees, shall be under the supervision and direction of the chief.
- (b) The recycling coordinator shall have the following duties, according to the following order of priorities:
 - (1) Establishment and implementation of recycling education and promotion programs;
 - (2) Establishment and implementation of recycling programs within or by city government;
 - (3) Conduct of research and development of recycling issues and techniques; and
 - (4) Provision of technical assistance concerning recycling.

The purpose of the order of priorities shall be to guide the recycling coordinator in making decisions on the expenditures, budget requests, programs and other activities to be made or undertaken. This subsection shall not prevent the recycling coordinator from undertaking, expending funds for or requesting appropriations for programs or activities of lesser priority, rather than those of higher priority, when deemed in the best public interest.

- (c) In the establishment and implementation of recycling education and promotion programs, the recycling coordinator may undertake, but shall not be limited to, the following:
 - (1) Establishment of a recycling telephone hotline serving to take inquiries and disseminate information on recycling;
 - (2) Formulation of recycling education curricula and materials to be made available and distributed to public and private elementary, intermediate and high schools, and instruction of teachers who will teach the curricula. For the purpose of this paragraph, the recycling coordinator shall cooperate and coordinate with the department of education and private school administrations to distribute the curricula and materials to the schools. If deemed desirable or necessary, and subject to the approval of the appropriate school authority, the recycling coordinator may provide direct instruction to the students;
 - (3) Conduct of media advertising and community relations campaigns to promote public awareness of the benefits of recycling, detriments of solid waste disposal and methods of recycling recyclable refuse;
 - (4) Promotion of public awareness of products which are not recyclable nor degradable and the detriments of use and disposal of the products;
 - (5) Publication and dissemination of a directory of businesses engaged in recycling to promote their patronage by the public;
 - (6) Publication and dissemination of guidebooks and instruction manuals to promote recycling; and
 - (7) Publication and dissemination of a newsletter to promote or provide information on recycling.
- (d) In the establishment and implementation of recycling programs within or by city government, the recycling coordinator may undertake, but shall not be limited to, the following:
 - (1) Formulation and, with the approval of the appropriate authority, imposition of recycling activities on city agencies and employees;
 - (2) Formulation and evaluation of recycling demonstration projects which the division may choose to implement. Demonstration projects may include those under which:
 - (A) Residents in selected areas are required to separate recyclable refuse from other refuse,
 - (B) The division collects or authorizes another person to collect the recyclable refuse under procedures separate from the collection of other refuse, and
 - (C) The division recycles, and not disposes of, the recyclable refuse;
 - (3) Recommendation to city officers of the establishment or revision of administrative policies or practices,

- procurement practices, or other policies or practices to promote recycling;
- (4) Recommendation to and advocacy before the council of legislation to promote recycling; and
 - (5) Identification of products manufactured of recycled material which are usable by the city and substitutable for products manufactured of virgin material.
- (e) In the conduct of research and development of recycling issues and techniques, the recycling coordinator may undertake, but shall not be limited to, the following:
- (1) Study of recycling techniques to determine the most cost-effective manner of collecting, processing, storing, transporting, reusing or converting recyclable refuse;
 - (2) Study and monitoring of the market conditions for recyclable refuse and the recycling industry;
 - (3) Function as a clearinghouse for information on recycling;
 - (4) Sponsor seminars, workshops and classes to discuss and disseminate information on recycling;
 - (5) Identify Hawaii, national and foreign businesses reusing or converting recyclable refuse to which businesses engaged in recycling or the public may sell recyclable refuse;
 - (6) Study the feasibility of recycling different types of refuse; and
 - (7) Conduct public opinion surveys to assess attitudes on and practices of recycling and disposal of solid wastes.
- (f) In the provision of technical assistance concerning recycling, the recycling coordinator may undertake, but shall not be limited to, the following:
- (1) Advise and assist owners or managers of businesses and multifamily dwelling unit buildings on effective and efficient techniques to separate recyclable refuse;
 - (2) Advise and assist licensed collectors on effective and efficient techniques to collect and recycle recyclable refuse;
 - (3) Advise and assist businesses engaged in recycling and manufacturers reusing or converting recyclable refuse on effective and efficient techniques to make their operations more efficient, cost-effective or profitable;
 - (4) Advise and assist businesses engaged in recycling and manufacturers reusing or converting recyclable refuse in the obtainment of loans, grants and necessary permits pertinent to the promotion of recycling activities; and
 - (5) Disseminate findings of research and development studies and advise and assist willing persons in implementing the finding.

(Added by Ord. 89-83)

(Sec. 9-1.10 Recycling pilot project. Repealed by Ord. 10-16.)

Sec. 9-1.10 Prohibited activities.

No person shall throw, drop, place, dump, or deposit refuse, to include bulky wastes, on a street, roadside, alley, highway, or public place except as provided in this chapter.

(Added by Ord. 16-9)

Sec. 9-1.11 Mandatory recycling program for city government.

- (a) There shall be a mandatory recycling program for city agencies. Under the program, the following types of recyclable materials generated by city agencies and their employees and discarded at places of work shall be recycled or reused and not disposed of as waste: newspaper, cardboard, office paper, aluminum cans, glass containers, plastic containers and any other type of recyclable material identified by the division. The division shall establish procedures for:
- (1) Either the:
 - (A) Separation of the recyclable materials from other refuse at the source of generation and collection of the recyclable materials under procedures separate from the collection of other refuse; or
 - (B) Collection of mixed recyclable materials and other refuse from the source of generation and, after collection, separation of the recyclable materials from other refuse; and
 - (2) The sale, recycling or reuse, but not disposal as waste, of the recyclable materials. If the recyclable materials are sold, the revenues derived from the sale of the recyclable materials shall be realizations of the general fund.
- (b) The mandatory recycling program shall be in conformance with all applicable laws, rules and collective bargaining agreements. City agencies shall comply with the mandatory recycling program.
- (c) The division may contract with a private person to collect, separate, store, sell or transport the recyclable materials as part of the implementation of the program. If determined desirable by the division, the person contracted shall not have to be a licensed collector.
- (d) The division shall supervise and enforce the mandatory recycling program of this section.
- (e) Articles 5 and 6 of this chapter shall not apply to any violation of the mandatory recycling program.

- (f) The division may contract with a not-for-profit organization which would provide a valuable community service in exchange for the potential market value of the recyclable materials collected from the city under the mandatory recycling program of this section. The not-for-profit organization shall collect the recyclable materials without monetary recompense to the city. If such a contract is determined desirable by the division and permissible under the state procurement code by the director of budget and fiscal services:
- (1) Preference shall be given to such a contractual agreement over sale by bid;
 - (2) Proposals shall be solicited by public notice and reviewed for selection by a committee designated by the division and approved by the director of budget and fiscal services; and
 - (3) Selection shall be based on an evaluation of the community service to be rendered by the not-for-profit organization and the organization's ability and qualifications to service the needs of the mandatory recycling program.
- (Added by Ord. 89-117; Am. Ord. 93-05, 04-10, 14-24)

Sec. 9-1.12 Islandwide curbside recycling program.

- (a) The director shall establish an islandwide program for the curbside collection of recyclable materials. The director may implement the program in stages, provided that by July 1, 2007, the curbside collection of recyclable materials shall include at a minimum the collection of at least two of the following:
- (1) glass containers,
 - (2) newspapers,
 - (3) plastic containers,
 - (4) green waste, and/or
 - (5) food waste.
- By July 1, 2008, the director shall include, at a minimum, an additional two recyclable materials from the list in the subsection.
- (b) The director shall determine the structure of the program, including:
- (1) The types of recyclable materials to be collected;
 - (2) The frequency in which recyclable materials shall be collected; and
 - (3) How recyclable materials shall be prepared for collection.
- (c) The director shall adopt rules in accordance with HRS Chapter 91 for the implementation, administration and enforcement of this section. The rules may provide that recyclable materials not prepared or set out at the curbside in accordance with the rules may not be collected by the city.
- (d) The director may contract with a private entity or entities to sort and sell the recyclable materials after they are collected.
- (e) The director may establish incentive programs to encourage participation in the islandwide curbside recycling program.
- (Added by Ord. 06-09)

Sec. 9-1.13 Preparation of integrated solid waste management plan.

- (a) The department shall prepare and submit to the council, for its review, a revised 10-year integrated solid waste management plan and interim status report that meet the requirements of Part III of HRS Chapter 342G. The department shall submit the revised plan to the state department of health and have it reviewed in accordance with HRS Section 342G-24.
- (b) In addition to the contents of the integrated solid waste management plan required by HRS Section 342G-25, the county plan shall include an evaluation of alternative technologies that may be developed in the future to dispose of solid waste.
- (Added by Ord. 06-27; Am. Ord. 12-39)

Sec. 9-1.14 Timetable for conversion of waste to energy.

By July 1, 2010, the city shall convert or cause to be converted at least 700,000 tons per year of municipal solid waste to energy.

(Added by Ord. 06-41)

Sec. 9-1.15 Charge for damage to carts.

City-provided carts are the responsibility of the owner and/or occupant. If the department determines the city-provided cart must be replaced due to intentional damage by the owner and/or occupant and not due to normal wear and tear of the cart, the owner shall be assessed a unit charge of \$75 per cart.

(Added by Ord. 07-45)

Sections:

- 9-2.1 License required to collect refuse.**
- 9-2.2 Application--Bond--Insurance--Term--Fee.**
- 9-2.3 Conditions of licenses.**
- 9-2.4 Prohibitions.**
- 9-2.5 Initial compliance.**
- 9-2.6 Denial or revocation of license.**
- 9-2.7 Notice of suspension or revocation--Hearing.**
- 9-2.8 Rule-making powers.**
- 9-2.9 Disposal system created.**
- 9-2.10 Designation of H-POWER project as part of disposal system.**

Sec. 9-2.1 License required to collect refuse.

No person shall engage in any business which involves the collecting of any refuse from any building or premises other than that person's own without first obtaining a license therefor as provided in Section 9-2.2. (Sec. 9-2.1, R.O. 1978 (1983 Ed.))

Sec. 9-2.2 Application--Bond--Insurance--Term--Fee.

- (a) Application. No license to engage in such business shall be issued until the applicant secures from the director of the department of environmental services and presents to the director of customer services an approved application. Such application shall include, but not be limited to, the following information:
- (1) Name and home address of the applicant;
 - (2) Business address and the address where all trucks, other vehicles and operating equipment will be kept (if other than the business address), and the zoning code classification of each said address;
 - (3) State of Hawaii general excise tax license number of the applicant;
 - (4) If applicant is a firm, association, organization, partnership, joint venture, corporation, limited liability corporation, business trust, company or cooperative, the names and addresses of all owners and officers and their respective percentage of ownership;
 - (5) For each truck, vehicle and equipment that the applicant owns or has under his or her control or intends to use for collection or transportation of refuse, applicant shall provide:
 - (A) Registration number,
 - (B) Valid registration number assigned by the department of transportation of the State of Hawaii, and
 - (C) Copy of a valid safety inspection certificate issued by the department of transportation of the State of Hawaii;
 - (6) Facts demonstrating that the applicant owns or has access to suitable facilities for keeping equipment clean and in good repair and that the applicant owns or has access to reasonable office facilities;
 - (7) Facts demonstrating that the applicant owns or has the legally enforceable right to use at least two trucks or has made documented arrangements for continued service to customers in case of truck breakdown.
- (b) Bond. Every applicant for a license shall execute and submit a surety bond in favor of the city in the penal sum of \$1,000.00, which bond shall be subject to all of the conditions set forth in Section 9-2.3, including the cost of collecting and disposing of refuse by the city in case the licensee fails to collect and dispose of refuse which the licensee has contracted so to do with others. Said bond shall be issued by a surety company authorized to do business in Hawaii in accordance with HRS Section 78-20.
- (c) Vehicular Public Liability and Damage Insurance. The licensee shall secure and present to the director at the time of application a standard automobile liability insurance policy covering the licensee, or any person driving any vehicle belonging to the licensee with the licensee's permission in the amount of \$100,000.00 for bodily injury to or death of one person in any accident and in the amount of \$300,000.00 for bodily injury to or death of two or more persons in any one accident respectively, and property damage insurance in the amount of \$50,000.00 because of damage to or destruction of property of others in any one accident.
- (d) Comprehensive Nonvehicular Public Liability Insurance Policy. The licensee shall secure and present to the director at the time of application a standard comprehensive nonvehicular public liability insurance policy covering the licensee and the licensee's employees and agents, which shall also include a rider covering the city in the sum of \$300,000.00. Such rider shall be in the form of an endorsement issued by the insurer.
- (e) Term of License. Such refuse collection license shall be issued for a term of one year commencing July 1st through June 30th of the next succeeding year. Such license may be renewed annually on or before July 1st upon application by a licensee, if the director determines that the licensee remains in compliance with the provisions of this chapter.
- (f) License Fee. The fee for an annual license to collect refuse shall be \$500.00, payable in advance to the director of customer services on or before July 1st of each year. The fee for any annual license issued to an applicant

after July 1st shall be prorated according to the remaining months of each fiscal year. No license fee shall be refundable.

(g) **Determination of Eligibility for License.**

- (1) Upon receipt of a completed application for a license to collect or transport refuse, the director shall determine if the applicant meets all the requirements of this chapter applicable to collectors and transporters of refuse.
- (2) After such determination the director shall either approve the application by proper endorsement or deny the application specifying in writing the cause or causes for such disapproval.

(Sec. 9-2.2, R.O. 1978 (1983 Ed.); Am. Ord. 96-58, 99-32, 10-16)

Sec. 9-2.3 Conditions of licenses.

(a) Every license issued under this article shall be subject to the following conditions:

- (1) All vehicles used by the licensee for the collection of refuse shall be so designed and constructed as to prevent the spilling or scattering of its contents upon the public streets. All such vehicles and equipment shall be kept in a clean, inoffensive and sanitary condition. Such vehicles shall carry at all times: a shovel, broom and fire extinguisher. The name and phone number of the licensee shall be marked on each side and across the back of all such vehicles and containers in letters not less than two inches in height. Trucks with a rated capacity of more than one and one-half tons used in the transportation or collection of refuse which contains garbage shall be closed, leakproof and constructed for the purpose of refuse collection. Vehicles shall not be loaded in excess of the gross vehicle weight.
- (2) All refuse shall be handled and transported by the licensee in such a manner as to prevent scattering, spilling or leaking of the same or to otherwise create a nuisance thereby or to violate any rule or regulation of the state department of health.
- (3) All refuse collected by the licensee shall be disposed of at such disposal facilities or private disposal facilities within the disposal system designated by the director, or as otherwise directed by the director or the director's authorized representative.
- (4) Disposal charges incurred by the licensee for disposing of refuse at disposal facilities or private disposal facilities within the disposal system designated by the director shall be paid when due.
- (5) The licensee shall not violate any provisions contained herein or in any other ordinance relating to the collection and disposal of refuse within the city.
- (6) All vehicles and other equipment used by a licensee in the collection and transportation of refuse shall be inspected at least once per year by the director of the department of environmental services to determine use in conformance with this article and such rules and regulations as said director may duly promulgate pursuant hereto.

(b) The director shall provide for each truck or equipment found to be in compliance herewith a durable tag or decal, at cost, and upon payment of the license fee to the director of customer services by the licensee. Such tag or decal shall be securely fastened and maintained by the licensee on each vehicle or equipment so as to be clearly visible.

(Sec. 9-2.3, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 99-32, 10-16)

Sec. 9-2.4 Prohibitions.

- (a) No person licensed to collect refuse shall scatter or spill or cause to be scattered or spilled any refuse set out for collection, either at the location at which it is collected or while transporting the same for disposal, unless the refuse so scattered and spilled is immediately gathered up and removed.
- (b) No person licensed to collect refuse shall violate any of the conditions prescribed in Section 9-2.3. Notwithstanding other penalties provided under this chapter, violations of Section 9-2.3 shall be punishable by a fine of \$1,000.00.
- (c) No person licensed to collect refuse shall collect, remove, or transport any commercial cooking oil waste or commercial FOG waste, in any form or in any combination with other material, unless the person also holds a valid industrial wastewater discharge permit.

(Sec. 9-2.4, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 02-14)

Sec. 9-2.5 Initial compliance.

Licensees are granted until June 30, 1979 to bring vehicles used by them into compliance with the provisions of Section 9-2.3(a)(1) and (a)(5). (Sec. 9-2.5, R.O. 1978 (1983 Ed.))

Sec. 9-2.6 Denial or revocation of license.

- (a) The director of customer services is authorized to deny initial issuance of a refuse collection license if the applicant cannot demonstrate compliance with the requirements set forth in this article to the satisfaction of

the director of customer services. Written notice of denial of an application for a license shall be mailed to the applicant, specifying the reason or reasons for the denial. The applicant may appeal the decision of the director of customer services by requesting a hearing in the manner provided for in Section 9-2.7 (c).

- (b) The director may deny issuance of a vehicle decal if a vehicle or other equipment of the licensee or applicant for a license cannot demonstrate compliance with the requirements set forth in this article to the satisfaction of the director. Written notice of denial of a vehicle decal shall be mailed to the licensee or applicant, specifying the reason or reasons for the denial. The licensee or applicant may appeal the decision of the director by requesting a hearing in the manner provided for in Section 9-2.7 (c).
 - (c) The director of customer services is authorized to suspend or revoke any refuse collection license, and the director is authorized to suspend or revoke any vehicle decal, if the provisions contained in this chapter are violated or the requirements of this chapter, or any rules promulgated pursuant to this chapter, are not complied with by the licensee. In the case of suspension or revocation of a license or vehicle decal, the licensee shall be afforded notice and an opportunity for a hearing prior to the suspension or revocation.
- (Sec. 9-2.6, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 10-16)

Sec. 9-2.7 Notice of suspension or revocation--Hearing.

- (a) Notice of Intent to Suspend or Revoke a Refuse Collection License or Vehicle Decal. The licensee shall be given written notice, pursuant to HRS Section 91-9, of the intent to suspend or revoke a refuse collection license or vehicle decal (hereinafter referred to as Abusiness documents"). If the licensee waives such person's right for a hearing, the director of customer services or the director, as the case may be, shall issue in writing an appropriate decision and order.
 - (b) Service of Notice. The foregoing notice will be served upon the appropriate party in the manner provided by HRS Section 91-9.5.
 - (c) Request for Hearing. The appropriate party who has received a notice shall, if such person desires a hearing, affix such person's signature as designated on the copy and have same returned to the director of customer services or the director, as the case may be, by certified mail.
 - (d) Notice of Date of Hearing. Whenever the appropriate party requests a hearing, a notice of the date of such hearing shall be issued to the appropriate party, and such hearing shall be held no later than 20 working days after the request for hearing is received.
 - (e) Procedure for Hearing. Any hearing conducted hereunder shall be pursuant to rules and regulations promulgated by the director of customer services or the director, as the case may be.
 - (f) Director of Customer Services or the Director, As the Case May Be, to Suspend, Revoke or Deny Business Documents. After the hearing, the director of customer services or the director, as the case may be, may rule either in favor or against the suspension or revocation of a license or vehicle decal.
 - (g) Judicial Review. Any person aggrieved by the final decision and order of the director of customer services or the director, as the case may be, may appeal same to the circuit court as provided in HRS Section 91-14.
- (Sec. 9-2.7, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 10-16)

Sec. 9-2.8 Rule-making powers.

Pursuant to HRS Chapter 91, the director of finance and the director are authorized to promulgate any rules or regulations not inconsistent with this chapter to administer and enforce this chapter.
(Sec. 9-2.8, R.O. 1978 (1987 Supp. to 1983 Ed.))

Sec. 9-2.9 Disposal system created.

There is created a city-wide system for the processing and disposal of solid waste generated in the city. As authorized in this chapter, the director of the department of environmental services is authorized and directed to designate from time to time those properties or the methods for the processing and disposal of waste generated in the city, whether "disposal facilities" or "private disposal facilities" (as defined in this chapter), at which the city disposes of waste as part of such system.

(Sec. 9-2.9, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 99-32)

Sec. 9-2.10 Designation of H-POWER project as part of disposal system.

The director of the department of environmental services of the city is directed to designate as a part of the disposal system created pursuant to Section 9-2.9 that certain solid waste processing and disposal and resource recovery and electric generating facility of the city to be constructed at the Campbell Industrial Park in the city and known as the "H-POWER project," together with related and appurtenant structures and equipment (the "H-POWER project").

(Sec. 9-2.10, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 99-32)

Article 3. Regulations Applicable to Businesses, Private Dwellings and Government Facilities

Sections:

- 9-3.1 Business.
- 9-3.2 Private dwellings.
- 9-3.3 Service to government buildings.
- 9-3.4 Multi-unit residential buildings.
- 9-3.5 Food waste recycling.

Sec. 9-3.1 Business.

- (a) No person shall operate or maintain a business without arranging or providing for the collection of all refuse therefrom.
- (b) Where the collection of refuse is to be made by the division, the owner or occupant of the business shall prepare and place refuse for collection in the manner set forth in Section 9-1.4.
- (c) The owners of liquor-serving establishments shall arrange and provide for the separate collection and recycling of glass containers and the owners of office buildings shall provide for the separate collection and recycling of office paper, newspaper and corrugated cardboard. In so doing, liquor-serving establishments and office buildings shall not place those recyclable materials in the same containers as those holding refuse, or in a manner which causes or is intended to cause the collection of the recyclable materials with refuse. For the purposes of this subsection:
 - (1) "Liquor-serving establishment" means a business establishment that sells liquor or intoxicating liquor to be consumed on the premises of the establishment, and shall include bars, nightclubs, cabarets, taverns, and any restaurant where liquor or intoxicating liquor is sold for consumption on the premises, including restaurants within hotels and office buildings;
 - (2) "Liquor or intoxicating liquor" means the same as is defined in HRS Section 281-1; and
 - (3) "Office building" means any building with, or group of connected buildings with an aggregate of, 20,000 square feet or more of office space, excluding common areas; provided that office space shall not include any portion of a building used for resort, retail or educational purposes.

An office building, as defined in this subsection, which is occupied by city agencies, in whole or in part, shall be subject to the requirements of this subsection, except where the city agencies are already participating in a recycling program under Section 9-1.11.

The owner of a liquor-serving establishment or office building may petition the chief for an exemption from the recycling requirements of this subsection in part or in full if the owner can demonstrate that the establishment or office building, as the case may be, does not generate a sufficient amount of the designated recyclable material to warrant separate collection for recycling.

The owner of a liquor-serving establishment or office building may petition the chief to suspend the applicability of this subsection to the applicant if the applicant demonstrates that recycling service for the items the applicant is required to recycle is unavailable to the applicant, or that the cost of recycling the applicable recyclable materials exceeds the cost of disposing of those same items at the HPOWER facility or the city's landfills. If the chief grants the application, the requirements of this subsection shall be suspended until such time as recycling service becomes available to the applicant, or the cost of the recycling service is less than or equal to the cost of disposal of the recyclable items at the HPOWER facility or the city's landfills. The chief shall, from time to time, review the availability and cost of the recycling service to those persons for whom the requirements of this subsection have been suspended. For the purposes of this subsection, the "cost of the recycling service" shall include only those costs that the recycler would charge the owner of a liquor-serving establishment or office building, whichever is applicable, for picking up and disposing of the items to be recycled, and the cost of disposal of the items to be recycled at the HPOWER facility or the city's landfills shall include the city's tipping fee and the cost of transporting the recyclable items to either of the aforementioned disposal facilities. If the chief determines that the requirements of this subsection shall no longer be suspended with regard to a particular liquor-serving establishment or office building, the chief shall notify the owner of the establishment or building by registered mail and such owner shall be required to recycle the appropriate items in accordance with this subsection within 60 days of receipt of the notice.

The chief may also suspend the requirements of this subsection during the period of a work stoppage or any other interruption of refuse collection service to the office buildings and liquor-serving establishments that are subject to this subsection.

(Sec. 9-3.1, R.O. 1978 (1983 Ed.); Am. Ord. 95-64, 14-24)

Sec. 9-3.2 Private dwellings.

- (a) Every owner of a private dwelling shall arrange or provide for the collection and disposal of all refuse therefrom.

- (b) Where the collection of refuse is to be made by the division, the owner or occupant of a private dwelling shall prepare and place refuse for collection in the manner set forth in Section 9-1.4.
 - (c) Every owner shall keep the street and sidewalk fronting the owner's property free of refuse, except for refuse prepared and placed for collection in accordance with Section 9-1.4.
- (Sec. 9-3.2, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 10-16)

Sec. 9-3.3 Service to government buildings.

The division may provide refuse collection services to buildings of the federal and state governments upon request from the authorities responsible for such buildings. The charge for service to such governmental buildings, other than buildings used for residential purposes, shall be that which is applicable to a place of business. For services rendered to buildings used for residential purposes, the charges shall be established by agreement. Such agreement shall be executed by the director of budget and fiscal services, with the recommendation of the director, on behalf of the city. (Sec. 9-3.3, R.O. 1978 (1983 Ed.); Am. Ord. 99-32)

Sec. 9-3.4 Multi-unit residential buildings.

- (a) Every owner of a multi-unit residential building or individual unit or the owner's designated management agent in such building who has not made provisions for refuse collection by the division pursuant to Section 9-3.2(b) shall present to the director or the director's authorized representative upon reasonable request one of the following, whichever is applicable:
 - (1) Evidence that the owner or the owner's designated management agent has engaged a licensed refuse collector to collect and dispose of the refuse at least once a week;
 - (2) Evidence that the owner or the owner's designated management agent has independently disposed of the refuse at a properly designated disposal site at least once a week; or
 - (3) Evidence that the owner or the owner's designated management agent is disposing of refuse pursuant to Section 9-1.3(a)(2).
 - (b) Every owner of a multi-unit residential building or individual unit or the owner's designated management agent in such building shall maintain a clean and sanitary storage area for accumulated refuse between scheduled collection days.
 - (c) Every owner of a multi-unit residential building or individual unit or the owner's designated management agent in such building shall keep the street and sidewalk fronting the property free of refuse, except for refuse prepared and placed for collection in accordance with Section 9-1.4.
 - (d) The director or the director's authorized representative shall determine whether a multi-unit residential building is being adequately serviced by refuse collection.
 - (e) Any person residing in a multi-unit residential building may file a complaint with the director if the owner of such building does not provide for refuse removal pursuant to this chapter.
 - (f) Notwithstanding any other penalty provided under this chapter, a violation of this section shall be subject to a civil fine of \$250.00 per day, beginning with the day the violation is verified by the director or the director's authorized representative and continuing until conditions are brought into conformity with the law. This subsection shall not apply to bulky wastes that are improperly placed on the street or sidewalk abutting a property which shall be subject to the penalty provided in Section 9-5.1(e).
- (Sec. 9-3.4, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 10-16)

Sec. 9-3.5 Food waste recycling.

- (a) The owners of the following food establishments located within the City and County of Honolulu shall: (i) arrange and provide for the separate collection of food waste and for its recycling by a recycling facility in the city; or (ii) separate food waste from all other solid waste generated by the food establishment and deliver the food waste to a recycling facility:
 - (1) A restaurant that occupies 5,000 square feet or more of floor area and serves 400 or more prepared meals per day based on an annualized average. If a restaurant is also a catering establishment, it shall be considered a restaurant for purposes of this section. If a restaurant has on its premises a place where the primary method of service, for all mealtimes, is food and drink orders taken and served to customers at a self-service counter, that portion of the premises devoted to the taking and serving of such food and drink orders, and any dining area serving customers of such self-service counter, shall not be counted in determining the square feet of the restaurant or the number of prepared meals served by the restaurant.
 - (2) A food court as defined in subsection (g). The company or entity that manages the shopping center or building where the food court is located shall be required to comply with the requirements of this section unless the owners of the food establishments in the food court are responsible for the disposal of their refuse, in which case the owners of those establishments shall be responsible for complying with this section.
 - (3) A hotel with a kitchen or kitchens and one or more function rooms. For the purposes of this subdivision,

a "kitchen" means that place which is not part of a restaurant and where food is prepared for hotel employees or functions on the hotel's premises.

(4) A market that occupies 18,000 square feet or more of floor area.

(5) A food manufacturer or processor that occupies 5,000 square feet or more of floor area.

(6) A catering establishment that is not also a restaurant or part of a restaurant and which serves or sells 400 or more prepared meals per day based on an annualized average.

(7) A hospital which serves 400 or more prepared patient meals a day based on an annualized average.

For the purposes of this subsection, for the first year following January 1, 1997,* the annualized average number of prepared meals served or sold per day by a food establishment shall be the average number of meals prepared per day in the year prior to January 1, 1997,* for food establishments that have been in existence for one year or more prior to January 1, 1997.* For establishments that have not been in existence for that length of time prior to January 1, 1997,* the annualized average shall be determined based on the number of prepared meals served or sold per day during the first year that the food establishment has been in existence following January 1, 1997.* Except as provided above, establishments shall use the prior year=s average number of prepared meals served or sold per day in determining whether they are required to recycle their food waste in accordance with this section.

(b) This section shall not apply to any church or nonprofit organization except a hospital, as provided in subsection (a). Further, this section shall not apply to any food service establishment which offers as the primary method of service, for all mealtimes, food and drink orders taken at and served to the customer at a self-service counter; provided that this exemption shall not apply to food establishments in markets or establishments in a food court.

(c) The requirement to recycle food waste under this section shall be applicable only to the food waste from kitchens and food preparation, handling, and manufacturing or processing areas, and from dining areas where customers are served by waiters or waitresses, or where tables or meals are cleared away by employees of the business or establishment.

The requirement of this subsection shall not apply to commercial cooking oil waste or commercial FOG waste. Instead, the removal, transport, and disposal of such waste shall be subject to Chapter 14, Article 5A.

(d) A food establishment that is required to recycle food waste under this section may combine such waste with that of other establishments, or may separately collect and recycle its own food waste.

(e) All food establishments otherwise required to recycle food waste under this section shall not be required to do so if the disposal charge for disposing of food waste at a recycling facility in the city, including the cost of transporting the food waste to the facility, exceeds the tipping fee or disposal charge for disposing of waste at the HPOWER facility, as provided in Section 9-4.2, plus the cost of transporting refuse to such facility. The chief shall make this determination.

(f) The owner of a food establishment that is otherwise required to recycle food waste may petition the chief to suspend the applicability of this section to the applicant if the applicant demonstrates that recycling service for food waste is unavailable to the applicant. If the chief grants the application, the requirements of this section shall be suspended until such time as recycling service becomes available to the applicant. The chief shall, from time to time, review the availability of recycling service to food establishments for which the requirements of this section have been suspended. If the chief determines that recycling service is available and that the requirements of this section shall no longer be suspended with regard to a particular food establishment, the chief shall notify the owner of the establishment by registered mail and that owner shall be required to recycle food waste in accordance with this section within sixty days of receipt of the notice.

The chief may also, on the chief's own initiative, suspend the requirements of this section:

(1) During the period of a work stoppage or any other interruption of recycling collection service to the food establishments that are subject to this section; or

(2) Whenever the chief determines that there are inadequate recycling facilities or there is inadequate recycling capacity to dispose of the food waste being collected pursuant to this section.

(g) For the purposes of this section:

"Catering establishment" means the same as defined in Section 21-10.1.

"Composting facility" means an establishment that conducts either major or minor composting operations, as defined in Section 21-10.1.

"Food bank" means a facility that receives donations of food for redistribution to needy groups, individuals or families.

"Food court" means an area within a building or shopping center where five or more food establishments are situated and serviced by a common dining area.

*Editor's Note: "January 1, 1997" is substituted for "the effective date of this ordinance".

"Food establishment" means a catering establishment, food court, food manufacturer or processor, hospital, hotel, market, or restaurant.

"Food manufacturer or processor" includes an establishment that generates food waste and is primarily involved in the manufacture or processing of food products, including animal products, but excluding baked goods.

"Food waste" means the same as that term is defined under the definition of Recyclable materials" in Section 9-1.2.

"Function room" means an area within a hotel where events are held at which food is served, including but not limited to wedding receptions, business meetings, conferences, banquets and parties.

"Hospital" means the same as defined in Section 21-10.1.

"Hotel" means the same as defined in Section 21-10.1.

"Market" includes establishments where fresh meat, fish or produce is prepared, handled and displayed for sale at retail or wholesale.

"Meal" includes any food item or items served as an entree at breakfast, lunch or dinner, but excludes beverages and desserts, if the beverages or desserts are served by themselves and not part of a breakfast, lunch or dinner.

"Prepared meals" means meals that have been cleaned, cooked, or otherwise prepared on the premises of the food establishment, and shall exclude prepackaged meals that are cooked or otherwise prepared elsewhere and only sold on the premises of the establishment. APrepared meals" includes meals a portion of which have been precooked or prepared off the premises of the establishment.

"Recycling facility" includes a composting facility, waste bioconversion facility, rendering facility, pig farm or other agricultural facility that uses food waste as animal feed or for other agricultural use, or any other facility that recycles food waste and is approved by the director for that purpose.

"Recycling service" is a service or collection of services that includes the collection and transportation of food waste to a recycling facility by a refuse hauler or other company that collects the food waste, and the recycling or reuse of that food waste by a recycling facility, which may or may not be operated by the company that collects and transports the food waste.

"Rendering facility" means an establishment that converts kitchen grease, cooking oils, meat scraps or other slaughterhouse waste, waste from meat processing plants, or any combination of the foregoing items, for use in the manufacture of such products as cosmetics, detergents, plastics, paints, tires and animal feed products.

"Restaurant" means a place of business where food is served for compensation and includes the kitchen or food preparation area of that place of business, but excludes any portion of the establishment that is a bakery serving baked goods for consumption on or off the premises of the restaurant and excludes a quick-serve food service establishment which offers as the primary method of service, for all mealtimes, food and drink orders taken at and served to the customer at a self-service counter.

"Waste bioconversion facility" means a facility where food and other organic waste are converted into useable byproducts.

(h) The department may adopt rules in accordance with HRS Chapter 91, having the force and effect of law, for the implementation, administration and enforcement of this section.

(i) Upon presentation of proper credentials, the director or the director's duly authorized representative, may enter at reasonable times any building or premises of a food establishment and inspect the books and records of a food establishment to determine compliance with the requirements of this section; provided that such entry and inspection shall be made in such a manner as to cause the least possible inconvenience to the persons in possession of the property and the owners of the food establishment; and provided further that an order of a court authorizing such entry and inspection shall be obtained prior to entry or inspection in the event that such entry or inspection is denied or resisted by the persons in possession or owners of the food establishment.

(j) On January 1, 1997* and quarterly thereafter: (1) each waste bioconversion facility in the city shall report to the refuse division on: (a) how much private refuse haulers or other companies are being charged as of the end of the quarter being reported, per unit of weight or volume, for disposing of food waste at the bioconversion facility, and how much the facility is charging per unit of weight or volume, if the facility both collected and disposed of food waste from a food establishment; (b) the amount of food waste, per unit of weight or volume, that the facility recycled during the previous quarter; and (2) each refuse hauler or other company that collects and transports food waste shall report to the refuse division on how much, per unit of weight or volume, the hauler or company charged food establishments as of the end of the quarter being reported to collect and dispose of their food waste.

(k) Nothing in this section shall preclude a food establishment from donating leftover or unsold food that is safe to consume to a food bank.

(Added by Ord. 96-20; Am. Ord. 99-32, 02-14)

Article 4. Collection and Disposal Charges

Sections:

- 9-4.1 **Collection charges for businesses.**
- 9-4.2 **Disposal charges for businesses and federal, state and city agencies.**
- 9-4.3 **Payments of charges.**
- 9-4.4 **Failure to pay charges.**
- 9-4.5 **Dead animals--Collection fee.**
- 9-4.6 **Disposition of fees, charges and deposits.**
- 9-4.7 **Refuse collection and disposal charges--Waiver.**
- 9-4.8 **Cost of bulky wastes removal.**

Sec. 9-4.1 Collection charges for businesses.

(a) For Refuse Generated by Businesses and Collected by Manual Collection.

- (1) Unit Charge for Collection. For all refuse collected and removed by the division on regularly scheduled collection days from places of business, there shall be a unit charge or a minimum charge, whichever is greater, assessed against each business served by the division in accordance with the following schedule:

Unit Charge (per cubic foot)	Minimum Charge (per month or fraction thereof)	Effective Date
\$1.00	\$30.00	July 1, 1997

- (2) Volumes of refuse shall be based on monthly averages determined by periodic measurements. New accounts shall be charged the minimum charge specified in paragraph (1) of this subsection per month during the period that the monthly average volume is being determined; provided, that after the average monthly volume is determined, retroactive adjustment of charges over the minimum may be made if deemed to be warranted, such determination to be made by the director of finance.

(b) For Refuse Generated by Businesses and Collected by Automated Collection with 90-Gallon City-Issued Carts:

- (1) Cart Deposit Charge. An initial cart deposit fee shall be charged for each business cart. Upon return of the cart to the city refuse division, a portion of the cart deposit fee shall be returned to the business. The difference between the deposit fee and the deposit return shall be retained by the city for administrative handling, including cart delivery. Carts are the responsibility of the business owner. Damaged carts under warranty will be repaired or replaced by the city. The city will collect the deposit fee for all carts issued to businesses, including the carts issued prior to July 1, 1997.*

Deposit Fee (per cart)	Deposit Return (per cart)	Effective Date
\$90.00	\$70.00	July 1, 1997

- (2) Unit Charge. The unit charge for collection will be according to the following schedule:

Monthly Unit Charge (per cart)	Minimum Charge (per month or fraction thereof)	Effective Date
\$75.00	\$75.00	July 1, 1997

- (3) New Account Charge. New accounts shall be charged the minimum charge specified in paragraph (2) of this subsection.

(Sec. 9-4.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 89-77, 97-45)

***Editor's Note:** "January 1, 1997" is substituted for "the effective date of this ordinance".

Sec. 9-4.2 Disposal charges for businesses and federal, state and city agencies.

(a) Unit Charges for Disposal. For the receipt and disposal of refuse and other solid wastes delivered to disposal facilities by any business or any federal or state agency, the following unit charges shall apply:

Disposal Facility	Unit Charge (per ton)	Unit Charge (per cubic yard or fraction thereof)
H-POWER	\$81.00	\$25.25
Transfer Stations	\$110.60	\$34.50
Landfills	\$81.00	\$25.25
Transshipment Facilities	\$81.00	\$25.25

(b) Minimum and Special Charges.

(1) Minimum Charges. The minimum charge per truckload shall be equal to the unit charge per cubic yard. The unit charge per cubic yard will be assessed only in the event of a breakdown or unavailability of weighing equipment at the disposal facility.

(2) Special Charges. All special charges will apply to businesses, and federal and state agencies.

(A) Landfill. In addition to the unit charges established in this section, a charge per truckload for special wastes requiring special handling or arrangements by the city's or operating contractor's employees for proper disposal at landfills shall be imposed as follows:

Special Handling Charge
\$84.25

(B) H-POWER. In addition to the unit charges established in subsection (a), a per ton and a per hour charge for waste delivered to the H-POWER facility requiring special handling or arrangements by the H-POWER contractor's employees shall be imposed as follows:

Disposal Area	Special Handling Per Ton Charge	Minimum Load Charge
Auger Bin	\$540.00	\$270.00
RDF Storage Floor	\$440.00	\$220.00
MSW Storage Floor	\$320.00	\$210.00

The charge per ton or minimum load charge, whichever is greater, shall be assessed against each business or agency served. In addition to this assessment, there shall be a per hour charge as specified below:

Disposal Area	Special Handling Per Hour Charge
Auger Bin	\$250 per hour or fraction thereof
RDF Storage Floor	\$25 per hour or fraction thereof per H-POWER contractor's employee
MSW Storage Floor	\$25 per hour or fraction thereof per H-POWER contractor's employee

(c) Discount for Disposal of Residue from Recycling Operations. The unit charges for disposal of residue from recycling operations shall be discounted to 75 percent of the unit charges for disposal set forth in subsection (a). For the purposes of this subsection, a "recycling operation" is a facility that recovers post-consumer waste materials for use in new consumer products. To be eligible for the discounted unit charges for disposal, the following conditions must be met:

- (1) The recycling operation shall recover at least 2,000 pounds of recyclable materials per month;
- (2) The recyclable material shall be shipped off-island, or the recyclable material shall be incorporated into a new consumer product directly by the recycling operation;
- (3) The residue shall be a maximum of 25 percent of the weight of the recyclable materials recovered;
- (4) The residue shall be a direct result of the recycling operation;

- (5) The residue shall not be commingled with other waste at delivery;
- (6) The residue shall not contain any recyclable material; and
- (7) The recycling operation shall be in compliance with all applicable permits and licenses required by the City and County of Honolulu, State of Hawaii, and the federal government; noncompliance will result in disqualification until compliance is resolved and certified.

Upon submission of a written request and supporting data from the recycling operation's owner or the recycling operation's owner's designee, the director shall determine whether the recycling operation is eligible for the discounted unit charge for disposal. After such determination, the director shall either approve the application by proper endorsement or deny the application specifying in writing the cause or causes for such disapproval. All vehicles used by the recycling operation to transport residue to disposal facilities shall be constructed so as to allow ready inspection of their load before disposal.

Disposal charges shall be charged directly to the recycling operation. The recycling operation's owner or the recycling operation's owner's designee shall submit monthly reports to the director documenting types and quantities of the materials recycled and the residues resulting therefrom. If the director determines that the residue from the recycling operation does not meet the conditions for the discounted unit charge for disposal as set forth in this subsection, the director shall not apply the discount and shall not apply the discount until such time that the director determines that the applicable conditions for such discount have been met.

(d) Exemption.

- (1) Any eleemosynary or charitable organization that has been determined by the Internal Revenue Service to qualify as a tax-exempt organization under the provisions of Section 501(c)(3) of the Internal Revenue Code and that recovers post-consumer waste materials for charitable use through a donated merchandise program, generating residue as a byproduct of its charitable function for disposal at a city disposal facility, and
- (2) Any one-day solid waste cleanup event or activity approved by the department of environmental services for the express, non-commercial benefit of the community that involves the collection of litter and other solid waste from non-commercial sources and that results in the disposal and recycling of that waste, shall be exempt from the disposal and special handling charges of subsections (a) and (b) and the fees of subsection (e). The residue generated from a donated merchandise program run by an eleemosynary or charitable organization, pursuant to subdivision (1), and waste collected through the event or activity described in subdivision (2), that are to be disposed of at any city disposal facility, shall be clearly marked as such residue or waste, as the case may be, and shall not be commingled with any other waste.

In the event that an eleemosynary organization contracts with a private business to dispose of residue in compacted form or otherwise, the private business shall be initially charged the standard disposal fees for the disposal of the residue. The exemption to disposal fees shall be applied to the private business's account after the eleemosynary organization submits a monthly report to the chief engineer documenting dates and numbers of loads of residue dispatched to the disposal sites.

- (e) In addition to the charges outlined in subsections (a) and (b), there shall be a surcharge of 12 percent on those charges. The 12 percent surcharge shall also be applied to the charge that the city pays for disposing of refuse and other solid wastes at the H-POWER facility. All charges collected in accordance with this subsection shall be deposited into the recycling account of the solid waste special fund established by Section 6-49.1.
- (f) Surcharge for Recovering State and Federal Fees. In addition to the disposal charges at municipal landfills, incinerators, and transfer stations delineated in this section, the department is authorized to impose a surcharge to recover the amount of any solid waste regulatory or permit fee imposed by the state or federal government together with any administrative cost to the city for imposing and collecting said fee.

(Sec. 9-4.2, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 89-77, 91-66, 92-60, 92-111, 95-06, 95-39, 95-40, 96-58, 97-45, 99-32, 99-33, 00-27, 01-65, 02-32, 03-20, 04-07, 04-16, 10-2, 11-6, 11-25, 12-37, 16-4)

Sec. 9-4.3 Payments of charges.

- (a) Collection and disposal charges shall be paid at the time of disposal or billed monthly or bimonthly by the director of budget and fiscal services or the director's designated billing agency, such determination to be made by said director. Charges billed shall be paid within 30 days after the date of the bill.
- (b) Billed charges not paid within 30 days shall become delinquent and shall be subject to interest at the rate of one percent per month for each month or fraction thereof that such charges remain delinquent.
- (c) If partial payment of a delinquent charge is made, the amount received shall first be credited to interest and then to principal.

(Sec. 9-4.3, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 99-32, 99-65, 14-13)

Sec. 9-4.4 Failure to pay charges.

- (a) The director shall discontinue collection and disposal service to any business for failure to pay any charge when due. The director shall resume service upon request for reinstatement of service by the business and upon

payment to the director of budget and fiscal services of all delinquent charges including interest. There shall be a service reinstatement fee of \$10.00 which shall be paid to the director of budget and fiscal services at the time request for reinstatement of service is made.

- (b) A service fee of \$25.00 will be charged for handling a dishonored check.
(Sec. 9-4.4, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 99-32)

Sec. 9-4.5 Dead animals--Collection fee.

There shall be no charge for the collection or disposal of dead animals described in Section 9-1.8.

(Sec. 9-4.5, R.O. 1978 (1987 Supp. to 1983 Ed.))

Sec. 9-4.6 Disposition of fees, charges and deposits.

All fees and charges collected under this chapter shall be deposited into the solid waste special fund.

(Sec. 9-4.6, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 92-111, 99-32)

Sec. 9-4.7 Refuse collection and disposal chargesCWaiver.

- (a) The director is authorized to waive the collection and disposal charges established by this article in cases of natural or man-made disasters and for a time period in which the director deems necessary to remove disaster debris.
- (b) For the purposes of this section, a "natural disaster" includes disasters caused by fire, flood, tidal waves, hurricanes, tsunamis, volcanic eruptions, earthquakes, or other natural causes; and a "man-made disaster" includes disasters caused by enemy attacks, sabotage, other hostile actions, or disasters to individual homes, or other disasters manufactured, created or constructed by mankind.
- (c) The director may adopt rules pursuant to HRS Chapter 91 to implement the provisions of this section.

(Added by Ord. 92-137)

Sec. 9-4.8 Cost of bulky wastes removal.

- (a) The failure of any owner or association of apartment owners to properly dispose of or remove bulky wastes within seven days after written notice shall constitute a public nuisance. Any person responsible for noncompliance with Section 9-1.4(d) shall be liable to the city for the cost of removing such bulky wastes.
- (1) Upon the failure, neglect or refusal of any owner or association of apartment owners so notified to properly dispose of or remove bulky wastes within seven days after receipt of written notice or within seven days after the date of such notice in the event the same is returned to the city because of an inability to make delivery thereof, provided the same is properly addressed to the last known address of such owner or association of apartment owners, the director is authorized and empowered to dispose of such bulky wastes or to order its disposal by the city. The director or the director's authorized representative, including any contractor with whom the director contracts under this section and assistants, employees or agents of such contractor are authorized to remove bulky wastes on the street or sidewalk fronting the property of the owner or association of apartment owners.
- (2) When the city has effected the removal of bulky wastes or has paid for their removal upon the failure, neglect or refusal of any owner or association of apartment owners so notified to properly dispose or remove bulky wastes, the owner or association of apartment owners shall be billed by mail and charged the actual cost incurred by the city, plus any administrative expenses associated with the removal of the bulky wastes. The bill shall apprise the owner or association of apartment owners that failure to pay the bill within 30 days after the bill has been mailed for payment will result in a lien being placed upon the property as authorized by HRS Section 46-1.5. Interest at the rate of eight percent per annum shall accrue on any unpaid balance from the 31st day after the bill has been mailed to the owner or association of apartment owners.
- (3) The director shall cause to be kept in the department a permanent record containing: (A) a description of each parcel of the property for which a notice to remove bulky wastes has been given under this subsection; (B) the name of the owner or association of apartment owners if known; (C) the date on which such notice was mailed and posted; (D) the fee for removing the bulky wastes; and (E) a brief summary of the work performed.

- (b) All moneys collected under this section shall be deposited into the solid waste special fund.

(Added by Ord. 10-16)

Article 5. Enforcement of Provisions

Sections:

- 9-5.1 Violation--Penalty.**
- 9-5.2 Revocation or suspension of license.**
- 9-5.3 Enforcement authority.**
- 9-5.4 Nonliability of department personnel.**

Sec. 9-5.1 Violation--Penalty.

- (a) Except as otherwise provided, any person violating any provision of this chapter shall be subject to a civil fine not exceeding \$500.00 for each violation. Each day that a person violates any provision of this chapter shall constitute a separate violation.
 - (b) Any person violating Section 9-1.4(a)(6) shall be subject to a civil fine not exceeding \$250.00 for each violation.
 - (c) Any person violating Section 9-3.1(c) shall be subject to a civil fine not exceeding \$250.00 for each violation.
 - (d) Any person violating Section 9-3.5 shall be subject to a civil fine not exceeding \$250.00 for each violation. For purposes of this subsection, "person" means any natural person, partnership, corporation, firm, sole proprietorship, trust, unincorporated association or joint venture, cooperative, or any other entity; provided that the term shall exclude a church and a nonprofit organization, as defined in Section 28-1.3, except a hospital.
 - (e) Any person violating both Sections 9-1.4(d) and 9-4.8 shall be subject to a civil fine not exceeding \$250.00 for each violation. Each time an owner or association of apartment owners violates Section 9-1.4(d), and fails to properly dispose of or remove the bulky wastes after receiving a written notice pursuant to Section 9-4.8, that shall constitute a single violation. The fine shall be in addition to any removal costs billed to the owner or association of apartment owners.
 - (f) Any person violating Section 9-1.10 shall be subject to a civil fine not exceeding \$2,500.00 for each violation; provided that any person violating both Section 9-1.4(d) and 9-1.10 shall be subject only to the civil fine set forth in subsection (a).
 - (g) The penalties under this section are in addition to any other penalty that may be imposed on a person for a violation of any other provision of this chapter.
 - (h) Appeal of the fines set forth in this section shall be pursuant to rules promulgated by the director as necessary to carry out the provisions of this chapter.
- (Sec. 9-5.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 89-113, 95-64, 96-20, 99-32, 10-16, 16-9)

Sec. 9-5.2 Revocation or suspension of license.

In the case where a person has been convicted, the court shall have the further power to suspend or revoke any license or permit issued to such person hereunder for any remaining portion of the term of such license or permit, or such person may be punished by both such fine, suspension or revocation. No license or permit shall be issued to any person whose license or permit has been so suspended or revoked, as above prescribed for a period of two years after the date of such suspension or revocation. The court may also order forfeiture of the bond provided in Section 9-2.2 (b) or any part thereof, for the nonobservance or violation by a licensee of the conditions of the license. (Sec. 9-5.2, R.O. 1978 (1983 Ed.))

Sec. 9-5.3 Enforcement authority.

- (a) Any inspector is authorized to:
 - (1) Issue a written citation pursuant to Section 9-5.1 if such enforcement officer witnesses a violation, receives a report from a private citizen witnessing a violation or has probable cause to believe that a person has violated the provisions of this chapter.
 - (2) Investigate any refuse and bulky wastes found thrown, deposited, or dumped on a street, roadside, alley or highway to find any personal identification contained therein.
 - (3) Issue a written citation pursuant to Section 9-5.1 for violations of this chapter.
 - (b) Any person who witnesses the throwing, dropping, placing, dumping or depositing of refuse or bulky wastes in violation of this chapter, including the throwing of refuse or bulky wastes from a vehicle, may report the date, time of day, location and license number of the vehicle, to any enforcement officer.
 - (c) All complaints of alleged violations shall be investigated by the city. Inspectors shall, wherever practicable, inspect any refuse found on any street, highway, alley or public place, and any traceable ownership shall be subject to the provisions of this chapter.
 - (d) The director is authorized to promulgate rules to administer and enforce the provisions of this chapter.
- (Added by Ord. 10-16)

Sec. 9-5.4 Nonliability of department personnel.

No member, employee, or officer of the department shall be civilly or criminally liable or responsible under this chapter for any acts done under this chapter in the performance of their duties as a member, an officer, or an employee of the city. (Added by Ord. 10-16)

Article 6. Procedure on Arrest

Sections:

9-6.1 Procedure.

9-6.2 Summons or citation.

Sec. 9-6.1 Procedure.

Any authorized police officer or special officer, upon making an arrest for a violation of this chapter, shall take the name and address of the alleged violator and shall issue to such person in writing a summons or citation hereinafter described, notifying such person to answer to the complaint to be entered against such person at a place and at a time provided in the summons or citation. The term "special officer" means any officer or employee of the department of environmental services who has the duty and responsibility to enforce the provisions of this chapter and who has been conferred and appointed as special officer by the chief of police of the City and County of Honolulu. (Sec. 9-6.1, R.O. 1978 (1983 Ed.); Am. Ord. 99-32)

Sec. 9-6.2 Summons or citation.

- (a) There shall be provided for use by police officers or special officers, a form of summons or citation for use in citing violators of this chapter where the circumstances do not mandate the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and regulations of the State of Hawaii and the City and County of Honolulu.
- (b) In every case when a citation is issued, the original of the same shall be given to the violator; provided, that the administrative judge of the district court may prescribe by giving to the violator a carbon copy of the citation and provide for the disposition of the original and any other copies.
- (c) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

(Sec. 9-6.2, R.O. 1978 (1983 Ed.))

Article 7. Recycling of Glass Containers

Sections:

9-7.1 Incentive for licensed recycler.

9-7.2 Definitions.

9-7.3 License application--Bond--Insurance--Fee--Term--Revocation.

9-7.4 Glass incentive program.

9-7.5 Payment of incentives.

9-7.6 Prohibitions.

9-7.7 Violation--Penalty.

Sec. 9-7.1 Incentive for licensed recycler.

The department shall pay to each licensed recycler engaged in the recycling of glass containers an incentive in accordance with this article. (Added by Ord. 89-125)

Sec. 9-7.2 Definitions.

For the purpose of this article:

"City" means the City and County of Honolulu.

"Cullet" means pieces of crushed glass which may be melted and made into new glass.

"Glass container" means a container which is designed and intended to hold a beverage, food, cleaning, health, beauty or similar product and is manufactured from a mixture of silicates, borates or phosphates.

"Glass dealer" means any person who is engaged in the manufacture of glass containers within the city or who imports glass containers from without the city.

"Incentive" means the payment for each ton of glass containers recycled, as authorized under Section 9-7.5.

"Licensed recycler" means a person licensed under Section 9-7.3. (Added by Ord. 89-125; Am. Ord. 99-32, 10-16)

Sec. 9-7.3 License application--Bond--Insurance--Fee--Term--Revocation.

- (a) Any person wholly or partially engaged in the business of recycling glass containers may apply to the department for licensure as a licensed recycler. The application shall contain the following information from the applicant:
 - (1) Name and home address;
 - (2) Business address;
 - (3) Address at which the applicant refills glass containers, processes glass containers for shipment out of state or crushes glass containers into cullet;
 - (4) State of Hawaii general excise tax license number;
 - (5) If the applicant is a firm, association, organization, partnership, joint venture, corporation, business, trust, company or cooperative, the names and addresses of all owners and officers and their respective percentages of ownership; and
 - (6) Facts demonstrating that the applicant is engaged in the business of recycling glass containers.
 - (b) Every applicant for a license shall execute and submit a surety bond in favor of the city in the penal sum of \$1,000.00. The bond shall be issued by a surety company authorized to do business in Hawaii in accordance with HRS Section 78-20.
 - (c) The applicant shall secure and present to the department at the time of application a standard automobile liability insurance policy covering the applicant, or any person driving any vehicle belonging to the applicant with the applicant's permission in the amount of \$100,000.00 for bodily injury to or death of one person in any accident and in the amount of \$300,000.00 for bodily injury to or death of two or more persons in any one accident, respectively, and property damage insurance in the amount of \$10,000.00 because of damage to or destruction of property of others in any one accident. The applicant shall secure and present to the department at the time of application a standard comprehensive nonvehicular public liability insurance policy covering the applicant and the applicant's employees and agents, which shall also include a rider covering the city in the amount of \$300,000.00. The rider shall be in the form of an endorsement insured by the insurer.
 - (d) The fee for an annual glass recycling license shall be \$100.00, payable in advance to the director of customer services. The fee for any license issued to an applicant after July 1st shall be prorated according to the remaining months of each fiscal year. No license fee shall be refundable.
 - (e) The director of customer services shall issue a license to each applicant upon satisfaction of the truth of the information on the application and payment by the applicant of the license fee. Issuance of the license shall confer upon the licensed recycler the privilege of receiving the incentive under this article, and no other privilege, right, power, duty or obligation. Issuance of the license shall not be deemed an approval, endorsement or sanction by the director of customer services or city of the licensed recycler or any activity conducted by the licensed recycler. Nor shall issuance of the license be deemed an expressed or implied imposition or acceptance of a regulatory obligation upon the director of customer services or city over the licensed recycler or any activity conducted by the licensed recycler, except as otherwise provided under this article.
 - (f) The glass recycling license shall be issued for a term of one year commencing July 1st and ending on June 30th of the next succeeding year.
 - (g) Revenues from the license fee and renewal fee shall be a realization of the solid waste special fund.
 - (h) The director of customer services may suspend or revoke a license for cause, subject to the same procedure as applicable to the suspension or revocation of a refuse collection license under Section 9-2.6.
- (Added by Ord. 89-125; Am. Ord. 96-58, 99-32, 10-16)

Sec. 9-7.4 Glass incentive program.

- (a) The amount of revenues provided in the glass incentive fund account referenced in Sec. 6-49.1 shall be adequate to meet glass recycling program goals of 25 percent of glass containers recycled in the first year of operation, 50 percent of glass containers recycled in the second year, and thereafter the percentage shall be increased to the maximum amount practical as determined by the department considering the economic and environmental benefits to be realized.
- (b) Every glass dealer shall pay to the department an assessment to cover incentives and the expense of administering the glass recycling program, which assessment shall be paid only once on the same glass container and shall not exceed one cent per glass container in the first year of operation and shall not exceed two cents per container, if needed, in the second year, and thereafter an amount to be determined by the department consistent with the glass recycling program goals set forth in subsection (a) of this section. In addition to the revenues provided by the glass dealers through the assessments, the city shall pay to the fund an amount not to exceed \$300,000.00 in the first year of operation and \$600,000.00, if needed, in the second

year, and thereafter an amount to be determined by the department consistent with the glass recycling program goals set forth in subsection (a) of this section, subject to appropriation by the council. The assessment shall be paid at a time and in a manner prescribed by rules promulgated by the department in accordance with HRS Chapter 91. The assessment shall not be paid on glass containers exported from the city unless the glass dealer decides to make such payment

- (c) The department may require glass dealers to maintain records reflecting their manufacture and importation of glass containers, to furnish to the department such information as may be requested relating to such manufacture and importation, and to permit inspection by the department of such books and records. Proprietary information obtained by the department shall be kept confidential, and shall not be disclosed to any other person except:
 - (1) As may be reasonably required in any administrative or judicial proceeding to enforce this chapter or any rule adopted to implement or administer this chapter; and
 - (2) Under any order or subpoena issued by a court.

(Added by Ord. 89-125; Am. Ord. 99-22)

Sec. 9-7.5 Payment of incentives.

- (a) The department may pay an incentive to each licensed recycler who agrees in writing to pay to the public a minimum price established by the department for glass to be recycled in the program.
- (b) The amount of the incentive shall be determined by the department in accordance with rules adopted pursuant to HRS Chapter 91. In determining the amount of the incentive, the department shall consult with the glass dealers and licensed recyclers based on, among other things:
 - (1) The minimum price licensed recyclers must pay the public to achieve the recycling goals set forth in Section 9-7.4(b); and
 - (2) The avoided cost of collecting and disposing of glass.
- (c) The amount of the incentive shall be the same for all licensed recyclers.
- (d) To qualify for the payment of the incentive, the licensed recycler shall:
 - (1) Transport not less than one ton of the glass to a processing facility designated by the department; and
 - (2) Provide sufficient documentation as determined by the department indicating the number of tons received by the ultimate user of the glass containers, and the amount paid for each ton received.
- (e) To receive payment of the incentive, the licensed recycler shall show proof or provide appropriate attestation that recyclable glass containers have been:
 - (1) Processed for refilling, or have been refilled, within the state;
 - (2) Loaded onto an air carrier or water carrier for shipment out-of-state; or
 - (3) Loaded onto an air carrier or water carrier for utilization within the state, or otherwise utilized within the city in a manner approved by the director.
- (f) The department shall make the appropriate payment to the licensed recycler upon satisfaction that all of the recycled glass has been processed, refilled, loaded or utilized.
- (g) All assessments collected or received by the department under this chapter may only be used for costs and expenses directly relating to operational and administrative costs of the program actually incurred.
- (h) Surplus funds may be:
 - (1) Carried over into the next fiscal year and may be used to assist in defraying the cost of the program in succeeding fiscal years; or
 - (2) Refunded at the close of the fiscal year on a pro rata basis to all persons from whom assessments were collected.
- (i) Upon termination of the incentive program, all moneys remaining which are not required by the department to defray the expenses of the program shall be refunded on a pro rata basis to all persons from whom assessments were collected. If amounts returnable are so small as to make impractical the computation and remitting of the pro rata refunds, the remaining funds shall become a realization of the city.

(Added by Ord. 89-125)

Sec. 9-7.6 Prohibitions.

- (a) No person shall falsify the proof or attestation required to collect an incentive. No person shall pay an incentive based upon false proof or attestation if knowing that the proof or attestation is false.
- (b) No person shall submit false information on the application for issuance or renewal of a license under Section 9-7.3. No person shall apply for, receive or issue a license under Section 9-7.3 on a fraudulent basis.
- (c) No person shall use a license issued under Section 9-7.3 if the person is not the licensed recycler to which the license was issued or an authorized officer or employee of the licensed recycler. No unauthorized officer or employee shall use the licensed recycler's license.
- (d) No person shall violate any other provision of this article.

(Added by Ord. 89-125)

Sec. 9-7.7 Violation--Penalty.

Any person violating any provision of this article shall, upon conviction, be punished by the immediate termination of the license, and for each violation by a fine not exceeding \$1,000.00 and imprisonment not exceeding one year.

(Added by Ord. 89-125)

Article 8. Glasphalt Paving

Sections:

- 9-8.1 Definitions.**
- 9-8.2 Glasphalt specifications and use.**
- 9-8.3 Administration.**

Sec. 9-8.1 Definitions.

For the purposes of this article:

"Asphalt" means a solid or semisolid mixture of bitumens (hydrocarbons from coal or petroleum) used in paving, roofing, or waterproofing. It can be mixed with sand or crushed stone gravel and used for paving.

"Cullet" means crushed glass.

"Glasphalt" means asphaltic concrete for street paving made from crushed glass as a partial substitute for the aggregate (sand or crushed stone) in the mix.

(Added by Ord. 92-39)

Sec. 9-8.2 Glasphalt specifications and use.

(a) Notwithstanding the Standard Specifications For Public Works Construction 1986, glasphalt, if available, shall be used in city road construction and paving projects in accordance with the following requirements:

- (1) Glasphalt may be used in the surface mix on roads with a 40 mile per hour speed limit or less; provided that such glasphalt shall have a maximum 10 percent cullet;
- (2) Glasphalt shall be used in the subsurface mix on all roads, irrespective of the speed limit for those roads; provided that such glasphalt shall have a maximum 10 percent cullet;
- (3) The cullet may be fine to coarse; provided that no piece shall be greater than 3/8" sieve size;
- (4) Cullet may consist of clean or contaminated mixed color glass, but shall not contain any biodegradable material such as paper; and
- (5) Glasphalt may contain recycled asphalt.

(b) All bid specifications for city road construction and paving projects shall require that the glasphalt and cullet, if available, be used in the roads that meet the requirements set forth in subsection (a).

(Added by Ord. 92-39)

Sec. 9-8.3 Administration.

This article shall be administered by the department of environmental services.

(Added by Ord. 92-39; Am. Ord. 99-32)

Article 9. Regulation of Bags Provided to Customers*

Sections:

- 9-9.1 Definitions.**
- 9-9.2 Ban on plastic checkout bags and non-recyclable paper bags.**
- 9-9.3 Penalties and injunctive relief.**
- 9-9.4 Rules.**

Sec. 9-9.1 Definitions.

Unless otherwise expressly stated, the following terms shall have the following meanings:

"Business" means any commercial enterprise or establishment operating in the City and County of Honolulu, including an individual proprietorship, joint venture, partnership, corporation, limited liability company, or other legal entity, whether for profit or not for profit, and includes all employees of the business or any independent contractors associated with the business.

*Editor's Note: Article 9 is effective July 1, 2015.

“Compostable plastic bag” means a checkout bag that is provided to a customer for the purpose of transporting groceries or other retail goods, that meets current ASTM D6400 Standard Specifications for compostability and that is labeled:

- (1) With the Biodegradable Product Institute (“BPI”) logo as meeting the ASTM standard for compostability; and
- (2) With “Compostable” on both sides of the bag in either green color lettering that is at least one inch in height, or as otherwise specified; or within a green color band that is at least one inch in height in order to be readily and easily identifiable.

“Customer” means a person who purchases merchandise from a business.

“Department” means the department of environmental services.

“Director” means the director of environmental services or the director’s designee.

“Mil” means one thousandth of one inch.

“Non-recyclable paper bag” means a paper bag that is not a recyclable paper bag.

“Plastic checkout bag” (effective until 12-31-19):

- (1) Means a carryout bag that is provided by a business to a customer for the purpose of transporting groceries or other retail goods, and is made from non-compostable plastic and not specifically designed and manufactured for multiple re-use;
- (2) This term does not include:
 - (A) Bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items;
 - (B) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness;
 - (C) Bags used to protect or transport prepared foods, beverages, or bakery goods;
 - (D) Bags provided by pharmacists to contain prescription medications;
 - (E) Newspaper bags for home newspaper delivery;
 - (F) Door-hanger bags;
 - (G) Laundry, dry cleaning, or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing;
 - (H) Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;
 - (I) Bags used to contain live animals, such as fish or insects sold in pet stores;
 - (J) Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals sold at the retail level; provided that this exemption shall be limited to one bag per customer; or
 - (K) Compostable plastic bags.

“Plastic checkout bag” (effective 1-1-20):

- (1) Means a carryout bag that is provided by a business to a customer for the purpose of transporting groceries or other retail goods, and is made from plastic and not specifically designed and manufactured for multiple re-use;
- (2) This term does not include:
 - (A) Bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items;
 - (B) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness;
 - (C) Bags used to protect or transport prepared foods, beverages, or bakery goods;
 - (D) Bags provided by pharmacists to contain prescription medications;
 - (E) Newspaper bags for home newspaper delivery;
 - (F) Door-hanger bags;
 - (G) Laundry, dry cleaning, or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing;
 - (H) Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;
 - (I) Bags used to contain live animals, such as fish or insects sold in pet stores; or
 - (J) Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals sold at the retail level; provided that this exemption shall be limited to one bag per customer.

“Plastic film bag” (effective 1-1-18):

- (1) Means a plastic bag made out of thin flexible sheets of plastic with a thickness of 10 mils or less;
- (2) This term does not include:
 - (A) Bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items;
 - (B) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to

- contain dampness;
- (C) Bags used to protect or transport prepared foods, beverages, or bakery goods;
 - (D) Bags provided by pharmacists to contain prescription medications;
 - (E) Newspaper bags for home newspaper delivery;
 - (F) Door-hanger bags;
 - (G) Laundry, dry cleaning, or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing;
 - (H) Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;
 - (I) Bags used to contain live animals, such as fish or insects sold in pet stores; or
 - (J) Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals sold at the retail level; provided that this exemption shall be limited to one bag per customer.

“Recyclable paper bag” means a paper bag that: (1) is one hundred percent recyclable, (2) contains a minimum of forty percent post-consumer recycled content, and (3) displays the words “Reusable” and “Recyclable” in a highly visible manner on the outside of the bags.

“Reusable bag” (effective until 12-31-17) means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of: (1) cloth or other washable fabric; or (2) durable material suitable for reuse, including plastic that is at least 2.25 mils thick.

“Reusable bag” (effective 1-1-18) means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of: (1) cloth or other washable fabric; or (2) durable material suitable for reuse, including plastic that is at least 2.25 mils thick. After January 1, 2020, plastic film bags shall no longer be considered to be “reusable bags.”

(Added by Ord. 12-8; Am. Ord. 14-29, 17-37)

Sec. 9-9.2 Ban on plastic checkout bags and non-recyclable paper bags. (effective until 6-30-18)

Businesses shall be prohibited from providing plastic checkout bags and non-recyclable paper bags to their customers at the point of sale for the purpose of transporting groceries or other merchandise. Nothing in this article shall preclude a business from making available to customers, with or without charge, at the point of sale: 1) reusable bags, compostable plastic bags, or recyclable paper bags for the purpose of transporting groceries or other merchandise; or 2) non-recyclable paper bags to protect or transport prepared foods, beverages, or bakery goods.

(Added by Ord. 12-8; Am. Ord. 14-29)

Sec. 9-9.2 Ban on plastic checkout bags and non-recyclable paper bags. (effective 7-1-18)

- (a) Except as provided in subsections (b) and (c), businesses shall be prohibited from providing plastic checkout bags and non-recyclable paper bags to their customers at the point of sale for the purpose of transporting groceries or other merchandise.
- (b) Businesses may provide, at the point of sale, reusable bags, compostable plastic bags, or recyclable paper bags to customers for the purpose of transporting groceries or other merchandise, provided that they charge the customer a minimum of 15 cents per bag.
- (c) Nothing in this article shall be interpreted as prohibiting businesses from providing non-recyclable paper bags, with or without charge, to protect or transport prepared foods, beverages, or bakery goods.
- (d) After January 1, 2020, compostable plastic bags shall no longer be provided at the point of sale for the purpose of transporting groceries or other merchandise.

(Added by Ord. 12-8; Am. Ord. 14-29, 17-37)

Sec. 9-9.3 Penalties and injunctive relief.

- (a) Any business violating any provision of this article or any rule adopted pursuant to this article shall be:
 - (1) Ordered to discontinue the distribution of bags prohibited by this article at the point of sale; and
 - (2) Subject to a civil fine of not less than \$100 nor more than \$1,000 for each day of violation.
- (b) The director may institute a civil action in any court of competent jurisdiction for injunctive or other relief to correct or abate violations of this article or any rule adopted pursuant to this article, to collect administrative penalties, or to obtain other relief.

(Added by Ord. 12-8)

Sec. 9-9.4 Rules.

The director of environmental services shall adopt rules pursuant to HRS Chapter 91 regarding the implementation, administration and enforcement of this article.

(Added by Ord. 12-8)