

Chapter 9
SOLID WASTE (GARBAGE)

ARTICLE I. GENERAL SOLID WASTE

- §9.1 Intent and Findings
- §9.2 Definitions
- §9.3 Franchised Collection
- §9.4 Service Recipient Requirements
- §9.5 Contractor Requirements.
- §9.6 Solid Waste Collection Vehicles and Solid Waste Facilities
- §9.7 Solid Waste Collection Rates
- §9.8 Prohibitions

ARTICLE II. CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING

- §9.9 Threshold for Covered Projects
- §9.10 Contractor Responsibilities
- §9.11 Compliance Requirements
- §9.12 Infeasibility Exemption
- §9.13 Appeal

ARTICLE III. ENFORCEMENT

- §9.14 Enforcement
- §9.15 Monitoring
- §9.16 Severability

ARTICLE I. GENERAL SOLID WASTE

SEC 9.1 INTENT AND FINDINGS

The City finds and determines that it is committed to protecting the public health, safety, welfare and environment; that in order to meet these goals it is necessary that the City promote the reduction of garbage and reduce the stream of garbage going to landfills; that under California law as embodied in the California Waste Management Act of 1989, Assembly Bill 939 (AB 939), Piedmont is required to prepare, adopt and implement source reduction and recycling elements to reach, maintain or exceed a minimum diversion rate of fifty percent (50%) of discarded materials (base year 1990, state methodology), under threat of penalties of up to \$10,000 per day; that the voters of Alameda County, through the Waste Reduction and Recycling Act of 1990 (Measure D), have adopted a policy goal to reduce the total tonnage land-filled of materials generated in Alameda County by seventy-five percent (75%) by the year 2010.

The Council also finds that much of the waste generated in Piedmont can be effectively segregated and recycled, thus controlling and reducing the cost of waste disposal to Piedmont residents as well as making recyclable materials available for reuse and remanufacture.

Further, the Council finds that debris from demolition and construction of buildings represents a large portion of the volume presently coming from Piedmont, and that much of said debris is particularly suitable for recycling; that reusing and recycling construction and demolition debris is essential to further the City's efforts to reduce waste and comply with AB 939 and Measure D goals; that construction and demolition debris waste reduction and recycling have been proven to reduce the amount of such material which is land-filled, increase site and worker safety, and be cost effective; and that, except in unusual circumstances, it is feasible to divert an average of at least fifty percent (50%) of all construction and demolition debris from construction, demolition, and renovation projects.

SEC. 9.2 DEFINITIONS

9.2.1 Applicant. The person or entity or the authorized representative of a person or entity who submits an application for any approval for a permit to undertake any construction, demolition, or renovation project with the City. An applicant need not possess legal title to the subject property, so long as the applicant has secured the written consent of the property owner and a copy of that consent is submitted with the application.

9.2.2 Approved Recycling Materials for Construction and Demolition Debris. The construction and demolition debris materials approved for recycling as specified on the City of Piedmont table of typical materials generated by residential construction projects, which may be amended from time to time by the Director of Public Works or the Director's designee.

9.2.3 Building Official. The designated City staff person authorized and responsible for implementing Article II.

9.2.4 Business Service Unit. All retail, professional, office, wholesale, institutional, and industrial facilities, and other commercial enterprises offering goods or services to the public.

9.2.5 City. The City of Piedmont, California.

9.2.6 Collection. The process whereby solid waste are removed and transported to a disposal facility, organic wastes processing facility, organic waste processing facility or materials recovery facility, as appropriate.

9.2.7 Collection Services. Single-family dwelling collection service, MFD collection service, City collection service, and commercial collection service.

9.2.8 Commercial Collection Service. Collection of garbage, organic waste, large items, and recyclables materials from single-family dwelling service units from business service Units.

9.2.9 Construction. The building of any facility or structure or any portion thereof including owner tenant improvements to an existing facility or structure.

9.2.10 Construction and Demolition Debris. Commonly used or discarded materials removed from construction, remodeling, repair, demolition, or renovation operations on any pavement, house, commercial building, or other structure, or from landscaping. Such materials include, but are not limited to, dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastics, roofing material, cardboard, carpeting, cinder blocks, concrete, copper, electrical wire, fiberglass, Formica, granite, iron, lead, linoleum, marble, plaster plant debris, pressboard, porcelain, steel, stucco, tile, vinyl, wood, masonry, rocks, trees, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble resulting from construction, remodeling, renovation, repair and demolition operations on pavements, houses, commercial buildings and other structures. Construction and demolition debris does not include exempt waste.

9.2.11 Construction and Demolition Debris for Recycling. Includes materials in the list of recyclable materials for construction and demolition recycling, maintained by the City and as may be amended from time to time by the Director of Public Works or the Director's designee.

9.2.12 Contractor. The person or entity designated by the Council to provide exclusive collection of solid waste within the City limits.

9.2.13 Conversion Rate. The rate set forth in the standardized conversion rate table approved by the Director of Public Works or the Director's designee pursuant to Article II for use in estimating the volume or weight of materials identified in a waste management plan.

9.2.14 Covered Project. "Covered Project" shall have the meaning set forth in Section 9.9.1 of this Article.

9.2.15 Debris Box Collection Service. Collection utilizing 1 – 6 cubic yard bins, or 10 - 40 cubic yard containers provided to service units for the collection of construction and demolition debris for the delivery of that material to a facility licensed or permitted to accept construction and demolition debris.

9.2.16 Debris Box Container. A metal container that is normally loaded onto a motor vehicle and transported to a facility licensed or permitted to accept construction and demolition debris.

9.2.17 Deconstruction. The taking apart or removal of any facility, structure or building, whether in whole or in part, whether interior or exterior, such that as many individual elements as possible are retained for future use by the applicant or others. Examples of elements that can be salvaged and reused include, but are not limited to, windows, doors, architectural moldings, bath and kitchen fixtures (sinks, etc.), decorative medallions, fireplace surrounds, and decorative ironwork.

9.2.18 Demolition. The decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

9.2.19 Divert. To use material for any purpose other than disposal in a landfill or transformation facility.

9.2.20 Dwelling Unit. A room or a suite of connecting rooms, which provides complete, independent living quarters for one or more persons, including permanent facilities for living, sleeping, eating, cooking and sanitation, and which complies with all building and construction code requirements.

9.2.21 E-Waste. Discarded electronics equipment such as cell phones, computers, monitors, televisions, and other items containing cathode ray tubes (CRTs), LCDs or plasma screens and monitors.

9.2.22 Exempt Waste. Biohazardous or Biomedical Waste, Hazardous Waste, Household Hazardous Waste, sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, and those wastes under the control of the Nuclear Regulatory Commission.

9.2.23 Food Waste. Food scraps and trimmings from food preparation, including but not limited to: meat, fish and dairy waste, fruit and vegetable waste, grain waste, and acceptable food packaging such items as pizza boxes, paper towels, waxed cardboard and food contaminated paper products.

9.2.24 Franchise Agreement. The agreement entered into between the City and the City's designated contractor for the exclusive collection of solid waste generated within the City limits.

9.2.25 Garbage. All non-recyclable packaging, and putrescible waste attributed to normal activities of a service unit. Garbage must be generated by and at the service unit wherein the garbage is collected. Garbage does not include those items defined herein as recyclable materials, organic waste, large items, E-waste, U-waste, or exempt waste. (Ord. 50 N.S., Ord. 137 N.S., Ord. No. 228 N.S., Ord. 678 N.S. 6/08)

9.2.26 Green Waste. Any vegetative matter resulting from normal yard and landscaping maintenance that is not more than three (3) feet in its longest dimension or six (6) inches in diameter and fits in the organic waste cart or overage bag utilized by the service recipient. Green waste includes plant debris, such as palm, yucca and cactus, ivy, grass clippings, leaves, pruning, weeds, branches, brush, holiday trees, and other forms of vegetative waste and must be generated by and at the service unit wherein the green waste is collected. Green waste does not include items herein defined as exempt waste.

9.2.27 Large Items. Those materials including furniture; carpets; mattresses; white goods; brown goods; E-waste; clothing; tires without rims; large green waste that does not exceed seven feet by four feet by two feet (7'x4'x2') and weighing no more than sixty (60)

pounds, which are attributed to the normal activities of a single-family dwelling service unit, multi-family dwelling service unit that receives cart collection, or City service unit. Large items must be generated by and at the service unit wherein the large items are collected. Large items do not include items herein defined as exempt waste.

9.2.28 Large Green Waste. Oversized green waste such as tree trunks and branches with a diameter of not less than six (6) inches and not more than two (2) feet and a length of not more than five (5) feet in its longest dimension, which are attributed to the normal activities of a single-family dwelling, multi-family dwelling, or City service unit. Large green waste must be generated by and at the service unit wherein the large green waste is collected.

9.2.29 Multi-family Dwelling Collection Service. Collection of garbage, organic waste, large items, and recyclables materials from multi-family dwelling service units

9.2.30 Multi-family Dwelling Service Unit. Any combination of dwelling units in the service Area utilizing a common bin for the accumulation and set-out of garbage.

9.2.31 Non-Covered Project. “Non-covered project” shall have the meaning set forth in Section 9.10.2 of this Article.

9.2.32 Organic Waste. Includes food waste and green waste.

9.2.33 Overage Bag. A biodegradable bag provided by the contractor to single-family dwelling and multi-family dwelling service units for the periodic collection of green waste. Overage bags shall have a capacity ranging from 20 to 45 gallons and a load capacity of 50 pounds.

9.2.34 Project. Any activity involving Construction, Demolition, or Renovation, and which requires issuance of a building permit from the City.

9.2.35 Recyclable Materials. Those materials as designated by the City which are capable of being recycled and which would otherwise be processed or disposed of as garbage. Recyclable materials include those materials defined by the City, including newsprint (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers; aluminum beverage containers; small scrap and cast aluminum (not exceeding forty (40) pounds in weight nor two (2) feet in any dimension for any single item); steel including “tin” cans, aerosol cans (empty, non-toxic products) and small scrap (not exceeding forty (40) pounds in weight nor two (2) feet in any dimension for any single item); bimetal containers; #1-7 plastics regardless of form or mold (including but not limited to plastic containers, bottles, wide mouth tubs, plastic bags, film plastic, and polystyrene), aseptic containers, aluminum foil and pans; dry cell household batteries and cell phones when contained in a sealed plastic bag; and those materials added by the City or the contractor from time to time.

9.2.36 Recycling. The process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

9.2.37 Renovation. Any change, addition, or modification in an existing structure.

9.2.38 Reuse. Further or repeated use of construction or demolition debris.

9.2.39 Salvage. The controlled removal of construction and demolition debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

9.2.40 Salvage Materials. Construction and demolition materials that have been salvaged from a covered project.

9.2.41 Service Recipient. A single-family dwelling service unit, multi-family dwelling service unit, City service unit, and commercial service unit receiving collection service.

9.2.42 Service Unit. Single-family dwelling service units, multi-family dwelling service units, City service units, and commercial service units.

9.2.43 Single-Family Dwelling Collection Service. Collection of garbage, organic waste, large items, and recyclables materials from single-family dwelling service units.

9.2.44 Single-Family Dwelling Service Unit. Any dwelling unit in the service area utilizing a garbage cart, or any combination of dwelling units sharing garbage carts, for the accumulation and set out of garbage.

9.2.45 Solid Waste. Means “garbage”, “organic waste”, and “recyclables materials.”

9.2.46 Solid Waste Bin. A metal or plastic container, with a capacity of one (1) cubic yard up to and including ten (10) cubic yards for the collection of garbage, organic waste and recyclables materials and designed or intended to be mechanically dumped into a loader packer type truck, that is approved for such purpose by the city. Solid waste bins may also include compactors that are owned by the multi-family dwelling or commercial service unit wherein the multi-family dwelling or commercial collection service occurs.

9.2.47 Solid Waste Cart. A heavy plastic receptacle with wheels and a rated capacity of at least twenty (20) gallons and not more than ninety-six (96) gallons, having a hinged tight-fitting lid and wheels, that is approved by the City representative for use by service recipients for collection of garbage, organic waste, and recyclables materials.

9.2.48 Universal Waste or U-Waste. Fluorescent lamps, cathode ray tubes, non-empty aerosol cans, instruments and switches that contain mercury, and dry cell batteries containing cadmium copper, or mercury.

9.2.49 Work Day. Any day, Monday through Saturday that is not an approved City holiday.

SEC. 9.3 FRANCHISED COLLECTION

9.3.1 Exclusive Rights. The Council may enter into a franchise agreement with any person or entity granting to such person or entity the exclusive right and privilege of collecting, processing, transferring and disposing of solid waste generated within the City limits upon such terms and conditions as the council may from time to time determine to be in the best interests of the City and consistent with the provisions of state law, and in such event it shall be a violation of the law, to wit an infraction for any person other than the contractor, to take, collect, process, or dispose designated solid waste for a fee within the city limits. Only green waste or recyclable materials separated from other solid waste and collected from a business service unit for no fee to the business service unit, can be collected by a party other than the contractor.

9.3.2. Non-Exclusive Rights. The Council shall have the right to enter into separate agreements pertaining to the collection of non-designated recyclable materials. Individual service units may enter into private agreements for the collection of non-designated recyclable materials. Any such private agreement shall provide for termination at such time as the previously non-designated recyclable material becomes, as a consequence of a city franchise, designated recyclable material.

9.3.3. Collection Reserved To Contractor¹ At such times as there is in force a contract entered into by the City with any person for the collection, processing, reuse and disposal of the solid waste of the City and its inhabitants, it is unlawful for any person other than the contractor, or his employees, to collect any solid waste within the City. (Ord. 50 N.S., Ord. 678 N.S. 6/08)

9.3.4 Collection of Recyclable Materials By Unauthorized Persons. From time of placement of recyclable materials in a solid waste cart, such recyclable materials shall be and become the property of the City or its contractor. It shall be a violation of Chapter 9 for any person unauthorized by the City to collect or pick up or cause to be collected or picked up any such items. Any and each such collection in violation hereof from one or more locations shall constitute a separate and distinct offense punishable as hereinafter provided.

SEC. 9.4 SERVICE RECIPIENT REQUIREMENTS

9.4.1 Subscription Requirements. All service units within the City shall subscribe with the contractor for solid waste collection services. All single-family dwelling collection service shall be side or backyard collection unless a single-family dwelling service recipient subscribes for curbside collection.

9.4.2 Minimum Solid Waste Service Requirements. The Director of Public Works, or the Director's designee, may require the owner of a service unit or the generator of solid waste at a service unit to subscribe to and pay for solid waste collection services in such configuration as

1 For state law authorizing cities to enter into Garbage disposal contracts, see H. & S.C.A. §4250.

the Director determines is necessary for the preservation of the public health and/or public safety. Such requirements may include, but are not limited to, requiring solid waste bins and carts in such sizes and numbers as needed to store all the solid waste generated at the service unit during the periods between collections, requiring the owner or generation to change the frequency of solid waste collection or the size of solid waste bins or carts at the service unit, and requiring a change from commercial to residential collection service.

9.4.3 Use of Solid Waste Carts. Service recipients are required to use solid waste carts as provided by the contractor. Single-family dwelling service recipients may request larger or smaller solid waste carts from the contractor, or request additional solid waste carts from the contractor.

9.4.4 Use of Permanent In-Ground Solid Waste Receptacle. If a single-family dwelling service unit has a permanent, in-ground, receptacle for temporary storage of solid waste that is not a public nuisance or in any degree offensive, and that provides easy and safe access to the contractor for the collection of solid waste, and if the contractor agrees to use such permanent, in-ground, receptacle for collection of solid waste, than the single-family dwelling service recipient is not required to use solid waste carts provided by the contractor.

9.4.5 Use of Solid Waste Bins. Service recipients are required to use solid waste bins as provided by the contractor. Service recipients may request larger or smaller solid waste bins from the contractor, or may request additional request additional solid waste solid waste bins from the contractor, or may request to the contractor increase or decrease the collection frequency of solid waste bins.

9.4.6 Use of Overage Bags for Green Waste. On a periodic basis, if a single-family dwelling service recipient has additional green waste in excess of what can be placed in the organic waste carts provided by the contractor, a single-family dwelling service recipient may place green waste materials in overage bags provided by the contractor. If a bag is provided by a single-family dwelling service recipient it must be a biodegradable bag.

9.4.7 Side Yard or Backyard Placement of Solid Waste Carts. Single-family dwelling service recipients shall at all times place and maintain all solid waste carts in the side yard or backyard of their premises where solid waste carts will not be a public nuisance or in any degree offensive, and that provides easy and safe access to the contractor for the collection of solid waste carts.

9.4.8 Curbside Placement and Removal of Solid Waste Carts service recipients who subscribe for curbside collection, may temporarily place solid waste carts at the front property line for collection by the contractor no earlier than 6:00 p.m. on the day prior to the scheduled collection day, and must remove all solid waste carts from the front property line no later than 12:00 p.m. on the scheduled collection day. Service recipients may not place solid waste carts in a public street, or public sidewalk, but may place solid waste carts in the right-of-way parking strip.

9.4.9 Frequency of Collection. All service units shall ensure that solid waste generated at the service unit be collected not less frequently than once a week. (Ord. 50 N.S., Ord. 678 N.S. 6/08)

9.4.10 Recyclable Materials—Owner's Rights. Nothing in Sections 9.4.1 through 9.4.8. shall limit the right of any person to donate, sell, or otherwise dispose of his or her recyclable materials.

9.4.11 Unlawful To Refuse To Pay Collection Fee. It is unlawful for any person having solid waste collected and disposed of as provided in this Chapter to willfully fail, neglect or refuse to pay to the person collecting and disposing of such solid waste the rate provided in this Chapter to be paid for such service.

9.4.12 Violation. Violation of any provision of Sections 9.4.1 through 9.4.10 shall constitute a misdemeanor punishable in the manner prescribed by the laws of the state.

SEC. 9.5 CONTRACTOR REQUIREMENTS

9.5.1 Compliance with Franchise Agreement. Contractor shall at all times provide solid waste collection services to all service units in fully compliance with all terms and conditions as set forth in the franchise agreement executed between the City and contractor.

9.5.2 Frequency of Collection. All solid waste shall be collected from all service units in the City not less frequently than once a week.

9.5.3 Side Yard or Backyard Collection as Default. Contractor shall provide side yard or backyard collection to all single-family dwelling service units unless a single-family dwelling service recipient subscribes for curbside collection.

9.5.4 Blocking Streets, Alleyways and Driveways. Contractor shall operate collection vehicles in a manner to avoid blocking streets, alleyways, driveways, or public right of ways. If, in the normal course of operations, contractor blocks a street, alleyway, driveway, or public right-of-way, upon request by any service recipient, contractor shall promptly move the collection vehicle from the blocked street, alleyway, driveway, or public right-of-way.

9.5.5 Collection Hours. Collection from single-family dwelling and multi-family dwelling properties shall begin no earlier than 7:00 a.m. and must terminate no later than 5:00 p.m. Monday through Friday with no service on Saturday (except for an approved City holiday collection service day) collection from commercial or City properties shall begin no earlier than 7:00 a.m. and terminate no later than 5:00 p.m., Monday through Friday, and on Saturdays commencing no earlier than 10:00 a.m., and terminating no later than 4:00 p.m. No collection may be provided to any service unit on a Sunday.

9.5.6 Contractor Charges. Contractor may only charge service recipients for the collection services as authorized by the franchise agreement between the City and the contractor. Contractor may charge service recipients an amount no higher than the maximum rates for providing collection services only as authorized by the franchise agreement between the City and as periodically adjusted by the Council.

SEC. 9.6 SOLID WASTE VEHICLES, LANDFILLS AND RECYCLING FACILITIES

9.6.1 Vehicles Removing or Carrying Solid Waste. Notwithstanding any provision of the franchise agreement between the contractor and the City, vehicles operating within the City removing or carrying solid waste or construction and demolition debris shall not exceed 18,000 per axle, and shall not exceed 52,000 pounds gross vehicle weight when loaded.

9.6.2 Inspection. It shall be the duty of the City to inspect and supervise all Contractor equipment used in the collection of solid waste, and to see that they are kept clean and sanitary; also, all places where solid waste are processed, transferred or deposited. It shall be the City's duty to see that all provisions of this Chapter and all other health ordinances of the City, and the health laws of the state, are faithfully complied with.

SEC. 9.7 SOLID WASTE COLLECTION RATES

The rates for collection, processing and disposal of solid waste from service units in the City shall be those rates which the City Council may determine and establish from time to time by resolution.

SEC. 9.8 PROHIBITIONS

9.8.1 Burning Or Burying Solid Waste Prohibited. It is unlawful for any person to burn or bury any solid waste in any yard or open space within the City. (Ord. 50 N.S., Ord. 678 N.S. 6/08)

9.8.2 Littering And Dumping Prohibited². It is unlawful for any person to dump, deposit or place or cause to be dumped, deposited or placed any litter, solid waste, of any character in or upon any public or private real property in the City, including but not limited to streets, sidewalks and parks, without first having obtained the written consent of the owner or legal occupant thereof. The term "litter" as used herein shall include but not be limited to any bottle, glass substance or container, can, nail, offal, paper, wire, rock, dirt, wood or lumber, concrete, metal substance, any substance likely to injure traffic or pedestrians using the streets and/or sidewalks, or any noisome, nauseous or offensive matter of kind. Any person who violates this Section 9.8.2 shall upon conviction thereof be punished by a fine of not less than twenty-five dollars (\$25.00). No part of such fine shall be suspended. The Court may permit the fine to be paid in installments if the Court determines that the defendant is unable to pay the fine in one lump sum. (Ord. 393 N.S., Ord. 678 N.S. 6/08)

2 For state law as to deposit of offensive matter upon roads or private property, see Pen. C. §374b.

9.8.3 Same-Burden Of Proof. The burden of proving the existence of such written consent shall rest and be upon such person whose action would otherwise be in violation of the provisions of Section 9.7.2. (Ord. 15 N.S., Ord. 678 N.S. 6/08)

9.8.4 Same-Exception. The provisions of Sections 9.8.2 and 9.8.3 shall not apply to the depositing of any material or equipment in accordance with law.

ARTICLE II CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING

SEC. 9.9 THRESHOLD FOR COVERED PROJECTS

9.9.1 Covered Projects. The provisions of this Chapter shall apply to all construction, demolition and/or renovation projects within the City with a building permit valuation greater than or equal to \$50,000 as such valuation is determined by the City's building official. Additionally, the Council and City Planning Commission, at their discretion, may require compliance with this Chapter as a condition of project approval. The total cost established by this section may be adjusted by the Council from time to time to reflect an increase or decrease in the cost of construction due to inflation or deflation. No fee shall be required by the City to implement and monitor covered projects who comply with the provisions of this Chapter.

9.9.2 Non-Covered Projects. Applicants that do not meet the valuation threshold requirement set forth in Section 9.9.1 shall be encouraged to meet or exceed the thresholds set forth in this Chapter. No fee shall be required by the City to implement and monitor non-covered projects who comply with the provisions of this Chapter.

9.9.3 Compliance as a Condition of Approval. Unless otherwise required as a condition of project approval by the Council or City Planning Commission, compliance with the provisions of this Chapter shall be listed as a condition of approval on all building permits issued for a covered project. Failure to include such a condition shall not relieve the project applicant from complying with this Chapter.

9.9.4 City-Sponsored Projects. All City-sponsored construction, demolition, and renovation projects whose total cost is equal to or greater than \$50,000 for construction or renovation, or \$25,000 for demolition activities, shall be considered "covered projects" for the purposes of this Article II, Chapter 9, and shall be subject to all applicable provisions of this Article.

SEC. 9.10 CONTRACTOR RESPONSIBILITIES

9.10.1 Debris Box Service. All debris box containers removed from the City by the contractor shall be disposed at an approved disposal facility. The contractor will work with applicants of covered projects to ensure at least a 50% diversion rate for general disposal of construction and demolition waste.

9.10.2 Applicant Hauling of Debris Boxes. The City may permit exemptions for special projects to not require that an applicant use the City's designated contractor for collection of construction and demolition debris. Such exemptions may only be granted if the Director of Public Works or the Director's designee, the applicant and the contractor mutually agree that contractor cannot provide the necessary equipment in a manner that does not disrupt the applicant's project or does not have a negative affect on the City. Notwithstanding any City exemption for an applicant to be required to use of the contractor, applicants must ensure full compliance with Article II of Chapter 9.

9.10.2 Weighing of Wastes. The contractor shall make reasonable efforts to ensure that all construction and demolition debris diverted or land-filled are measured and recorded using the most accurate method of measurement available. To the extent practical, all construction and demolition debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the contractor shall use the standardized conversion rates approved by the City for this purpose.

9.10.3 Documentation of Recycled Construction and Demolition Debris Box Service and Billing. The contractor will provide a monthly accounting by project address of all mixed construction and demolition debris box containers serviced during the month that were used exclusively for the purposes of recycling materials included on the list of eligible materials for construction and demolition debris recycling. The monthly accounting shall be accompanied with receipts or weigh tags from the approved disposal facility. The contractor will submit a bill to each applicant of a covered or non-covered project. The bill shall be submitted at the same time as the monthly accounting.

SEC. 9.11 COMPLIANCE REQUIREMENTS

9.11.1 Applicability. The provisions of the Chapter shall apply to all covered projects as defined by Section 19.9.1.

9.11.2 Deconstruction. Applicants of covered projects for building permits involving the removal of all or part of an existing structure shall consider deconstruction, to the maximum extent feasible, and shall make the materials generated thereby available for salvage prior to land-filling. Prior to the issuance of a final inspection permit, the applicant shall submit a salvaged materials form that itemizes the materials salvaged, with an estimate of the weight or volume, and number of items, accompanied with receipts or weight tags from the salvage operation.

9.11.3 Documentation of Salvaged Materials. Applicants shall make reasonable efforts to ensure that all materials salvaged are measured and recorded using the most accurate method of measurement available. To the extent practical, salvaged materials shall either be weighed by measurement on scales in compliance with all regulatory requirements for accuracy and maintenance, or for salvaged material for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric

measurements to weight, the applicant shall use the standardized conversion rates approved by the City for this purpose. For salvaged materials or items that were donated or sold for reuse, an itemized list of such items specifying the weight, size and number of items shall be provided prior to the final building permit inspection, accompanied by receipts from the charitable organization or salvage operation receiving the items.

9.11.4 Determination of Compliance. Prior to the issuance of a final inspection, the building official shall review the information submitted by the City's contractor pursuant to Section 9.11 of this Code and determine whether the applicant of a covered project has complied with the diversion goal, as follows:

- (a) **Full Compliance.** The applicant shall be in full compliance if at least fifty percent (50%) by weight of the total construction and demolition debris generated by the covered project is diverted, and appropriate documentation as outlined in Sections 9.10, 9.10.2 and 9.10.3 is provided.
- (b) **Good Faith Effort to Comply.** When the building official determines that the applicant of a Covered project has not achieved full compliance, he or she shall determine on a case-by-case basis whether the applicant has made a good faith effort to comply with Article II of Chapter 9. In making this determination, the building official may consider information submitted by the applicant, the availability of markets for the construction and demolition debris that was not diverted, the size and type of the project, the documented efforts of the applicant to divert construction and demolition debris, and barriers encountered.
- (c) **Noncompliance.** The building official shall determine the covered project to have a noncompliance status if he or she determines that the applicant has not made a good faith effort to comply with Article II of Chapter 9, or if the applicant fails to submit the documentation required by Sections 9.10, 9.11.2 and 9.11.3 of this Chapter. For any covered project with a status of noncompliance the building permit shall not be issued a final inspection approval. Further actions pursuant to the enforcement action section of this Chapter will be pursued.

9.11.5 Emergency Demolition. Compliance with this Chapter is not required where the building official has made a determination that immediate demolition is required to protect the public health and safety from imminent peril.

SEC. 9.12 INFEASIBILITY EXEMPTION

9.12.1 Application. If an Applicant for a Covered project experiences unique circumstances that the Applicant believes make it infeasible to comply with the diversion goal, the applicant may apply for an exemption to the building official. The Applicant shall indicate in writing, the maximum rate of diversion he or she believes is feasible for each material and the specific circumstances that he or she believes make it infeasible to comply with the diversion goal.

9.12.2 Meeting with the City Building Official. The building official shall review the information supplied by the applicant and may meet with the applicant to discuss possible ways of meeting the diversion goal. Upon request of the applicant, the building official may request that staff from the Alameda County Waste Management Authority attend this meeting or may require the applicant to request a separate meeting with Alameda County Waste Management Authority staff. Based on the information supplied by the applicant and, if applicable, Alameda County Waste Management Authority staff, the building official shall determine whether it is possible for the applicant to meet the diversion goal.

9.12.3 Granting of Exemption. If the building official determines that it is infeasible for the applicant to meet the diversion goal due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate this rate in a letter to the applicant marked “Approved for Infeasible Exemption” and shall place a copy of the letter in the house file and any other applicable project files.

9.12.4 Denial of Exemption. If the building official determines that it is possible for the applicant to meet the diversion goal, he or she shall so inform the applicant in writing. The applicant shall have thirty (30) days to submit documentation of full compliance with this Code. If the applicant fails to submit documentation of full compliance, the City Building official shall begin enforcement actions pursuant to Article III of this Chapter.

SEC. 9.13 APPEAL

An applicant may appeal a determination under this Chapter by initiating the following procedure:

1. Within ten (10) calendar days after the date of the written decision, an appeal must be filed in writing with the City Clerk’s office. The appeal shall state specifically the error, abuse of discretion or claim where the decision of the building official was not supported by substantial evidence in the record.
2. Within fifteen (15) Working Days of the receipt of the appeal, the City Clerk shall set the hearing date for consideration by Council and give written notice to the applicant and/or appellant.
3. The decision of the City shall be final.

(Ord. 667 N.S. 1/07, Ord. 678 N.S. 6/16/08)

ARTICLE III. ENFORCEMENT

SEC. 9.14. ENFORCEMENT

9.14.1 Enforcement Authority. The Director of Public Works, or the Director’s designee, shall have the authority to enforce the provisions of this Chapter. This authority shall be in addition to the authority granted to police officers.

9.14.2 Rules and Regulations. The Director of Public Works, or the Director's designee, shall have the power to establish rules and regulations consistent with the provisions of this Chapter, such rules and regulations to have as their purpose the enforcement of the provisions of this Chapter and the health and sanitary laws and ordinances of the City. Such rules and regulations shall have the effect of law.

9.14.3 Container Removal Fine. The City shall provide written notification to single-family dwelling service recipients who violate the provisions of Section 9.4.8 of this Code. Upon the fourth and subsequent violation of Section 9.4.8 in any one calendar year, the City may take the following actions:

Forth offense	\$50.00 fine
Fifth offence	\$100.00 fine
Six offense	\$150.00 fine

9.14.4 Violation. Any failure to pay fines imposed under Section 9.14.4 or on the seventh office for failure to comply with the requirements of Section 9.4.8 shall constitute a violation of this Chapter. If a violation has occurred, the Public Works Director or the Director's designee may require that the single-family dwelling service recipient subscribe to and pay for side or backyard collection as provided by the contractor.

9.14.5 Judicial Enforcement. An action may be commenced in the name of the City in any court of competent jurisdiction for the amount of any delinquent fine. All fines shall be deemed delinquent thirty (30) days after they are due and payable.

9.14.6 Inspection. The building official may inspect and monitor all covered projects to determine levels of actual diversion activities and validate the information provided by the applicant to determine compliance.

9.14.7 Non-Compliance. When the building official determines that a covered project did not comply with the provisions of Chapter 9 pursuant to Section 9.11.4 of this Code, the City will begin enforcement actions provided under Article II of Chapter 1 of the Code, including possible imposition of administrative penalties and fines.

SEC. 9.15 MONITORING

This Chapter shall be monitored for effectiveness in promoting construction and demolition material recycling and reuse. Reporting to the City's building official by the City's contractor will include an analysis of construction and demolition material recycling quantities and opportunities to increase service area coverage and recycling rates. An annual report shall be provided to the City's building official by the contractor.

A violation of this Ordinance, including any continuing violation hereof, is unlawful and is hereby declared to be a misdemeanor and a public nuisance. The City may elect to pursue any enforcement remedies set forth in Sections 1.7, 1.8 and 1.8 of this (Chapter 1, Article II), and any remedies available under any applicable state or federal statute or pursuant to any other lawful power the City may possess. The provisions of this Ordinance may also be enforced by a civil

court action, prosecuted by the City Attorney in the name of the City. All remedies shall be alternative to or in conjunction with, and not exclusive of, one another. The election of remedies provided by this Ordinance shall be at the sole discretion of the City and its officials.
(Ord. 678 N.S. 6/08)

9/19/08