

ORDINANCE NO. 776

**AN ORDINANCE OF THE CITY OF ROHNERT PARK ADDING SECTION 8.12.265
"COLLECTION CHARGE REFUNDS," AMENDING SECTION 8.12.010,
"DEFINITIONS," AND DELETING SECTIONS 8.12.240, "LIABILITY OF ALL
OCCUPANTS FOR COLLECTION FEES," AND 8.12.250 "BILLING OF LANDLORD,"
OF CHAPTER 8.12, "REFUSE DISPOSAL," OF TITLE 8, "HEALTH AND SAFETY,"
OF THE ROHNERT PARK MUNICIPAL CODE**

WHEREAS, Chapter 8.12 of the Rohnert Park Municipal Code addresses refuse disposal in the City; and

WHEREAS, the City of Rohnert Park ("City") wishes to clarify the procedure for collection charge refunds for overpaid or improperly charged occupants and users of refuse disposal;

NOW, THEREFORE, the City Council of the City of Rohnert Park does hereby ordain as follows:

SECTION 1. Section 8.12.010, "Definitions," of Chapter 8.12, "Refuse Disposal," is amended in its entirety to read as follows:

"For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section:

A. "City sanitation officer" means the city sanitation officer of the city or his duly authorized representative.

B. "City manager" means the city manager of the city or his or her designee.

C. "Combustible rubbish" includes paper, cardboard, light wood shavings, kindling, leaves and any other item that readily commences to burn upon contact with open flames.

D. "Contract agent" includes and means, for the purpose of this chapter, any person, firm or corporation or association, or the agents or employees thereof with whom the city shall have duly contracted under the terms hereinafter set out in this chapter, to collect, transport through the streets, alleys or public ways of the city, and dispose of refuse, garbage, wet garbage and rubbish produced within the limits of the city.

E. "Garbage" means and includes kitchen and table refuse, offal, swill and also every accumulation of animal and

vegetable refuse, and other matter that attends the preparation, consumption, decay, or dealing in or storage of, meats, fish, fowl, birds, fruits or vegetables. It also includes crockery, bottles, tin vessels, ashes, and all refuse save and excepting as herein defined as rubbish or wet garbage.

F. "Place of business" means any hotel, motel, trailer park, restaurant, market, hospital or any commercial or industrial establishment where there is any accumulation of garbage, wet garbage, refuse or rubbish.

G. "Refuse" means and includes all matter and materials which are rejected by owners or producers thereof as offensive or useless, and which by their presence or accumulation may injuriously affect the health, comfort, or safety of the community by increasing disease or hazard by fire.

H. "Rubbish" includes and means all combustible and non-combustible waste and refuse matter, excepting garbage ordinarily accumulating in and about residences, flats, buildings, apartment houses, lodging houses, hotels, restaurants, eating houses, stores, shops, offices and other public buildings. Among other things, it includes tree trimmings, cut in lengths not to exceed three feet in length or two inches in diameter, grass cuttings, dead plants, and weeds, and leaves but shall not include brick, mortar, or other debris incident to the construction of buildings.

"Rubbish" does not include discarded appliances, furniture, or other bulky items which cannot be readily placed within the receptacle provided.

I. "Wet garbage" means all clean garbage suitable for food for hogs, coming from restaurants, cafes, cafeterias, hospitals, hotels, boardinghouses, clubs and all other eating places in the city, and from butcher shops and dealers in fresh vegetables, and consists of and includes only kitchen and table refuse, offal and swill, and every accumulation of animal and vegetable scraps, refuse or waste, and other matter that attends the preparation, consumption, decay, or dealing in, or storage of, meats, fish, fowl, birds, fruits or vegetables; provided, however, that this definition is not intended to nor does it include the by-products of butcher shops where such by-products have a commercial value and are not decomposed nor offensive, and where such by-products have not been rejected by the owners or producers thereof as offensive or useless."

SECTION 2. Section 8.12.240, "Liability of all occupants for collection fees," of Chapter 8.12, "Refuse Disposal," is amended in its entirety to read as follows:

"8.12.240 Deposit Required.

Prior to establishing an account, property owners and occupants are required to provide a deposit for refuse disposal services as set by the city manager."

SECTION 3. Section 8.12.250, "Billing of landlord," of Chapter 8.12, "Refuse Disposal," is deleted in its entirety.

SECTION 4. Section 8.12.265, "Collection Charge Exemptions and Refunds," of Chapter 8.12, "Refuse Disposal," is added to read as follows:

"A. Exemptions. A customer may request an exemption from collection charges if his or her property will be vacant by filing a request with the utility billing supervisor two weeks before the vacancy. The property owner must certify that his or her property will be vacant and will not require any garbage collection services for a period of at least sixty consecutive days due to vacancy. The city manager will verify exemption applications by confirming that all property for which a charge waiver has been requested is vacant and uses no collection services. Any property deemed eligible for an exemption shall be exempted from the date of vacancy. Property owners will be required to submit a new exemption application every six months to continue the exemption. It is unlawful for any person to knowingly receive the benefits of this exemption when the basis for the exemption does not exist or ceases to exist. Any property owner receiving an exemption must give the city written notice concurrent with any change in occupancy so that the city may restart service as soon as the property is no longer vacant.

B. Refunds. Whenever the amount of any charge has been overpaid, or paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in this section. Application for refunds must be made on a form provided by the city. No refund will be made if application therefore is filed with the city more than six months after the date that such vacancy occurred. The applicant shall certify that all statements of fact in such application are true and correct.

C. Any service user or property owner aggrieved by any decision of the utility billing supervisor with respect to the amount of such charge, or exemption or refund if any, may

appeal to the city manager by filing a notice of appeal with the city clerk, within fifteen days of the serving or mailing of the determination of the utility billing supervisor. The city manager shall consider the appeal within thirty days of receipt and render a written decision within fifteen days of the hearing. The findings of the city manager shall be final. Any amount found to be due shall be immediately due and payable upon the service of written decision.

D. The submission of a written claim as set forth in Chapter 2.44 shall be a prerequisite to a suit challenging a city decision made pursuant to this Chapter."

SECTION 5. If any section of this Ordinance is later deemed to be void or unconstitutional, the remaining sections of the Ordinance shall remain in effect.

SECTION 6. This Ordinance shall take effect 30 days after its second reading.

SECTION 7. The City Clerk is directed to publish a summary of this Ordinance.

This ordinance was introduced on the 23rd day of January, 2007 and DULY AND REGULARLY ADOPTED this 13th day of February, 2007 by the following roll call vote:

- AYES:** FIVE (5) Council Members Breeze, Mackenzie, Smith, and Stafford; and Mayor Vidak-Martinez
- NOES:** NONE (0)
- ABSENT:** NONE (0)
- ABSTAIN:** NONE (0)

CITY OF ROHNERT PARK

/s/ Mayor Vicki Vidak-Martinez

ATTEST:

/s/ City Clerk Judy Hauff

Approved as to form:

/s/ Assistant City Attorney Gabrielle P. Whelan