

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING VARIOUS SECTIONS OF CHULA VISTA MUNICIPAL CODE CHAPTERS 8.24, "SOLID WASTE AND LITTER," AND 8.25, "RECYCLING," TO UPDATE THE DEFINITION OF ORGANIC WASTE, AUTHORIZE THE CITY MANAGER TO DEVELOP AN ENFORCEMENT PROCEDURE TO PREVENT THE LANDFILL DISPOSAL OF ORGANIC WASTE, AND MODIFY THE PROCESSING OF DELINQUENT WASTE COLLECTION PAYMENTS

WHEREAS, Senate Bill 1383 codified the California Air Resources Board's Short-Lived Climate Pollutant Reduction Strategy, as it relates to reduction in the emissions of short-lived climate pollutants such as methane from solid waste; and

WHEREAS, the regulation was approved by the State of California's Office of Administrative Law in November 2020 and prescribes specific actions that local jurisdictions must take to reduce short-lived climate pollutants related to solid waste collection, the regulation also requires municipal agencies to modify solid waste management programs to achieve new organics waste reductions targets; and

WHEREAS, staff determined that amendments are required to Chula Vista Municipal Code chapters 8.24 and 8.25 in order to comply with the State of California regulation which requires jurisdictions to mandate that organic waste is diverted from landfill disposal and having enforcement procedures to ensure that waste generators assist respective jurisdictions comply with the regulations; and

WHEREAS; this ordinance also amends language in Chula Vista Municipal Code Chapter 8.24 to streamline the City's management of waste collection of overdue payments for prompt resolutions related to inquiries handled by the City of Chula Vista and Republic Services.

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I. Amendment of Chula Vista Municipal Code Chapters 8.24 and 8.25

A. Chapter 8.24, "Solid Waste and Litter," is hereby amended as follows:

[Section 8.24.010 through 8.24.070 remain unchanged]

8.24.080 Solid waste – Containers approved for use by small quantity generators (single-family residential and small businesses with cart service) and large quantity generators (bin or roll-off service) for solid waste, ~~yard~~ organic waste and recyclables.

A. It is unlawful for any small quantity generator in a residential area to keep or store any solid waste, ~~and~~ recyclables **and organic waste** within containers except those provided by the City contract or franchise agent. ~~Residents may keep yard waste in a container provided by the City contractor or franchise agent or their own standard waste container. Such standard containers shall be a maximum capacity of 40 gallons, tapered gradually, decreasing in diameter toward the bottom of the container, made of metal or plastic with metal or plastic covers and operable handles, and shall be watertight and fly proof. Residents may also purchase and use their own automated yard waste container for yard waste only, if that container has been approved by the City.~~ Large quantity generators shall utilize containers provided by the City contract or franchise agent. Compactor containers or other receptacles provided by large quantity generators, such as commercial and industrial customers, must be approved by the City contract or franchise agent for compatibility with collection equipment before use. Use of incompatible compactors or other containers is not allowed and the purchase or lease of such equipment will not be considered grounds for an exemption from mandatory service.

B. Further, every person having the care or control of any place or premises within the City where solid waste accumulates or exists shall cause such solid waste to be placed and kept in such watertight containers, with lids securely fitted, and in a number adequate to contain the total amount of solid waste (refuse, recycling and **yard organic** waste) accumulating during the maximum allowed one-week interval between each collection or removal thereof.

C. Enclosures for solid waste containers must be of adequate size to hold the number of containers required to temporarily store the refuse, recycling and **organic yard**-waste generated in between service intervals, pursuant to subsection (A) of this section. The enclosures shall also be adequate in size to accommodate other ancillary collection and removal services, i.e., grease rendering as defined in CVMC 19.58.340.

8.24.090 Solid waste – Placement in containers or bundles – Restrictions.

All solid waste shall be kept within sturdy containers made of metal or plastic, and no solid waste shall be placed in any container so that it protrudes or extends beyond such containers. Containers shall also have tight-fitting lids sufficient to keep out the rain and prevent litter. Every owner, tenant, occupant or person having responsibility for premises shall subscribe for adequate service and maintain the number of rigid containers and lids sufficient to separately hold their weekly solid waste (refuse, recyclables and **organic yard** waste). ~~Yard Organic~~ **Organic** waste and other designated recyclables shall never be placed for collection in plastic bags. ~~The weight of any empty standard container for yard waste for a small quantity generator shall not exceed 15 pounds; the weight of any fully loaded container shall not exceed 60 pounds.~~ Cardboard containers shall not be used as solid waste containers and should be emptied, broken down and placed at the designated collection location for collection with recyclables.

A. The following actions are approved for solid waste by small quantity generators (single-family residential and small businesses with curbside collection service):

1. Color-coded and specially marked containers will be provided upon request by the City contract or franchise agent for used oil, oil filters, and designated recyclables at no additional charge. Color-coded and specially marked containers for **organic yard** waste will be provided at the resident's option ~~and require a monthly rental fee established in the maximum rate schedule;~~
2. Brush and limbs of trees may be placed outside of **organic yard** waste containers, tied with natural fiber (compostable) twine into bundles of not more than four feet in length, 18 inches in diameter and 35 pounds in weight;
3. Any person desiring to receive different, additional, or more frequent service may do so through the contract or franchise agent, on mutually agreeable terms and conditions, by contacting the contract or franchise agent at least two days before their regular refuse collection service day.

B. The following actions are prohibited for small quantity generators:

1. Use of severely damaged containers or containers with jagged or sharp edges (said containers will be appropriately tagged by contract or franchise agent first time noted and will be collected by contract agent if used subsequently to being so tagged);
2. Placement of hazardous or toxic wastes, such as solvents, paints, pesticides, fuels, explosives and medical wastes, at the designated collection location for collection by the City or any contract or franchise agent(s). This prohibition is not intended to exclude the door-to-door collection of any hazardous waste, by appointment, by a contractor licensed by the City and permitted by the State Department of Toxic Substances or the county environmental health department;
3. Placement of construction and demolition waste at the designated collection location for service by the City contractor or franchise agent which may resist compaction or damage equipment, such as large metal objects, concrete blocks, dirt or tires. This prohibition is not intended to prevent a resident from making an appointment for free bulky pick-up, free used oil and filter collection, or contracting with the City contract or franchise agent for a temporary bin for construction debris, metals, ~~yard~~ **organic** waste and source-separated recyclable materials;
4. Deposit of solid waste or any other material in waste containers intended for use by, or belonging to, others;
5. The disposal of designated recyclables **and organic waste** in solid waste containers.

C. *Enforcement.*

1. Generators that fail to place solid waste (refuse, recyclables or **organic yard** waste) out for collection in proper containers or fail to properly separate recyclables will be tagged with a notice and provided with proper instructions.

2. Repeated violation of proper set-out and/or separation after notification by the City or its contract or franchise agent will subject **to additional notification of a Chula Vista municipal code violation by notice of violation or administrative citation**~~the violating person to a penalty of up to \$10.00 per incident. That penalty will be assessed as part of the regular solid waste disposal bill and will be subject to the same payment and collection procedure provided in CVMC 8.24.180.~~

~~3. An additional fee of \$10.00 will be added to the bimonthly or monthly service fee to restart service for any owner/occupant that discontinues service prior to receiving an exemption under CVMC 8.24.180(H). (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).~~

[Section 8.24.100 through 8.24.170 remain unchanged]

8.24.180 Payment of solid waste collection charges – Penalty for delinquency.

A. *Payment Obligation.* The City Council finds and determines that the regular collection of solid waste, **organic yard** waste and designated recyclables, and the disposal or processing thereof by the contract or franchise agent of the City from all places in the City, is a part of the integrated solid waste management service to the premises from which it is collected. All owners and occupants of premises within the City shall be responsible for paying the monthly collection service rate charged by the City or its contract or franchise agent, or shall comply with the provisions of this chapter for an exemption from mandatory service as set forth in subsection (H) of this section. No person that has not previously applied for and received an exemption shall willfully fail, neglect or refuse, after demand by the City or its contract or franchise agent, to pay the service fees.

[Subsections 8.24.180 B through D remain unchanged]

E. *Penalties for Delinquency – Notification.*

1. *Delinquent Accounts – Generally.* A bill shall be considered delinquent if payment in full is not received by the close of business or postmarked before midnight of the due date as shown on the bill. However, when the final day falls on a Saturday, Sunday or legal holiday, payment may be made without penalty on the next regular business day.

2. *Late Notice.* In the event the owner or occupant of any premises or business shall be delinquent in payment of any part or all of the solid waste fees and delinquency continues for a period of 10 days after the due date shown on the bill, the City’s contract or franchise agent shall send notification (“late notice”) to the owner and occupant informing both of the amount owed and the schedule of penalties and costs accrued at each stage of delinquency as defined below. The notification to the owner shall be mailed to the name and address listed on the last available property tax assessment roll and shall include the potential delinquency amount to

be assessed as a lien and collected on the owner's property tax bill. If payment in full is not received by the due date on the bill/invoice, the City or its contract or franchise agent may impose a one-time late/processing fee equal to 10 percent of the charges owed for large quantity generators or \$10.00 for small quantity generators. In addition, for each 30 days the delinquent bill remains unpaid, the City or its contract or **its** franchise agent may impose additional late/processing fees equal to one and one-half percent of the outstanding debt. If the bill is not paid within 15 days of the invoice due date, the City contract or franchise agent may charge an additional restart fee of \$10.00. (The penalties and restart fee are designated for administrative convenience only in the master fee schedule.) The City or its contract or franchise agent must at minimum send one bill/invoice at least 10 days before the due date and one notification letter by first class mail to the owner or occupant prior to assessing a penalty.

3. *Final Late Notice.* In the event that the owner or occupant of any premises or business is delinquent in payment of all or any part of the solid waste bill, other than that for which they have applied for and received an exemption from the City, for a period of 90 days after the due date of the invoice, the City or its contract or franchise agent shall ~~assign the delinquent account to the City for collection. Upon mutual agreement, the City contract or franchise agent may assign delinquent accounts to the City before 90 days. At least 10 days prior to assigning an account to the City for collection, the City contract or franchise agent shall~~ send a second notification ("final late notice") to the owner **and occupant**. The notification shall include the total current amount due, a description of the potential penalties for delinquent amounts and a description of the potential lien process, the location where the bill may be paid in person during regular business hours and a self-addressed return envelope for payment by mail.

4. *Final Notice of Delinquency.* ~~Upon assignment of the delinquent account to the City for collection, the delinquent charges, penalties and fees may be collected by the City:~~
~~a. Pursuant to a lien imposition and property tax bill process provided below;~~
~~b. By suit in any court of competent jurisdiction; or~~
~~c. By any other manner permitted by law or equity at the City's discretion.~~

Prior to setting a hearing to consider a lien **pursuant to the process set forth below**, the City **or its contract or franchise agent** will send notification ("final notice of delinquency") to the property owner **and occupant** with a detailed description of the amount owed, the penalty schedule, lien procedure and associated costs and administration fees (the penalties and fees are designated for administrative convenience only in the master fee schedule).

When the full amount for said solid waste service charge is not paid within 15 days after the final notice of delinquency, the City or its contract or franchise agent shall assign the delinquent account to the City for collection. Upon such assignment, the delinquent charges, penalties and fees may be collected by the City:

- a. Pursuant to a lien imposition and property tax bill process provided below;**
- b. By suit in any court of competent jurisdiction; or**
- c. By any other manner permitted by law or equity at the City's discretion.**

F. *Lien Process for Solid Waste Services.*

1. *Hearing and Lien – Notice.* When the full amount for said solid waste service charge is not paid within 15 days after the final notice of delinquency, the City Clerk may set said delinquent account for hearing by the City Council at a regular or adjourned regular meeting, which will be held at least seven calendar days after such 15-day period has expired. The owner of the property shall be mailed notice of the time and place of the hearing **at least 10 days in advance of the hearing.** The notice shall also inform the property owner that failure to pay said delinquent account will result in a lien upon the property, and the amount owed will be charged to the property owner on the next regular tax bill. Notice of the public hearing shall also be published once at least 10 days in advance thereof in a newspaper of general circulation published in the City of Chula Vista. The City Clerk shall post a copy of such notice of the time and place of hearing, in a conspicuous place at or near the entrance of the Council chambers in the City Hall.

2. *Delinquent Accounts – Hearing and Assessment.* The City Council shall consider said delinquent accounts at the time set for hearing, together with any objections or protests by interested parties. Any owner of land or person affected by the charges may present a written or oral protest or objection to the delinquency of said account or the amount owed thereon. At the conclusion of the hearing, the City Council shall either approve the delinquency and amount owed on the account as submitted or as modified or corrected by the City Council. The decision of the City Council on the charges and on all protests or objections shall be final and conclusive. The amounts so approved shall reflect the entire amount due, including all penalties, interest and administrative fees that have accrued against the account as of the date of the hearing plus any county fees (for processing and collecting the lien). The amount shall be charged to the property owner on the next regular tax bill and shall be a lien upon the property involved. The City Council shall confirm such assessment and cause the same to be recorded on the assessment roll and, thereafter, such assessment shall constitute a special assessment and lien upon the property. The City Council shall adopt a resolution assessing such amounts as liens upon the respective parcels of land as they are shown upon the last available assessment roll.

3. *Delinquent Accounts – Administrative Fee.* All delinquent accounts that are not paid within 10 days after the final delinquency notice has been posted may be charged an administrative processing fee to offset the costs incurred by the City in administering the provisions of this chapter. The administrative processing fee (designated for administrative convenience only in the master fee schedule) shall be added to the amount **that shall be charged to the property owner on the next regular tax bill** ~~due as collected by the City~~ under subsection **(F)(2)** ~~(E)(4)~~ of this section.

G. *Solid Waste Service Deposits Required When – Amount.* The City or its contract or franchise agent have the right to require deposits from the owner or occupant of any premises who has allowed his/her bill for solid waste service charge to become delinquent or who does not have an acceptable credit rating. Deposits shall be equal to the estimated amount of the solid waste service charges for two billing cycles, but in no event shall the deposit be less than \$25.00.

H. *Request for Exemption from Fees – City-Approved Exception.*

1. *Duration of Exemption.* All exemptions and extensions granted will be for a period of not more than 180 days. Applicants that have been cited with a notice of violation or administrative citation and those that have been late on solid waste fee payments within the past six months will not be qualified for an exemption.

2. *Process for Making Request.* Requests for an exemption from mandatory solid waste services shall be made on a form provided by the City. Requests on the required form shall be completed by the applicant and submitted to the City or its contract or franchise agent, as outlined on the form. An exemption request will only be considered if the applicant demonstrates that it meets one of the bases set forth in subsections (H)(4)(a) through (H)(4)(d) of this section.

3. *Conditions of an Approved Application.* Applicants shall agree to an inspection of their premises to verify compliance with solid waste diversion. Failure to notify the City or the City's contract or franchise agent in writing prior to reoccupying the premises, or otherwise altering compliance with the exemption conditions, shall constitute delinquency of payment for collection charges, and charges and penalties shall be retroactive to the first day of the exemption period. In all cases, property owners and/or their agents will be expected to maintain sanitary premises pursuant to CVMC 8.24.060 including, but not limited to, litter abatement, clean sidewalks and gutters, and **organic yard** waste recycling (as appropriate), throughout the exemption period.

4. *Bases for Granting Exemption, and Special Terms.* Exemptions will not apply retroactively except as stated in subsection (H)(4)(a) of this section (vacancy exemption). All exemptions requested by tenants shall also be signed by the property owner. An exemption will only be granted if the City or its contractor or franchise agent determines that the exemption request meets the criteria of subsection (H)(4)(a), (H)(4)(b), (H)(4)(c), or (H)(4)(d) of this section. The City retains the right to review and modify any decision made by the contractor or franchise agent.

a. *Vacancy Exemption for Unoccupied Premises.* In the event that the premises are unoccupied and all water, sewer, electricity and gas are also disconnected or in the case of military deployment of all occupants, an owner or occupant of a residence or business may request a vacancy exemption. Should the premises be unoccupied due to a death or similar hardship, the executor, beneficiary or county probate administrator may request a retroactive exemption. It is the responsibility of the occupant and/or the property owner to cancel an exemption for vacancy and restart service if the property is to be occupied before the end of the exemption period.

b. *Self-Haul.* Occupant or tenants of premises may apply for an exemption from fees for all or part of the solid waste, **organic yard** waste and recycling services and remove or convey waste and/or recyclables for processing and disposal which they generate themselves. Such persons must provide weekly receipts for disposal at a state-permitted landfill or transfer station and/or appropriate recycling facility at the end of each billing cycle or upon demand by the City or its contract or franchise agent. Persons provided an

exemption are still subject to state-mandated waste diversion goals and may not: (i) dispose of their waste in the waste receptacle of another generator in Chula Vista or another jurisdiction, or in a park or street litter bin, (ii) contract with a third party to remove and convey their waste, (iii) burn their waste in their fireplace or by other means, (iv) dispose of designated recyclables, or otherwise improperly dispose of waste or recyclables as established in CVMC 8.24.040, 8.24.045 and 8.24.050. A self-hauler exemption is not a permit to haul waste generated by a second party.

c. *Source Reduction, Recycling and Composting Exemption.* The occupant/owner of any premises may apply for an exemption from all or part of the solid waste, yard waste and recycling fees for 100 percent diversion (no disposal of any kind, anywhere). Such persons must provide a written description of their solid waste management plans, to comply with the state-mandated landfill diversion goal and the City's integrated solid waste management plan.

d. Property owners and occupants within an area newly annexed to the City that was not currently using the City's contract or franchise agent may use the service of a private refuse collection service other than the City's franchise agent for a period not to exceed one billing cycle. If the owner or occupant was under a preexisting franchise agreement with a private refuse collection service other than the City's contract or franchise agent, they may remain with that service to the extent required by law until the end of the agreement period, less any extensions in that agreement, for a period not to exceed 180 days.

e. The City or its contractor or franchise agent may suspend collection service and/or charges from a large quantity generator for:

i. Vacancy;

ii. Delinquency of payment subsequent to implementation of subsection [\(E\)](#) of this section; or

iii. Mutual agreement by the City and contract or franchise agent. The contractor shall notify the City quarterly of all suspended accounts that did not result in payment.

8.24.190 **Reserved.**

8.24.195 **Mandatory recycling for exempt and reduced rate customers.**

Where a solid waste rate reduction or exemption is granted hereunder, the affected party shall not be exempted from and shall remain subject to the mandatory recycling ordinance. Each person receiving a rate reduction or exemption shall be responsible for doing his or her equitable share to assist the City with the 50 percent landfill diversion goal mandated by the California Integrated Waste Management Act of 1989 (AB 939) **and California statewide effort to reduce emissions of short-lived climate pollutants (SB 1383 Lara, Chapter 395, Statutes of 2016)** including, but not limited to, participation in source reduction, reuse, recycling and composting of the designated

recyclables and household hazardous waste as applicable. Failure to comply with the mandatory recycling ordinance or disposal of solid waste at a site other than the premises where the waste was generated shall be cause for termination of the exemption or reduced rate and shall subject the rate payer to paying the full cost of service for the full period of the exemption or reduced rate, plus any applicable penalty for violation of CVMC 8.24.040, 8.24.045 and 8.24.050.

8.24.200 Interference with collection and scavenging prohibited when.

It is unlawful for any person or persons, other than the City contract or franchise agent as defined herein and authorized by the City to collect solid waste or household hazardous waste, to interfere in any manner with any solid waste, household hazardous waste, designated recyclables or **organic yard** waste container or the contents thereof, whether owned by private persons, the City, or by its contract or franchise agent, or to remove any such container or its contents from the location where the same was placed by the owner thereof. This provision is not intended to prohibit any person, firm or corporation generating a reusable, ~~or~~ recyclable **or compostable** commodity from selling or giving the same as he, she or it may desire; provided, that the commodity(ies) shall be removed and conveyed in a manner strictly in accordance with the rules and regulations of the County Department of Environmental Health and Chapters 8.23, 8.24, and 8.25 CVMC, and that such commodities shall be diverted from a landfill, transformation facility, ~~use as alternative daily cover at a landfill~~, or other land application or other use not expressly recognized as diversion by the City or the California Integrated Waste Management Act of 1989.

8.24.210 Littering – By private persons prohibited where.

No person or persons shall leave, discard, deposit, throw away, or cause to be left, discarded, deposited or thrown away, any solid waste, hazardous waste or medical waste of any type including, but not limited to, paper, wood, glass, plastic, metals **organic, green** waste ~~or other organic matter~~, upon any street, alley, gutter, sidewalk, parkway, park or recreational area in the City.

8.24.220 Littering – By corporations or persons prohibited where.

It is unlawful for any person, firm, company or corporation to deposit upon any sidewalk or street within the City any sweepings from any sidewalk, stairway or other opening leading to the street or sidewalk. All such sweepings or material from any sidewalk or any other opening leading to the street or sidewalk within the City shall be removed in a pan, shovel or other container and placed in a container for solid waste, or **organic green** waste recycling or other recycling container as appropriate.

8.24.230 Owner or occupant duty to keep sidewalks free of litter.

It shall be the duty of all owners and occupants of buildings in the City and the duty of all owners of vacant lots in the City to keep the sidewalks adjacent to such premises clean and free of any solid waste of any type including, but not limited to, paper, wood, glass, plastic, metals, **organic green** waste, noxious weeds and vegetation or other organic matter.

B. Chapter 8.25, “Recycling,” is hereby amended as follows:

[Section 8.25.010 remains unchanged]

8.25.020 Definitions.

For purposes of this chapter, and other Municipal Code provisions referring hereto, the following words shall have the meanings ascribed thereto, unless the context in which they are used clearly indicates another meaning:

“Aluminum” means recoverable materials made from aluminum, such as used aluminum food or beverage containers, aluminum foil, siding, screening, and other items manufactured from aluminum.

“Applicant” means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City of Chula Vista.

“Bin” shall mean those plastic or metal containers of one cubic yard (202 gallons) to eight cubic yards that have plastic lids on the top (unless metal lids are designated by the City Manager). Bins are used for weekly or more frequent collection of waste, **organic yard** waste or designated recyclables by the City or its franchise agent.

“Bulky waste” means discarded items whose large size or shape precludes or complicates their handling by standard residential or commercial solid waste, recycling and **organic green** waste collection methods. Bulky items include white goods, furniture, large auto parts, trees, stumps, carpet and other potentially oversized wastes. Bulky waste does not include hazardous or infectious waste unless specifically exempt, such as freon-containing refrigerators.

“Buy-back center” means a facility licensed and permitted by the Department of Conservation and/or local jurisdiction which pays a fee for the delivery and transfer of ownership to the facility of source-separated materials for the purpose of recycling or composting.

“Cardboard” means post-consumer waste paper grade corrugated cardboard (grade No. 11), kraft (brown) paper bags, or solid fiber boxes which have served their packaging purposes and are discarded and can later be reclaimed for collection and recovery for recycling.

“Carts” shall mean those plastic containers with a capacity of less than 202 gallons (one cubic yard). Carts shall have a fixed lid and are designed for automated and/or semi-automated collection of solid waste, **organic yard** waste and/or designated recyclables by the City or its franchise agent.

“City” shall mean the City of Chula Vista, a municipal corporation of the state of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

“Collection” means the act of removing and conveying nonhazardous and noninfectious solid waste, commingled or source-separated materials, from residential, commercial, industrial, or institutional (governmental) generators to a facility for processing, composting, transfer, disposal or transformation.

“Commercial” means a site and/or business zoned or permitted for any use other than residential including, but not limited to, commercial, light industrial, industrial and agricultural. ~~Commercial generators that generate three or more cubic yards of waste per week~~ and are serviced by a **cart** bin or compactor collection vehicle.

“Commercial recyclables” means designated recyclable materials from the two commercial subcategories of “office” and “hospitality.” Materials include, but are not limited to: **organic waste** office paper, cardboard, newspaper, and aluminum from offices; and cardboard, glass bottles and jars, plastic bottles, aluminum, tin and bi-metal cans, and white goods. ~~from hospitality establishments.~~

“Compactor containers” means those fully enclosed metal containers of two to 40 cubic yards provided by the City’s hauler or customer. Compactors typically serve very large quantity generators.

“Compost” means the product resulting from the controlled biological decomposition of organic wastes that are source-separated from the municipal solid waste stream.

“Composting” shall mean the controlled and monitored process of converting organic wastes into compost.

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

“Construction and demolition waste” means used or discarded materials removed from the premises during demolition, dredging, grubbing, and building, resulting from construction, remodeling, repair, and/or demolition activities on housing, commercial, governmental buildings, and other structures and pavement.

“Contract or franchise agent(s)” means any person or private or public entity designated by the City Council, pursuant to Article XII of the City Charter and Chapter 8.23 CVMC, as being responsible for administering the collection, processing and/or disposal of solid waste or designated recyclables.

“Conversion rate” means the rate set forth in the standardized conversion rate table approved by the City pursuant to this chapter for use in estimating the volume or weight of materials identified in a waste management report.

“Covered project” shall have the meaning set forth in CVMC 8.25.095.

“Demolition” means the decimating, deconstructing, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

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

“Diversion requirement” means the diversion of 100 percent of inert waste, to include asphalt, concrete, bricks, tile, trees, stumps, rocks, and associated vegetation and soils resulting from land

clearing, and not less than 50 percent of the remaining waste generated, via reuse or recycling, unless a partial or full diversion exemption has been granted pursuant to CVMC 8.25.095, in which case the diversion requirement shall be the maximum feasible diversion rate established by the Waste Management Report Compliance Official for the project.

“Recycling box” shall mean those containers with a capacity of 18 gallons to 32 gallons which are supplied by the City or its franchise agent for manual collection of designated recyclables at special events.

“Curbside collection” means the service of removing and conveying nonhazardous and noninfectious solid waste, source-separated recyclables and/or **organic green** waste from the public thoroughfare at the curb or alley. (The City shall make the final determination regarding eligibility for curbside collection, which shall generally apply to small quantity generators.)

“Designated containers” (“containers”) shall mean those containers designated by the City Manager for temporary storage and collection of waste or designated recyclables including but not limited to curbside bins, carts, bins, roll-off boxes, and/or compactor containers.

“Designated recyclables” means those materials designated by the City Manager for recovery or reuse. Any material having an economic value on the secondary materials market or that is otherwise salvageable shall be included and/or other materials that have been separated from other small quantity or large quantity generators for the purposes of being recycled for resale and/or reuse, and placed at a designated recycling or waste collection or storage location or in a designated recycling or waste container for the purpose of collection and processing, or any such designated recyclable materials collected under a mixed waste processing program. The list includes, but is not limited to: newspaper (ONP), mixed paper (MP), corrugated cardboard (OCC), steel, tin and bi-metal cans, metal coat hangers, aluminum containers, white goods, glass food and beverage containers, No. 1 and No. 2 plastic containers, all California redemption containers, used oil, used oil filters, **organic yard** waste, clean lumber, concrete and asphalt.

“Designated solid waste and recycling collection or storage location” means a place designated by the City Manager for storage and/or collection of waste, **organic green** waste and/or recyclables pursuant to CVMC 8.24.100. Designated locations include, but are not limited to, the curb, alley, waste/recycling enclosure, a loading dock, or basement of a commercial enterprise or multifamily complex where waste and recyclables are placed for collection or temporary storage prior to collection by the City’s franchise agent.

“Franchised recyclables” means any residential, commercial or industrial recyclables, as defined herein, to be collected by the City’s contract agent or franchisee, placed in designated recycling containers or at designated recycling collection or storage location(s).

“Garbage” means all nonhazardous, noninfectious **organic** waste ~~including: kitchen and table waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking, or handling of food stuffs~~, except organic wastes separated therefrom and used in composting **or anaerobic digestion** in accordance with CVMC 8.25.090.

“Generator” means every owner, tenant, occupant or person owning or having the care and control of any premises in the City including the temporary use of parks, open space or a public thoroughfare.

“Glass bottles and jars” means food and beverage containers made from silica or sand, soda ash, and limestone, the product being transparent or translucent and being used for packaging or bottling, including container glass designated redeemable under the California Beverage Container Recycling and Litter Reduction Law, Division 12.1 (commencing with Section 14500) of the California Public Resources Code, as well as glass jars and bottles without redeemable value (“scrap”), but excluding household, kitchen, and other sources of noncontainer glass such as drinking glasses, ceramics, light bulbs, window pane glass, and similar glass products that are not bottles or jars.

“Grantee” shall mean the City’s franchise agent(s).

“**Organic Green** wastes” means the leaves, grass, weeds, shrubs, tree branches, tree trunk and other wood materials from trees. **Organic Green** waste may also include preconsumer **non-edible food waste and postconsumer non-edible** food waste, incidental amounts of waxed or plastic-coated cardboard ~~and mixed food-soiled~~ paper, **food-soiled cardboard** and unpainted and untreated lumber. **Organic Green** waste does not include ~~tree stumps in excess of 35 pounds, more than~~ incidental dirt or rock, plastic, glass, metal, painted or treated lumber, plywood, particle board, or other manufactured products that contain glue, formaldehyde, nonorganic or nonbiodegradable materials.

“**Organic Green** waste processing” means the accumulation and storage of **Organic green** waste in a manner that leads to the intentional or unintentional thermophilic decomposition of **Organic green** waste. The acceptance of payment for **organic green** waste and the accumulation of more than 15 yards or three tons per year of unprocessed, shredded, ground or composted material shall constitute **organic green** waste processing and is subject to the City, County and State requirements regulating compost and/or solid waste facilities. Residential, commercial and agricultural sites that generate, stockpile or process **organic green** waste material generated on-site and used on-site without sale of finished or unfinished material, that are otherwise compliant with all conditions of the Municipal Code for nuisance, may apply for an annual exemption.

“Hazardous or toxic waste” means any waste material or mixture of wastes which is toxic, corrosive, flammable, explosive, an irritant, a strong sensitizer, and which generates pressure through decomposition, heat or other means, if such a waste or mixture of wastes may cause substantial personal injury, serious illness or harm to humans, domestic animals, or wildlife, during, or as an approximate result of, any disposal of such wastes or mixtures of wastes as defined in Section 25117 of the California Health and Safety Code, which is not legally disposable at a Class III landfill.

“Hospitality” means any establishment that offers dining services, food or beverage sales. This includes taverns, bars, cafeterias, and restaurants, as well as motels and hotels (temporary housing of less than one month duration), hospitals, schools, colleges, and other such establishments that have dining services, or a restaurant or bar, on their premises.

“Industrial recyclables” means recyclables from industrial, construction, and demolition operations, including, but not limited to, asphalt, concrete, dirt, land-clearing brush, sand and rock.

“Industrial solid waste” means solid waste originating from mechanized manufacturing facilities, factories, refineries, construction and demolition projects, and/or publicly operated treatment works, excluding recyclables and **organic waste compostables**, if properly handled and treated, and excluding hazardous or toxic waste.

“Inert waste” means materials such as concrete, soil, fully cured asphalt, bricks, rocks, slag, ceramics, earthen cooking ware, clay and clay products, crushed glass, fiberglass, roof shingles, and plaster. Inert waste does not contain putrescible waste or compostable waste.

“Improper disposal” means the discarding of any item or items upon public or private premises that were not generated on the premises as a part of its authorized use, unless written consent of the property owner is first obtained.

“Improper disposal site” means any premises that have intentionally or unintentionally accumulated solid waste or recyclables and/or charged a fee for accepting material without a solid waste or composting permit from the county local enforcement agency. This does not include businesses licensed and permitted in the City to purchase source-separated recyclables.

“Incidental waste” means less than one pound of waste deposited in a public litter bin or designated waste container to prevent litter, such as waste from a fast food meal deposited in a designated waste container or public litter bin by a pedestrian or vehicle operator.

“Industrial generator” means any property or generator that is engaged in the manufacture of products including but not limited to construction and demolition. Industrial generators are typically serviced by roll-off box containers of 10-yard to 40-yard capacities and typically generate inert materials such as asphalt, concrete, building debris and some wood and dry green waste.

“Industrial” means any form of mechanized manufacturing facilities, factories, refineries, and construction and demolition operations, excluding hazardous waste operations.

“Institutional” shall mean any premises owned and/or occupied by local, State and federal agencies, typically office or education facilities with a common waste stream.

“Integrated solid waste management” means a planned program for effectively controlling the storage, collection, transportation, processing and reuse, conversion, or disposal of solid waste, recyclables and/or **compostables organic waste** in a safe, sanitary, aesthetically acceptable, environmentally sound and economical manner. It includes all administrative, financial, environmental, legal and planning functions as well as the operational aspects of solid waste handling, disposal, litter control and resource recovery systems necessary to achieve established objectives.

“Landfill” means a disposal system by which solid waste is deposited in a specially prepared area which provides for environmental monitoring and treatment pursuant to the California Code of Regulations, California Public Resources Code and the Federal Resource Conservation and Recovery Act.

“Large quantity generator” means those residential, commercial, industrial and institutional entities that generate more than 300 gallons of waste per week excluding source-separated recyclables diverted from disposal or transformation.

“Mixed waste processing” means a system of recovering recyclables from the mixed waste stream through separation at a processing facility, transfer station, landfill, or other such facility, instead of separation at the primary waste generation source.

“Multifamily” means a structure or structures containing a total of four or more dwelling units in any vertical or horizontal arrangement on a single lot or building site.

“Newspaper” means newsprint-grade paper including any inserts that come in the paper, and excluding soiled paper, all magazines and other periodicals, telephone books, as well as all other paper products of any nature.

“Non-covered project” shall have the meaning set forth in CVMC 8.25.095.

“Nuisance” means anything which is injurious to human health, or is indecent or offensive to the senses, and interferes with the comfortable enjoyment of life or property, and affects at the same time an entire community or neighborhood, or any number of persons, although the extent of annoyance or damage inflicted upon the individual may be unequal, and which occurs as a result of the storage, removal, transport, processing, or disposal of solid waste, compost, and/or designated recyclables.

“Office” or “offices” for purposes of this chapter shall mean any office, combination of offices, or connected building or office space regardless of office affiliation, ownership, or occupancy. This includes, but is not limited to, businesses used for retail, wholesale, professional services, legal services, financial services (to include banks), medical services, shipping and receiving areas, churches, schools, colleges, and libraries.

“Office paper” means waste paper grades of white and colored ledgers and computer paper. Examples include forms, copy paper, stationery, and other papers that are generally associated with desk and employee work area activity, and any additional materials to be added by ordinance.

“Performance deposit” means cash, money order, check, or surety bond in the amount set forth in CVMC 8.25.095(B)(3).

“Plastic bottle” means a plastic container with narrow neck or mouth opening smaller than the diameter of the container body, used for containing milk, juice, soft drinks, water, detergent, shampoo or other such substances intended for household or hospitality use; to be distinguished from nonbottle containers (e.g., deli or margarine tub containers) and from nonhousehold plastic bottles such as those for containing motor oil, solvents, and other nonhousehold substances.

“Pollution” means the condition caused by the presence in or on a body of water, soil, or air of any solid waste or substance derived therefrom in such quantity, or such nature and duration, or under such condition, that the quality, appearance, or usefulness of the water, soil, land, or air is significantly degraded or adversely altered.

“Processing” means the reduction, separation, recovery, conversion, or recycling of any component(s) of solid waste.

“Project” means any activity which requires an application for a construction or demolition permit, or any similar permit from the City of Chula Vista.

“Putrescible wastes” means the waste in organic material with the potential decomposition capacity to emit noticeable quantities of odor and gas by-products. Material in this category includes, but is not limited to, kitchen waste, dead animals, food from containers, etc., except organic wastes separated therefrom and used in composting.

“Recyclables” means any materials that are recyclable, reclaimable, and/or reusable within the following generating categories: small quantity generator and large quantity generator. Any material having an economic value on the secondary materials market or that is otherwise salvageable shall be included and/or other materials that have been separated from other small or large quantity generators for the purposes of being recycled for resale and/or reuse, and placed at a designated recycling or waste collection or storage location or in a designated recycling or waste container for the purpose of collection and processing, or any such designated recyclable materials collected under a mixed waste processing program.

“Recycling” shall mean any process by which materials which would otherwise be discarded, deposited in a landfill or transformation facility and become solid waste are collected (source-separated, commingled, or as “mixed waste”), separated and/or processed, and returned to the economic mainstream in the form of raw materials or products or materials which are otherwise salvaged or recovered for reuse.

“Refuse” means garbage and rubbish.

“Removal” means the act of taking solid wastes or designated recyclables from the place of generation either by the contract or franchise agent(s), or by a person in control of the premises.

“Removal frequency” means frequency of removal of solid wastes or recyclables from the place of generation.

“Renovation” means any change, addition, or modification in an existing structure.

“Residential,” for purposes of this chapter, means any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, including single- and multiple-family dwellings, apartment-hotels, boarding and lodging houses. “Residential” does not include short-term residential uses, such as motels, tourist cabins, or hostels which are regulated as hospitality establishments.

“Residential recyclables” means those specific recyclable materials from residential solid waste (single-family and multifamily) including, but not limited to, **organic waste** aluminum, glass bottles and jars, newspaper, plastic bottles, tin and bi-metal cans, white goods, and yard waste.

“Reuse” means further or repeated use.

“Roll-off service” means service provided for the collection, removal and disposal of industrial waste such as construction, demolition and other primarily inert, **putrescible and** nonputrescible wastes and **organic** ~~green~~ wastes. Roll-off service is usually provided using metal containers of 10 to 40 cubic yards that are open on the top with doors on one end.

“Rubbish” means nonputrescible solid wastes such as ashes, paper, glass, bedding, crockery, plastics, rubber by-products or litter. Such materials that are designated as recyclable or compost may be exempt from categorizing as rubbish; provided, such materials are handled, processed and maintained in a properly regulated manner.

“Salvaging or salvageable” means the controlled and/or authorized storage and removal of solid waste, designated recyclables or recoverable materials.

“Scavenging” means the uncontrolled and/or unauthorized removal of solid waste, designated recyclables or recoverable materials. Such activity is unlawful and is a misdemeanor punishable by up to six months in jail and \$1,000 in civil penalties under CVMC 8.24.200 and 8.25.080 and Chapter 9, Section 41950 of the California Integrated Waste Management Act of 1989.

“To segregate waste material” means any of the following: the placement of designated recyclables in separate containers; the binding or bagging of designated recyclables separately from other waste material and placing in a separate container from refuse, or the same container as refuse; and the physical separation of designated recyclables from other waste material (either at the generating source, solid waste transfer station, or processing facility).

“Small quantity generator” means those residential, commercial, industrial and institutional entities that generate less than 300 gallons of waste per week excluding source-separated recyclables diverted from disposal or transformation.

“Solid waste” means all putrescible and nonputrescible solid, semisolid and liquid wastes, such as refuse, garbage, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and includes liquid wastes disposed of in conjunction with solid wastes at solid waste transfer/processing stations or disposal sites, which are generated by residential, commercial or industrial sites within the City. Solid waste shall not include: hazardous and infectious waste, sewage collected and treated in a municipal or regional sewage system or materials or substances having commercial value or other importance which can be salvaged for reuse, recycling, composting or resale.

“State” shall mean the state of California.

“Storage” means the interim containment of solid wastes, **yard organic** wastes, or recyclables in an approved manner after generation and prior to disposal, collection or processing. (“Interim” means for one week or less; roll-off containers may store nonputrescible waste for up to 30 days.)

“Streets and byways” shall mean the public streets, ways, alleys and places as the same now or may hereafter exist within said City, including State highways now or hereafter established within said City.

“Tin and bi-metal cans” means any steel food and beverage containers with a tin or aluminum plating.

“Total project costs” means the total value of a project as calculated using Chula Vista’s standard valuation multipliers.

“Transfer or processing station” means those facilities utilized to receive solid wastes and to temporarily store, separate, convert, or otherwise process the solid waste and/or recyclables.

“Unit” means an individual residence contained in a residential multifamily complex.

“Waste management report (WMR)” means a WMR form, approved by the City Manager or designee, for the purpose of compliance with this chapter.

“Waste Management Report Compliance Official” means the designated staff person(s) authorized by the City Manager and responsible for implementing the construction and demolition debris recycling program.

“White goods” means kitchen or other large enameled appliances which include, but are not limited to, refrigerators, washers, and dryers.

“Wood waste” means lumber and wood products but excludes tree stumps in excess of 35 pounds, more than incidental dirt or rock, plastic, glass, metal, painted or treated wood, plywood, particle board or other manufactured products that contain glue, formaldehyde, nonorganic or nonbiodegradable materials.

“Vector” means any nuisance such as odor, unsightliness, sound, or a carrier, usually insects or rodents, that is capable of transmitting a disease.

“Yard waste” means the leaves, grass, weeds, and wood materials from trees and shrubs from the single-family and multifamily residential sources of the City’s green waste (to include landscape haulings from residential sources). Acceptable materials for collection include all yard waste as herein defined, excluding treated or processed wood or lumber, bulky waste or any other materials as shall be determined by the City as to not be salvageable. All acceptable yard waste shall be void of nails, wire, rocks, dirt or any other material that is not considered yard waste.

[Sections 8.25.030 through 8.25.035 remain unchanged]

8.25.040 Separation of recyclable materials, storage, and containers.

A. The owner, operator, and/or occupant of any premises, business establishment, industry, or other property, vacant or occupied, shall be rebuttably presumed to be the generators of, and be responsible for the safe and sanitary storage of, all solid waste, designated recyclables, and **organic ~~compost~~** accumulated on the property. The designated recyclables and **organic waste ~~compost~~** shall be stored separately from refuse. The property owner, operator, or occupant shall store such solid waste, designated recyclables, and **organic waste ~~compost~~** on the premises or property in such a manner so as not to constitute a fire, health, or safety hazard, and shall require it to be handled in such a manner so as not to promote the propagation, harborage, or attraction of vectors, or the creation of litter or other nuisances.

[Subsections 8.25.040 B through H remain unchanged]

8.25.050 Mandatory recycling.

It shall be mandatory for all generators of residential, commercial, and industrial recyclables **and organic waste** in the City to separate from refuse, for recycling purposes, all designated recyclables and otherwise participate in recycling as described by this chapter. **This municipal code hereby authorizes the City Manager or designee, to develop, implement, and amend as necessary a procedure for the receipt and investigation of written complaints, and sets forth the requirements for the procedure for the compliance of this section with all applicable municipal code enforcement requirements.**

[Section 8.25.060 remains unchanged]

8.25.070 Reports.

A. All commercial and industrial establishments shall submit recycling tonnage documentation on an annual basis to the City's **Environmental Services Manager or City Manager designee** ~~conservation coordinator~~, due on or before January 31st, for the previous year. Annual reporting shall be on the form promulgated by the City Manager, and commence on the first anniversary of the date set forth in the mandatory recycling implementation schedule as established in this chapter as July 1, 1993. Voluntary reporting prior to the required mandatory recycling is encouraged.

B. All applicants for a construction or demolition permit for a covered project must submit a waste management report (WMR) to the Waste Management Report Compliance Official for approval, prior to permit issuance, per CVMC 8.25.095.

[Section 8.25.080 through 8.25.090 remain unchanged]

8.25.095 Construction and demolition debris recycling.

The provisions of this chapter shall outline the means of achieving compliance with California Green Building Standards Code (Title 24, Part II, Sections 4.408 and 5.408) and this code. Where this code is more stringent, this code applies.

A. *Projects.*

1. *Covered Projects.* The following project categories are covered projects and must comply with this section:

- a. Any project requiring a permit for demolition or construction, unless defined as a non-covered project in subsection (A)(4) of this section.
- b. Any sequenced developments, such as housing subdivision construction or subdivision demolition, must be considered as a project in its entirety for purposes of this section, and not as a series of individual projects.
- c. Any individually built single-family home.

2. *City-Sponsored Projects.* All City construction and demolition projects shall be considered covered projects and shall submit a waste management report to the City Manager or designee prior to issuance of any construction or demolition permits.
3. ~~All~~ Tenant improvements ~~greater than 1,000 square feet but~~ less than 10,000 square feet, and individual single-family home construction, remodel, addition or renovation, shall submit a waste management report only. No performance deposit is required.
4. *Non-Covered Projects.* A performance deposit and waste management report shall not be required for the following:
 - a. Work for which a construction or demolition permit is not required.
 - b. Roofing projects that do not include tear-off of existing roof.
 - c. Work for which only a plumbing, only an electrical, or only a mechanical permit is required.
 - d. Seismic tie-down projects.
 - ~~e. Projects less than 1,000 square feet.~~
 - ~~f.~~e. Emergency required to protect public health and safety.

[Subsections 8.25.095 B through D and Section 8.25.100 remain unchanged]

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Eric C. Crockett
Deputy City Manager

Glen R. Googins
City Attorney