

City of Piedmont
COUNCIL AGENDA REPORT

DATE: May 21, 2018

TO: Mayor and Council

FROM: Paul Benoit, City Administrator

SUBJECT: Consideration of the 2nd Reading of Ordinance 744 N.S., Adopting an Updated and Renumbered City Code Chapter 9, Solid Waste (Garbage) to Conform to the New Collection Services Agreement and Current Laws

RECOMMENDATION

Approve the 2nd reading of Ordinance 744 N.S., adopting an updated and renumbered City Code Chapter 9, Solid Waste (Garbage) to conform to the new collection services agreement and current laws.

BACKGROUND

At its meeting of May 7, 2018, the Council approved the first reading of Ordinance 744 N.S., which updates and renumbers City Code Chapter 9, Solid Waste (Garbage).

A second and final reading is required for adoption. Since the first reading, the ordinance has been posted on the bulletin board in City Hall as well as on the City's web site. No public comments have been received by the City Clerk's office since the first reading. If passed, this ordinance will become effective June 20, 2018.

By: John O. Tulloch, City Clerk

ORDINANCE NO. 744 N.S.

AN ORDINANCE TO REVISE CHAPTER 9, SOLID WASTE (GARBAGE), OF THE
PIEDMONT CITY CODE TO CONFORM TO THE NEW COLLECTION SERVICES
AGREEMENT AND STATE LAW.

The City Council of the City of Piedmont hereby ordains as follows:

SECTION 1 BACKGROUND AND INTENT

It is the intent of the City Council of the City of Piedmont to adopt an updated and renumbered Chapter 9, Solid Waste (Garbage) of the Piedmont City Code so that it conforms to the new Solid Waste Collection Services Agreement and with provisions of current laws related to the collection and processing of solid waste.

On January 16, 2018, the City Council conducted a second reading of Ordinance 737 N.S. granting a franchise to Republic Services, Inc., for solid waste collection services and approval of a collection services agreement for the term July 1, 2018 through June 30, 2028. Revisions to City Code Chapter 9 are necessary to bring it into conformity with the new agreement.

SECTION 2 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed amendment is exempt from CEQA pursuant to Public Resources Code section 21065, and CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3), 15183, 15273, 15301, 15307, 15308, and/or 15378.

SECTION 3 AMENDMENT OF CHAPTER 9, SOLID WASTE (GARBAGE).

Chapter 9, Solid Waste (Garbage) of the Piedmont City Code is amended in its entirety to read as set forth in Exhibit A, attached.

SECTION 4 CODIFICATION

The City Clerk is directed to codify this ordinance in a manner which best reflects the legislative intent of the City Council in enacting it and renumber sections accordingly.

SECTION 5 SEVERABILITY

The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Ordinance or their applicability to other persons or circumstances.

SECTION 6 POSTING AND EFFECTIVE DATE

This Ordinance shall be posted at City Hall after its second reading by the City Council for at least 30 days and shall become effective 30 days after the second reading.

[END OF ORDINANCE]

Exhibit A: Chapter 9, Solid Waste

Exhibit A

Chapter 9 SOLID WASTE

Divisions:

- 9.01 Intent and findings
- 9.02 Franchised collection; contractor requirements
- 9.03 Generator and service unit requirements
- 9.04 Construction and demolition
- 9.05 Prohibitions
- 9.06-9.09 (Reserved)
- 9.10 Enforcement
- 9.11 Definitions

DIVISION 9.01 INTENT AND FINDINGS

Sections:

- 9.01.010 Intent and findings

9.01.010 Intent and findings.

The city is committed to protecting the public health, safety, welfare and environment. To meet these goals it is necessary to promote the reduction of garbage going to landfills.

Under California law as embodied in the California Waste Management Act of 1989, as subsequently amended, (Public Resources Code section 40000 et seq.), Piedmont is required to prepare, adopt and implement source reduction and recycling elements to reach, maintain or exceed a minimum diversion rate for solid waste. Pursuant to the Waste Reduction and Recycling Act of 1990 (Measure D), and as a member agency of the Alameda County Waste Management Authority, the City is committed to the policy goal of reducing, recycling and composting the total tonnage of discarded materials generated within Alameda County.

The city 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 city 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 the debris is particularly suitable for recycling. Reusing and recycling construction and demolition debris is essential to further the city's efforts to reduce waste and comply with state law and Measure D goals. 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. Except in unusual circumstances, it is feasible to divert an average of 65% of construction and demolition debris from construction, demolition, and renovation projects.

DIVISION 9.02 FRANCHISE; CONTRACTOR REQUIREMENTS

Sections:

- 9.02.010 Exclusive rights
- 9.02.020 Non-exclusive rights
- 9.02.030 Collection of recyclable materials by unauthorized persons
- 9.02.040 Compliance with franchise agreement
- 9.02.050 Collection rates

9.02.010 Exclusive rights.

The city council may enter into a franchise agreement with any person or entity (the contractor) granting the exclusive right to collect, process, transfer and dispose of any type of solid waste generated in the city. The agreement will include terms and conditions that the city council determines to be in the best interests of the city, consistent with state law. It is unlawful for any person other than the contractor, to take, collect, process, or dispose of solid waste subject to the franchise agreement within the city limits during the term of such franchise agreement.

9.02.020 Non-exclusive rights.

The city council has the right to enter into separate agreements pertaining to the collection of any materials not designated in an exclusive franchise agreement.

9.02.030 Collection of recyclable materials by unauthorized persons.

From time of placement of recyclable materials in a solid waste cart, those recyclable materials become the property of the city or its contractor. It is a violation of this chapter for any person other than the contractor to collect or pick up or cause to be collected or picked up any such items.

9.02.040 Compliance with franchise agreement.

Contractor shall at all times provide solid waste collection services to all service units in full compliance with the terms set forth in the franchise agreement, including the following:

A. Frequency. The contractor shall collect solid waste from all service units in the city at least once a week.

B. Curbside collection. Contractor must provide curbside collection to each single-family dwelling service unit unless the single-family dwelling service recipient subscribes to on-premises collection.

C. No blocking of streets. Contractor must operate collection vehicles in a manner to avoid blocking streets, alleyways, driveways, or public rights-of-way. 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 must promptly move the collection vehicle from the blocked street, alleyway, driveway, or public right-of-way.

D. Collection hours. Collection from single-family dwelling and multi-family dwelling properties may begin no earlier than 7:00 a.m. and must terminate no later than 6:00 p.m. Monday through Friday with no service on Saturday (except for residential holiday service, in which case normal collection hours apply) or Sunday.

E. Contractor charges. Contractor may only charge service recipients for the collection services as authorized by the franchise agreement, subject to those maximum rates adjusted periodically by the city council.

9.02.050 Collection rates

The maximum rates for collection, processing and disposal of solid waste from service units in the city are established by city council resolution.

DIVISION 9.03 GENERATOR AND SERVICE UNIT REQUIREMENTS

Sections:

- 9.03.010 Proper disposal required
- 9.03.020 Minimum solid waste disposal requirements
- 9.03.030 Use of solid waste carts
- 9.03.040 Use of overage bags for green waste
- 9.03.050 Collection and placement of carts
- 9.03.060 Self-haul permit
- 9.03.070 Special Events

9.03.010 Proper disposal required.

Every owner of any premises shall ensure that arrangements are made to properly dispose of the solid waste created, produced, or accumulated on the premises through either maintaining a subscription for regular solid waste collection service or self-hauling pursuant to a permit issued under section 9.03.060. The failure to comply with the requirements of this section is a threat to the public health, safety and welfare, and is declared and deemed a nuisance.

9.03.020 Minimum solid waste disposal requirements.

The owner of any premises shall ensure that solid waste created, produced, or accumulated on the premises is either collected by the collector or properly removed pursuant to a self-haul permit at least once a week or more often as may be required to adequately serve the premises. In order to fulfill the city's obligations under state law, the director may require the owner of any premises or the generator of solid waste at any premises to subscribe to and pay for solid waste collection services in the configuration the director determines is necessary for the preservation of the public health and/or public safety. The requirements may include: requiring solid waste bins and carts in the 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 generator to change the frequency of solid waste collection or the size of solid waste bins or carts at the service unit; and requiring additional efforts in the recycling of recyclable materials and organic materials generated by businesses and multi-family dwellings. The failure to comply with the requirements of this section is a threat to the public health, safety and welfare, and is declared and deemed a nuisance.

9.03.030 Use of solid waste carts.

Each service recipient is required to use solid waste carts and bins provided by the contractor. A service recipient may request larger or smaller solid waste carts or bins or request additional solid waste carts or bins.

However, 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 the permanent, in-ground, receptacle for collection of solid waste, then the single-family dwelling service recipient is not required to use solid waste carts provided by the contractor.

9.03.040 Use of overage bags for green waste.

On a periodic basis, if a single-family or multi-family dwelling service recipient has additional green waste in excess of what can be placed in the organic waste cart provided by the contractor, a single-family dwelling or multi-family service recipient may place green waste materials in overage bags provided by the contractor or a biodegradable bag provided by the generator. Each loaded bag may not weigh more than 50 pounds.

9.03.050 Collection and placement of carts.

Each single-family dwelling collection service will be curbside collection unless a single-family dwelling service recipient subscribes to on-premises collection.

A. Curbside placement and removal. Single-family dwelling service recipients that are subscribed to curbside collection of solid waste carts must temporarily place solid waste carts at the front property line within three feet from curb or street no earlier than 6:00 p.m. on the day before the scheduled collection day. They must remove the solid waste carts from the front property line no later than 11:59 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 for collection in the right-of-way parking strip.

B. On-premises placement. Service recipients that are subscribed to on-premises collection of solid waste carts must place and maintain the solid waste carts in the side yard or backyard of their premises where the carts will not be a public nuisance or in any degree offensive. The location must allow for easy and safe access to the contractor.

9.03.060 Self-haul permit.

A. Permit required. An owner or an occupant of any premises may elect to self-haul solid waste generated at the premises directly to a disposal or processing facility holding all applicable permits to accept the material. Any such owner or occupant desiring to do so as a means of satisfying the owner's obligation under Section 9.03.010 shall obtain a self-hauling permit to do so from the director prior to commencing self-hauling.

B. Term. A permit to self-haul shall be good for one calendar year, or such part of the calendar year that is remaining after the issuance of the permit. All self-haul permits shall expire on December thirty-first, and may be renewed annually. An application for a renewal permit should be filed at least sixty days prior to the expiration date of the permit to allow adequate time for processing, inspection and verifications required to issue the permit.

C. Issuance of permit. Applications for a self-haul permit shall be submitted on an application, on a form approved by the director, with all required information supplied. The director shall issue a self-haul permit within ten working days of the receipt of an application deemed complete by the director only if the person requesting a self-haul permit satisfies the following requirements:

1. Produces for inspection the vehicle that such person intends to use for hauling solid waste, and the vehicle meets the following standards:
 - a. The vehicle is capable of safely hauling solid waste in a safe and sanitary manner so that such matter will not spill, leak, drip, blow, scatter or fall from the vehicle;
 - b. If the vehicle is not fully enclosed, the applicant produces a tarp or other material that will be used to completely secure the materials being self-hauled; and
 - c. The vehicle is operational and meets all applicable Vehicle Code standards.
2. Produces evidence that such person owns or leases the vehicle or has a written agreement to use the vehicle for the hauling of solid waste;
3. Produces evidence that such person has a valid California driver's license to operate the vehicle produced for inspection and that the vehicle is registered in the State of California;
4. Provides the director with a certificate of automobile insurance for the vehicle;
5. Provides the director with proof that the applicant has containers for the storage of solid waste on the applicant's property before the materials are hauled to a disposal facility; and
6. Pays the fee for a self-hauling permit authorized by resolution of the city council.

D. Operational standards.

Self-haul permittees shall comply with the following operational conditions:

1. Permittees must dispose of solid waste and retain weekly receipts from any licensed or permitted landfill or other licensed or permitted disposal facility.
2. Receipts shall be submitted to the city for the preceding one-quarter calendar year on a quarterly basis upon reasonable request by appropriate city authority. Failure to show proof of solid waste disposal for each week that a person is permitted to self-haul shall constitute a public health and safety nuisance sufficient to permit city to revoke the permittee's self-hauling permit.
3. Permittees must notify the city of any change in the vehicle being used to haul solid waste by the permittee. Permittees must bring the new vehicle in for an inspection and demonstrate compliance with items 1 through 5 of paragraph C of this section before the new vehicle is used to haul any materials under the permit.
4. Permittee must keep on file with the city copies of the current automobile insurance and registration for the vehicle used to self-haul and the permittee's current California driver's license. Permittee must provide proof to city of renewed automobile insurance, vehicle registration, and California driver's license within five days of expiration of respective document.
5. Permittees must separate and bag garbage, recyclable material and organic waste capable of being composted.
6. Permittees are liable for any damages and clean-up costs resulting from any solid waste spilling, leaking, dripping, blowing, scattering or falling during the course of the permittees self-hauling activity.
7. Permittees shall, at such times as the director may specify, report to the city the type, quantity, volume and weight of solid waste to be removed, and shall pay an AB939

information reporting fee, in an amount to be set by the city council by resolution.

E. Revocation.

The director may revoke the self-haul permit if he or she finds that the permit holder has not complied with the terms of the permit or the conditions of this section. A self-haul permittee may appeal a determination made under this paragraph to the city administrator. In order to appeal, the self-haul permittee shall file a written appeal with the city clerk within 10 days after the determination of the building official, stating the reasons for the appeal and deposit the appeal fee, as set by resolution of the city council. The city administrator may designate a hearing officer for consideration of the appeal. The city administrator, or hearing officer if designated, shall hear the appeal within 30 calendar days of receiving the appeal. The decision of the city administrator or hearing officer shall be final. Upon revocation of the self-haul permit, the director shall order the owner to comply with section 9.03.010. The director shall not, for a period of 12 months following the revocation, grant a self-haul permit to a person from whom a self-haul permit was revoked, and, thereafter, the director is authorized in his or her discretion to deny, or impose additional conditions on, the issuance of a self-haul permit to a person from whom a self-haul permit was previously revoked.

9.03.070 Special events.

For any special event within the city, the party responsible for the special event shall ensure that containers are placed throughout the event to sufficient to make source separation of recyclable materials, organic materials and garbage convenient for the employees, volunteers, contractors, and attendees of the event, and arrange for commingled or source-separated collection and processing of garbage, recycling and organics with the contractor. The party responsible shall arrange for collection and appropriate processing of all garbage, organics and recycling collected during the special event. During the term of any exclusive franchise pursuant to section 9.02.010, the responsible party may use commingled service or source separated collection services from a service provider other than the contractor only with the agreement of the contractor. Such service must also comply with the following requirements:

- A. The minimum number of recycling and organic containers must exceed the number of garbage containers. Containers for garbage, organics and recyclables must be collocated throughout the event location to provide equally convenient access to users.
- B. All of the containers must have appropriate signage and be color coded to identify the type of materials to be deposited and meet any additional design criteria established by the city.
- C. Food vendors must have at least one separate container each for recyclable materials, organic materials and garbage for use by customers and visitors. Multiple food vendors that provide disposable food service ware and share a common eating area may share an appropriate number, size, and placement of containers, located within a reasonable proximity of the vendors.
- D. The types of recyclable materials suitable for deposit into each container must include, at a minimum; plastic bottles and jars, paper, cardboard, glass, newspaper, metal containers, and cans. Each recycling container must be clearly identified as a recycling container and display a list of types of recyclable materials which may be deposited into the container.

DIVISION 9.04 CONSTRUCTION AND DEMOLITION

Sections:

9.04.010	Diversion requirement
9.04.020	Waste management plan
9.04.030	Waste diversion report
9.04.040	Determination of compliance
9.04.050	Infeasibility exemption
9.04.060	Appeal

9.04.010 Diversion requirement.

A. Diversion Requirement. Owners and builders generating any construction and demolition debris on a project must comply with the minimum requirements regarding recycling or reuse for salvage set forth in the 2016 California Green Building Standards Code, Title 24, Part 11, as adopted by sections 5.12 and 5.13 of the Piedmont City Code, any applicable state law requirements, and the requirements of this section.

B. Proper Processing Facilities. Mixed construction and demolition debris must be processed at processing facilities that are permitted to accept, process and/or dispose of construction and demolition debris under applicable law.

C. Inspection. The building official may audit, inspect, and monitor all projects to determine levels of actual diversion activities and validate the information provided by the applicant to determine compliance. The applicant shall retain the receipts or weight tickets for the quantities of materials reused, salvaged, recycled and landfilled for one year after the final inspection.

9.04.020 Waste management plan.

To ensure compliance with the diversion requirement in this division, each applicant shall submit a completed waste management plan in a manner and form determined by the building official prior to issuance of a city building permit. The building official shall approve the waste management plan only if it will meet the diversion requirements of this division. To further secure compliance, the building official may require an applicant to deposit a performance security in an amount not exceeding two percent of the anticipated total project cost. Such security may be provided in the form of a cash deposit, money order or alternate security approved by the city attorney. Compliance with this section is not required where the building official has determined that an emergency demolition is required to protect the public health and safety.

9.04.030 Waste diversion report.

Before the final inspection, the applicant shall submit to the building official a waste diversion report showing the project has met the diversion requirement. This waste diversion report shall include all of the following:

- A. Receipts from the vendor or facility which collected or received each material showing the actual weight or volume of that material;

B. A copy of the waste management plan with the addition of the actual volume or weight of each material diverted and/or placed in a landfill;

C. Any additional information the applicant believes is relevant in determining efforts to comply in good faith with this division.

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.

9.04.040 Determination of compliance.

A. Building official determination. Prior to the final inspection approval, the building official shall review the information submitted by the project applicant pursuant to this division and determine whether the applicant has complied with the diversion requirement and the waste management plan.

1. Full compliance. If the building official determines that the applicant has fully complied with the diversion requirement, he or she shall cause the full performance security to be released to the applicant within 30 days of the applicant's submission of the documentation required under section 9.04.030.

2. Good faith effort to comply. If the building official determines that the diversion requirement has not been achieved, he or she shall determine on a case-by-case basis whether the applicant has made a good faith effort to comply with this chapter. In making this determination, the building official shall consider the availability of markets for the construction and demolition debris placed in a landfill, the size of the project, and the documented efforts of the applicant to divert construction and demolition debris. If the building official determines that the applicant has made a good faith effort to comply with this chapter, he or she shall release the performance security, or a portion of it in proportion to the degree of compliance, to the applicant within 30 days of the applicant's submission of the documentation required under section 9.04.030.

3. Noncompliance. If the building official determines that the applicant has not made a good faith effort to comply with this chapter, or if the applicant fails to submit the documentation, then, at the building official's discretion, (a) the final inspection approval will not be issued, or (b) the performance security shall be forfeited to the city, or (c) both. Additionally, noncompliance may be subject to further penalty as set forth in division 9.10.

4. Use of forfeited security. Forfeited performance securities shall be deposited into a special account and used for the purposes of (a) payment of any fines which may be assessed against the city, and (b) promoting diversion and recycling within the city.

B. Cost recovery. The city council, by resolution, may set a fee to recover all costs of determining compliance with this division.

9.04.050 Infeasibility exemption.

A. Application. If an applicant experiences unique circumstances that the applicant believes make it infeasible to comply with the diversion requirement, the applicant may apply for an exemption at the time that he or she submits the waste management plan required under section 9.04.20. The applicant shall indicate on the waste management plan 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 requirement.

B. Granting of exemption. If the building official determines that it is infeasible for the applicant to meet the diversion requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate this rate to the applicant in a letter, and the waste management plan shall be deemed approved as modified by such letter.

C. Denial of exemption. If the building official determines that it is possible for the applicant to meet the diversion requirement, he or she shall so inform the applicant in writing. The applicant shall have 30 days to resubmit a waste management plan.

9.04.060 Appeals.

An applicant may appeal a determination made under this division to the city administrator. In order to appeal, the applicant shall file a written appeal with the city clerk within 10 days after the determination of the building official, stating the reasons for the appeal and deposit the appeal fee, as set by resolution of the city council. The city administrator may designate a hearing officer for consideration of the appeal. An appeal is limited to the following issues:

- A. the granting or denial of an infeasibility exemption;
- B. whether the applicant has made a good faith effort to comply with the waste management plan; and
- C. the amount of security to be released.

The city administrator, or hearing officer if designated, shall hear the appeal within 60 calendar days, and shall give 10 days prior written notice to the applicant. The decision of the city administrator or hearing officer shall be final.

DIVISION 9.05 PROHIBITIONS

Sections:

- 9.05.010 Burning or burying solid waste prohibited
- 9.05.020 Littering and dumping prohibited

- 9.05.030 Collection vehicles weight restriction
- 9.05.040 Prohibited materials in solid waste carts

9.05.010 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.

9.05.020 Littering and dumping prohibited¹.

It is unlawful for a person to litter or dump any solid waste in the city.

9.05.030 Collection vehicles weight restriction.

A vehicle removing or carrying solid waste or construction and demolition debris may not exceed 18,000 pounds per axle, and may not exceed 52,000 pounds gross vehicle weight when loaded.

9.05.040 Prohibited materials in solid waste carts.

No person shall place any exempt waste, e-waste, u-waste, human waste and other potentially infectious material in any solid waste cart.

DIVISION 9.10 ENFORCEMENT

Sections:

- 9.10.010 Enforcement authority
- 9.10.020 Container removal fine
- 9.10.030 Misdemeanor, Penalty, City Remedies

9.10.010 Enforcement Authority.

The director has the authority to enforce this chapter, in addition to the authority granted to police officers. The director is authorized to establish rules and regulations for the purpose of enforcing of the provisions of this chapter.

9.10.020 Container removal fine.

The city will provide written notification to single-family dwelling service recipients who violate Section 9.04.050. For the fourth and subsequent violation of this section in any one calendar year, the city may impose fines as follows:

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

The failure to pay fines imposed, or the seventh offense for failure to comply with the requirements of Section 9.04.050, constitutes a violation of this chapter. If a violation has occurred, the director may require that the single-family dwelling service recipient subscribe to and pay for on-premises collection as provided by the contractor.

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

9.10.030 Misdemeanor, Penalty, City Remedies.

A. It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Unless otherwise specified in this chapter, a violation of any of the provisions or failing to comply with any of the mandatory requirements of this code shall constitute a misdemeanor except that notwithstanding any other provisions of this code, any such violation constituting a misdemeanor under this code may, in the discretion of the attorney having prosecutorial functions, be charged and prosecuted as an infraction.

B. Any person convicted of a misdemeanor under the provisions of this chapter, unless provision is otherwise made in this code, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for a period of not more than six months, or by both fine and imprisonment.

C. Whenever in this chapter any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of this chapter shall be punished by a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

D. Each such person may be charged with a separate offense for each and every day during any portion of which a violation of any provision of this code is committed, continued or permitted by such person, and shall, upon conviction, be punishable accordingly.

E. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance, and may be summarily abated as such by this city, and each day that such condition continues shall be regarded as a new and separate offense.

F. In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the City. In any such action, the City may seek, and the court shall grant, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;
2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection (including attorneys' fees);
3. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation (including attorneys' fees).

G. The city may enforce this chapter by any lawful means possessed by the city, including but not limited to those set forth in section 1.7 and 1.9 of the code, and any remedies available under any applicable state or federal law pursuant to any other lawful power the city may possess. Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

DIVISION 9.11 DEFINITIONS

Sections:

9.11.010 Definitions

9.11.010 Definitions.

In this chapter:

Applicant means the person or entity (or the authorized representative) who submits an application for approval for a city permit to undertake any construction, demolition, or renovation project in the city. An applicant need not possess legal title to the subject property, so long as the applicant is an authorized agent with the written consent of the property owner.

Business service unit means a retail, professional, office, or other commercial enterprise offering goods or services to the public.

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

Collection services means single-family dwelling (SFD) collection service, multi-family dwelling (MFD) collection service, City collection service, and Commercial collection service.

Commercial collection service means collection of garbage, organic waste, large items, and recyclables materials from a business service unit.

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

Construction and demolition debris means 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 landscaped areas. Such materials include, 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, lad, linoleum, marble, plant debris, pressboard, porcelain, steel, stucco, tile, vinyl, wood, masonry, trees, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble. Construction and demolition debris does not include exempt waste.

Construction and Demolition Debris Processing Facility means a facility that is operated and legally permitted for the purpose of accepting construction and demolition debris for receiving, sorting, processing, storing and/or preparing construction and demolition debris for sale.

Contractor means the person or entity designated by the city council to provide exclusive collection of solid waste within the city limits.

Demolition means 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.

Director means the Public Works Director or his or her designee.

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

Dwelling unit means 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.

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

Exempt waste means 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.

Food waste means 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.

Franchise agreement means 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.

Garbage means 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 as recyclable materials, organic waste, large items, E-waste, U-waste, or exempt waste.

Green Waste means any vegetative matter resulting from normal yard and landscaping maintenance that is not more than three feet in its longest dimension or six inches in diameter and fits in the organic waste cart or overage bag used 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 exempt waste.

Large items means 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 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 where the large items are collected. Large items do not include exempt waste.

Large green waste means oversized green waste such as tree trunks and branches with a diameter of not less than six inches and not more than two feet and a length of not more than five 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 where the large green waste is collected.

Mixed construction and demolition debris includes the waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

Multi-family dwelling collection service means collection of garbage, organic waste, large items, and recyclables materials from a multi-family dwelling service unit.

Multi-family dwelling service unit means any combination of dwelling units in the service area using a common bin for the accumulation and set-out of garbage.

Organic waste includes food waste and green waste.

Overage bag means 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 will have a capacity ranging from 20 to 45 gallons and a load capacity of up to 50 pounds.

Project means an activity involving construction, demolition, or renovation, and which requires issuance of a city building permit. For the purpose of section 9.04.010, *project* also includes any city construction, demolition, or renovation over \$25,000.

Recyclable material means those materials designated by the city which are capable of being recycled and which would otherwise be processed or disposed of as garbage. *Recyclable materials* includes: 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 40 pounds in weight nor two feet in any dimension for any single item); steel including “tin” cans, aerosol cans (empty, non-toxic products) and small scrap (not exceeding 40 pounds in weight nor two feet in any dimension for a single item); bimetal containers; #1-7 plastics regardless of form or mold (including 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 other materials added by the city or the contractor from time to time.

Recycling means 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.

Renovation means a change, addition, or modification in an existing structure.

Reuse means the recovery or reapplication of the material for uses similar or identical to its originally intended application, without manufacturing or preparation processes that significantly alter the material.

Self-haul means when a generator collects solid waste at their premises or place of business for the purpose of hauling those materials in their own vehicles to a permitted solid waste facility in compliance with the requirements of the code.

Service recipient means a single-family dwelling service unit, multi-family dwelling service unit, city service unit, or commercial service unit receiving collection service.

Service unit means single-family dwelling service units, multi-family dwelling service units, City service units, and commercial service units.

Single-family dwelling collection service means collection of garbage, organic waste, large items, and recyclables materials from a single-family dwelling service unit.

Single-family dwelling service unit means a dwelling unit in the service area using a garbage cart, or any combination of dwelling units sharing garbage carts, for the accumulation and set out of garbage.

Solid waste means garbage, recyclable materials, organic waste, construction and demolition debris, bulky items, e-waste, universal waste or exempt waste, and other discarded solid and semi-solid wastes as defined in the California Public Resource Code Section 40191, as that section may be amended from time to time. Solid waste does not include any of the following wastes: (1) hazardous waste; (2) radioactive waste; and (3) medical waste regulated pursuant to the Medical Waste Management Act.

Solid waste bin means a metal or plastic container, with a capacity of between one and ten 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 where the multi-family dwelling or commercial collection service occurs.

Solid waste cart means a heavy plastic receptacle with wheels and a rated capacity of between 20 gallons and 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.

Special event means an occasional or recurring event scheduled to occur on public property, whether publicly or privately organized or sponsored. Special events include, but are not limited to: fairs, festivals, parades, sporting events, concerts, outdoor movies and catered events.

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