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AGENDA REPORT
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TO: JOHN A. FLORES
INTERIM CITY ADMINISTRATOR

FROM: Brooke A. Levin

SUBJECT: Supplemental Zero Waste System
Municipal Code Amendments

DATE: June 4, 2015

City Administrator
Approval

Date

6/8/15

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Staff recommends that the City Council adopt:

An Ordinance Amending Oakland Municipal Code Chapter 8.28 (“Solid Waste Collection And Disposal And Recycling”), To Implement The Zero Waste System Design And Zero Waste Collection Services Franchise Contracts, By: 1) Establishing a Nuisance Abatement Process to Address Failures to Ensure Proper Handling of Solid Waste; 2) Restricting Collection Of Commercial Organic Materials To Authorized Collectors; 3) Changing Definitions And Other Provisions To Allow For Regulation Of Commercial Recyclers And Non-Exclusive Franchise Haulers Of Construction And Demolition Debris, And 4) Conforming the new Zero Waste System to The Zero Waste Collection Services Franchises Awarded By City Council, Services To Begin July 1, 2015.

REASON FOR SUPPLEMENTAL

This report supplements the City Council report published on May 22, 2015 regarding Oakland Municipal Code (OMC) amendments that would enable implementation of Oakland’s Zero Waste System, by correcting two errors contained in the ordinance that would amend the OMC Chapter 8.28, which was presented to the City Council for its first reading on June 2, 2015.

ANALYSIS

The ordinance to amend OMC Chapter 8.28 (“Solid Waste Collection And Disposal And Recycling”) contained two errors in Section 8.28.010 Definitions, for “Mixed Materials” and “Premises.” These definitions appear on pages 5 and 6, respectively, of the draft ordinance. The corrections are found below, with the proposed OMC language amendments as presented in the

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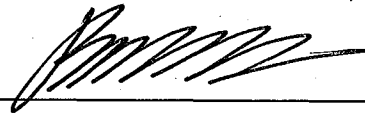
City Council report published May 22, 2015 shown in single underline for additions and ~~striketrough~~ for deletions, and the corrections shown in double underline.

“Mixed materials” means all materials that are set out by the service recipient for collection by the MM&O collector or self-hauled pursuant to Section 8.28.115, excluding items that are source separated. Mixed materials do not include items defined herein as construction and demolition debris or unacceptable waste.

“Premises” means any land or building in the city where solid waste, ~~yard waste or recyclables~~ organic materials, bulky goods, and/or recyclable materials are generated or accumulated.

These corrections were read into the record during staff presentation of this item at the June 2, 2015 City Council meeting.

Respectfully submitted,



BROOKE A. LEVIN
Director, Public Works Department

Reviewed by:
Susan Kattchee, Assistant Director

Prepared by:
Becky Dowdakin, Environmental Services Manager

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June 16, 2015

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City Attorney

OAKLAND CITY COUNCIL
ORDINANCE No. _____ C.M.S.

AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 8.28 ("SOLID WASTE COLLECTION AND DISPOSAL AND RECYCLING"), TO IMPLEMENT THE ZERO WASTE SYSTEM DESIGN AND ZERO WASTE COLLECTION SERVICES FRANCHISE CONTRACTS, BY: 1) ESTABLISHING A NUISANCE ABATEMENT PROCESS TO ADDRESS FAILURES TO ENSURE PROPER HANDLING OF SOLID WASTE; 2) RESTRICTING COLLECTION OF COMMERCIAL ORGANIC MATERIALS TO AUTHORIZED COLLECTORS; 3) CHANGING DEFINITIONS AND OTHER PROVISIONS TO ALLOW FOR REGULATION OF COMMERCIAL RECYCLERS AND NON-EXCLUSIVE FRANCHISE HAULERS OF CONSTRUCTION AND DEMOLITION DEBRIS, AND 4) CONFORMING THE NEW ZERO WASTE SYSTEM TO THE ZERO WASTE COLLECTION SERVICES FRANCHISES AWARDED BY CITY COUNCIL, SERVICES TO BEGIN JULY 1, 2015.

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("Act") and subsequent additions and amendments (codified at California Public Resources Code Section 40000 et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for Solid Waste Collection within their jurisdiction; and,

WHEREAS, in 1990 the Alameda County Waste Reduction and Recycling Initiative Charter Amendment established a county-wide solid waste diversion goal of seventy five (75) percent by 2010; and

WHEREAS, in 2002 the City Council of the City of Oakland approved Resolution No. 77500 C.M.S., adopting a goal of 75% reduction of waste going to landfills by 2010 in support of the Measure D goal, and the implementation date established by the Alameda County Source Reduction and Recycling Board; and

WHEREAS, in 2006 the City Council of the City of Oakland approved Resolution No. 79774 C.M.S. adopting a Zero Waste Goal by 2020; and

WHEREAS, in 2006 the City Council of the City of Oakland approved Resolution No. 80286 C.M.S., adopting a Zero Waste Strategic Plan; and

WHEREAS, in 2012 the City Council of the City of Oakland approved Resolution No. 83689 C.M.S., establishing Zero Waste System Design; and

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OAKLAND CITY COUNCIL
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WHEREAS, pursuant to California Public Resources Code Section 40059(a), the Oakland City Charter Article X, and Oakland Municipal Code Chapter 8.28, the City determined that the public health, safety, and well-being require that an exclusive right be awarded to qualified contractors to provide for the collection of Mixed Materials and Organics and for the collection of Residential Recycling and that commercial recyclers and collection of construction and demolition debris shall be provided pursuant to a non-exclusive system, all in order to meet the requirements of the Act and the City's Zero Waste Goal by 2020, and to implement the Zero Waste Strategic Plan and the Zero Waste System Design; and

WHEREAS, the new Zero Waste System makes various changes to the manner in which solid waste is regulated handled and solid waste collection services are made available to the public, which therefore requires that Chapter 8.28 of the Oakland Municipal Code, entitled "Solid Waste Collection and Disposal and Recycling," be amended to implement the new system.

WHEREAS, the City has independently reviewed, considered and confirmed the environmental analysis conducted for these services; and

WHEREAS, this environmental analysis concludes that there would not be the potential for significant environmental impacts, and therefore no further environmental review is required; and

WHEREAS, the City Council finds and determines that the requirements of the California Environmental Quality Act ("CEQA") have been satisfied, and this action on the part of the City Council is exempt from CEQA pursuant, CEQA Guidelines section 15301, CEQA Guidelines section 15307, CEQA Guidelines section 15308, CEQA Guidelines section 15273, CEQA Guidelines section 15183, and/or CEQA Guidelines section 15061 (b) (3); and

WHEREAS, each of the foregoing provides a separate and independent basis for an exemption and when viewed collectively provides an overall basis for an exemption, as further described and explained in the accompanying environmental analysis dated July 8, 2014 attached to the September 19, 2014 City Administrator report to the City Council (Attachment D), incorporated herein by the reference as if fully set forth herein; and

NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 8.28 ("Solid Waste Collection and Disposal and Recycling") of the Oakland Municipal Code is herein provided, with additions underscored and deletions ~~stricken through~~.

Chapter 8.28 - SOLID WASTE COLLECTION AND DISPOSAL AND RECYCLING

8.28.010 - Definitions.

For the purpose of this chapter, certain words and phrases are defined and certain provisions shall be construed as herein set out, unless it shall be apparent from the context that they have a different meaning:

"Bulky goods" means materials such as, but not limited to, stoves, refrigerators, water heaters, washing machines, clothes dryers, small air conditioning units, other large and small household

appliances, including appliances containing freon, furniture, carpets, tires, wood, household items, tires with or without rims, mattresses, clothing, large plant debris, and corrugated cardboard.

"Business" means of or pertaining to a commercial establishment and/or industrial facility including, but not limited to, governmental, religious, and educational facilities.

"City" means the city of Oakland, and such territory outside the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

"City Administrator" means the City Manager of the city of Oakland; further provided, that the use of the title of any officer or to any office shall refer to such officer or office of the city of Oakland.

"Collect" or "Collection" means to pick up discarded material.

"Collector" means the solid waste and yard waste collector franchised by the city.

"Commercial" means of or pertaining to a business establishment and/or industrial facility including, but not limited to, governmental, religious, and educational facilities.

"Commercial recycler" means a person who or entity that has complied with the requirements of the city to collect and transport recyclable materials from commercial entities in the city.

"Construction and demolition debris" means waste building materials resulting from construction, remodeling, repair or demolition operations on any house, residential property, commercial building, pavement or other structure for which the city requires a building or demolition permit, or from a non-permitted municipal project. Construction and demolition debris includes but is not limited to rocks, soils, tree remains and other plant debris which results from land clearing or land development operations in preparation for construction.

"Director" means the Director of Public Works of the city, or his or her authorized representatives.

"Container" means a bin, cart, roll-off box, compactor or other vessel approved by the city for use in containing materials set out for collection.

"Customer" means the person subscribing to collection services.

"Director" means the person or persons designated by the City Administrator to administer this chapter. The City Administrator may designate multiple persons to administer individual provisions of this chapter.

"Discarded material" means garbage, mixed materials, recyclable materials, organics or bulky goods generated at a premises and placed in a manner and location that is designated for collection.

"Disposal" or "Dispose" means the disposition of mixed materials, solid waste, and residue at the disposal facility, or (a) the placement of any materials collected in landfills, including as "beneficial reuse" as defined by California Code of Regulations Title 27, Chapter 3, Article 1, section 20686 (as it may be amended from time to time); or (b) disposition to "incinerators" as defined by Alameda County Waste Reduction and Recycling Initiative Charter Amendment (Measure D) SUBSECTION 64.150 T (as it may be amended from time to time).

"Disposal facility" means the sanitary landfill, or other solid waste disposal facility, utilized for the receipt and final disposition of some or all of the solid waste mixed materials, garbage and residue collected or accepted.

"Dwelling" means a residence, flat, apartment, or other facility used for housing one or more persons in the city.

"Finance Officer" means the Director of the Office of Budget and Finance of the city, or his or her authorized representatives.

"Divert", "diverted," or "diversion" means the avoidance of (a) disposition in a landfill including as "beneficial reuse" as defined by California Code of Regulations Title 27, Chapter 3, Article 1, section 20686 (as it may be amended from time to time); (b) "transformation" as defined by Public Resources Code section 40201 (as it may be amended from time to time); or (c) disposition to "incinerators" as defined by Alameda County Waste Reduction and Recycling Initiative Charter Amendment (Measure D) SUBSECTION 64.150 T (as it may be amended from time to time).

"Dwelling unit" means any individual living unit that includes a kitchen, and a room or suite of rooms, and is designed or occupied as separate living quarters for an individual or group of individuals. Dwelling units include live/work units, as defined by Oakland Planning Code section 17.65.160 (as it may be amended from time to time). Dwelling units do not include work/live units, as defined by Oakland Planning Code Section 17.65.150, which are considered commercial.

"E-waste" means waste that is powered by batteries or electricity, such as computers, telephones, answering machines, radios, stereo equipment, tape players/recorders, phonographs, videocassette players/recorders, compact disc players/recorders, calculators and other items that the California Department of Toxic Substances Control has determined, or determines in the future, to be a covered electronic device under Public Resources Code section 42463 (as it may be amended from time to time).

"Finance Officer" means the city revenue representative designated by the City Administrator.

"Fixed body vehicle" means any wheeled motor vehicle that does not rely on a roll-off box or other detachable container to collect, contain and transport material.

"Generator" means a person, commercial business or any other entity that produces solid waste, mixed materials, organic materials, bulky goods or recyclable materials.

Hazardous Waste.

1. "Hazardous waste" means any hazardous waste, material, substance or combination of materials which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or may pose a substantial present or potential risk to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed; and which requires special handling under any present or future federal, state or local law, excluding de minimis quantities of waste of a type and amount normally found in residential ~~solid waste~~ discarded material after implementation of programs for the safe collection, recycling, treatment and disposal of household hazardous waste in compliance with Sections 41500 and 41802 of the California Public Resources Code (as they may be amended from time to time).

2. "Hazardous waste" shall include, ~~but not be limited to:~~ (a) substances that are toxic, corrosive, inflammable or ignitable; (b) petroleum products, crude oil (or any fraction thereof) and their derivatives; (c) explosives, asbestos, radioactive materials, toxic substances or related hazardous materials; and (d) substances defined, ~~regulated or listed~~ (directly or by reference) by applicable local, state or federal law as "hazardous substances," "hazardous materials," "hazardous wastes," "pollutant," "reproductive toxins," "toxic waste" or "toxic substances," or similarly identified as hazardous to human health or the environment, including those so defined in or

pursuant to any of the following statutes: 15 U.S. Code Section 2601, et seq. (the Toxic Substances Control Act); 33 U.S. Code Section 1251, et seq. (the Federal Water Pollution Control Act); 42 U.S. Code Section 6901, et seq. (the Resource Conservation and Recovery Act); 42 U.S. Code Section 7401, et seq. (the Clean Air Act); 42 U.S. Code Section 9601, et seq. (i) the Comprehensive Environmental Response, Compensation and Liability Act; 49 U.S. Code Section 1801 ("CERCLA") of 1980, 42 USC section 9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act; California Health & Safety Code Section 25100, et seq. (Hazardous Waste Control); Section 25300, et seq. (the Hazardous Substance Account Act); California Water Code Section 13000, et seq. (the Porter Cologne Water Quality Control Act); the 49 USC section 1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC section 6901 et seq.; (iv) the Clean Water Act, 33 USC section 1251 et seq.; (v) California Health and Safety Code section 25115-25117, 25249.8, 25281 and 25316; (vi) the Clean Air Act, 42 USC section 7901 et seq.; (vii) California Water Code section 13050; and (viii) all rules and regulations adopted and promulgated pursuant to such statutes, and subsequently enacted amendments to or recodifications of such statutes and any regulations subsequently adopted or amended pursuant to these statutes, as well as any subsequently enacted or amended federal or California statute relating to the use, release or disposal of toxic or hazardous substances, or to the remediation of air, surface waters, groundwater, soil or other media contaminated with such substances or any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state or local environmental laws currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products and by-products.

"Material recovery facility" means any plant or site used facility approved by the city that is designed, operated and legally permitted for the purpose of sorting, cleansing, treating or reconstituting recyclables and returning them to the economy receiving and processing recyclable materials, organic materials or mixed materials.

"Medical waste" means all materials defined as medical waste in the California Health & Safety Code Section 25023.2, not including waste identified as not being medical wastes in Sections 25023.5 and 25023.8, or the regulations promulgated thereunder, as amended from time to time.

"~~Multi-family~~ "Mixed materials" means all materials that are set out by the service recipient for collection by the MM&O collector or self-hauled pursuant to Section 8.28.115, excluding items that are source separated. Mixed materials do not include items defined herein as construction and demolition debris or unacceptable waste.

"Mixed materials and organics collector" or "MM&O collector" means the collector that has entered into a MM&O contract with the city to be the exclusive provider of MM&O collection services.

"MM&O contract" means the agreement between the city and the MM&O collector authorizing the MM&O collector to provide MM&O collection services.

"Multi-family dwelling" or "MFD" means any residential structure with five or more living units and/or any residential structure which uses bin service for solid waste collection. (5) or more living units including any flat, apartment, condominium, town home, service-enriched housing or other residence and other dwelling units in detached buildings and excluding a hotel, motel, dormitory, sheltered nursing facility, rooming house or other such similar facility as determined by the city.

"Organic materials" or "Organics" means plant debris, food scraps, compostable food ware, compostable food containers, compostable paper, horse stable matter and other material that are source separated for collection or for self haul pursuant to Section 8.28.115. Organic materials do not include items herein defined as construction and demolition debris or unacceptable waste.

"Organic recyclable material" means organic materials such as vegetable, fruit, grain, dairy, meat, fish, yard, tree, wood, and nonrecyclable paper discards which are set aside, handled, packaged, or offered for collection separate from solid waste for the purpose of being processed and then returned to the economic mainstream in the form of commodities such as, but not limited to, compost, soil amendments, mulch, animal feed, and fertilizer.

"Owner," when used in reference to a dwelling, "Owner" means the person or persons holding legal title to the dwelling premises.

"Person" means an individual, association, partnership, corporation, joint venture, the United States, the state of California, any municipality or other political subdivision thereof, or any other entity whatsoever.

"Premises" means any land or building in the city where solid waste, yard waste or recyclables organic materials, bulky goods, and/or recyclable materials are generated or accumulated.

"Processing" means an operation or series of operations, whether involving equipment, manual labor, or mechanical or biological processes that sorts, enhances, upgrades, concentrates, decontaminates, packages or otherwise prepares recyclable materials, organic materials, mixed materials or bulky goods and returns marketable elements thereof to the economic mainstream in the form of raw material for new, reused or reconstituted products.

"Processing facility" means a facility which has adequate capacity for the receipt, sorting, storage and processing (including without limitation, grinding, chipping, screening, preparation for and performance of composting of yard waste materials) of recyclables so that they may be further processed or sold to end-use markets, approved by the city which is designed, operated and legally permitted for the purpose of receiving and processing collected materials.

"Recyclable materials" means those materials that are source separated for the purposes of being reused or processed into other usable forms, whether the recyclable materials are discarded, donated or sold.

"Residential recycling collector" or "RR collector" means the collector that has entered into a RR contract with the city to be the exclusive provider of residential recycling collection services.

"Residue" or "residual" means materials remaining after the processing of mixed materials, recyclable materials, organic materials or bulky goods which cannot reasonably be diverted.

"RR contract" means the agreement between the city and the RR collector authorizing the RR collector to provide RR collection services.

"Service recipient" means a person receiving collection services.

"Single-family dwelling" or "SFD" means a detached or attached residence containing four (4) or fewer dwelling units when each dwelling unit is designed or used for occupancy by one (1) or more individuals.

Recyclables.

1. "Recyclables" means nonhazardous residential, commercial, or industrial materials or by-products which are set aside, handled, packaged, or offered for collection in a manner

different than solid waste for the purpose of being reused or processed and then returned to the economic mainstream in the form of commodities.

- ~~2. Recyclables include but are not limited to paper (newspaper, magazines, corrugated cardboard, kraft paper, ledger paper, computer print out, box board, and other paper grades); glass; ferrous and nonferrous metal materials; plastic containers, films, packaging materials and scrap; and construction and demolition materials. Recyclables shall include source separated materials and organic recyclable materials.~~

~~"Recycler" means a person or entity which is permitted by the city to collect and transport recyclables or organic recyclable material.~~

~~"Residual" means contaminant material, separated from recyclable material or yard waste, which cannot be recycled, composted, marketed or otherwise utilized, and which shall be disposed of as solid waste, hazardous waste, or medical waste, as appropriate.~~

~~"Single family dwelling" means any dwelling which has four or fewer living units within it and/or those dwellings which use can service for solid waste collection.~~

~~"Solid waste" means and includes all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes as defined in California Public Resources Code Section 40191, as that section may be amended from time to time, but does not include and includes recyclable materials and organics that have not been source separated recyclables which comply with the residual content limits in Section 8.28.030. Solid waste does not include abandoned vehicles and parts thereof, hazardous waste or low-level radioactive waste, medical waste, or unacceptable waste or yard waste which is source separated at single family dwellings.~~

~~"Source separated" means recyclables materials that have been segregated from mixed materials or solid waste by or for the generator thereof on at the premises at which they were generated for handling different from that of solid waste diversion. This does not require that different types of recyclable commodities be separated from each other, except from organic recyclable material materials.~~

~~"Tenant," when used in reference to a dwelling, means any person or persons, other than the owner, occupying or in possession of the dwelling.~~

~~"Transfer station" means a facility with all appropriate permits utilized to receive solid waste collected materials, to temporarily store, separate, recover, convert or otherwise process the the collected materials comprising the solid waste, and to transfer the solid waste to vehicles for transport to a collected materials to a processing or disposal facility as appropriate.~~

~~"Unacceptable waste" means any and all waste, including but not limited to hazardous waste, household hazardous waste and medical waste, the acceptance or handling of which by collector would cause a violation of any permit condition or legal or regulatory requirement, damage or substantial damage to collector's equipment or facilities, or present a substantial endangerment to the health or safety of the public or collector's employees; provided, that de minimis quantities or waste of a type and amount normally found in solid waste or mixed materials after implementation of programs for the safe collection of household hazardous waste shall not constitute unacceptable waste.~~

"Universal waste" or "u-waste" means waste that the California Department of Toxic Substances Control ("DTSC") considers universal waste (California Code of Regulations Title 22, Div 4.5, Ch 23), including materials such as batteries, thermostats, lamps, cathode ray tubes, computers, telephones, answering machines, radios, stereo equipment, tape players/recorders, phonographs, video cassette players/recorders, compact disc players/recorders, calculators, some appliances, aerosol cans, fluorescent lamps and certain mercury-containing devices.

~~"Yard waste" means single-family dwelling prunings, brush, leaves, grass clippings and such other similar types of organic waste that may be specified by the city in its reasonable discretion for collection by the collector pursuant to the franchise agreement between the city and the collector. Untreated and unpainted wood which fits within the yard waste container provided by collector is also yard waste.~~

8.28.020 - Procedures for determining maximum rates of compensation.

~~The charge for the collection of solid waste by the collector within the city shall be those A.~~

The charges for the collection of mixed materials, organic materials, bulky goods and recyclable materials by the MM&O collector and the RR collector shall be as determined by, respectively, the MM&O collector and the RR collector although such rates shall not exceed the maximum rates established and adjusted according to procedures established by the City Council. A copy of the adjusted maximum rates shall be filed in the Office of the City Clerk by June 30th of each year by the Finance Officer/Director.

~~A. The current rates are set forth in Section 8.28.290~~

~~B. The current rates shall be adjusted to reflect changes in the Consumer Price Index ("CPI"), as set forth in the franchise agreement between collector and city, as determined by the Finance Officer.~~

~~C. Non-CPI related rate adjustments may be granted by the B.~~ The City Council, in the exercise of its legislative discretion, may authorize the MM&O collector and/or RR collector to impose other related adjustments to the maximum rates, consistent with the terms of the franchise agreement/contracts between the city and the RR collector and the city and the MM&O collector.

8.28.030 - Collection of ~~recyclable or organic-recyclable~~ materials.

A. Residential Recyclable Materials. It is unlawful for any person other than the RR collector or those persons employed by the RR collector to collect or transport any recyclable materials from SFD or MFD premises within the city except:

1. Recyclable materials that are removed from any SFD or MFD premises and transported to a transfer station, recycling center, or material recovery facility by the occupant;
2. Recyclable materials that are collected and transported by city crews to a transfer facility, a material recovery facility, or such other appropriate processing facility;
3. Recyclable materials that are source separated at any premises by the generator and donated or sold. Recyclable materials are considered "donated or sold" so long as the person collecting the recyclable materials does not receive a net payment from the generator (including but not limited to any payment for consulting and/or management fees related to the collection of any waste and/or recyclable materials);

4. Beverage containers, other than those set out for collection by the RR collector, that are delivered for recyclable materials under the California Beverage Container Recyclable Materials Litter Reduction Act, section 14500, et seq. (as it may be amended from time to time);
5. Recyclable materials that are removed from a premises in a fixed body vehicle by a property management, maintenance or cleanup service company as an incidental part of the total on-property cleanup or maintenance service offered by the company rather than as a hauling service;
6. Recyclable materials that are removed from a premises by the MM&O collector as part of the provision of MM&O collection services under the terms of the MM&O contract.
7. Recyclable materials that are removed from a premises by a company through the performance of a service that the collector has elected not to provide;
8. Recyclable materials removed from a premises for no more than a nominal charge by a retailer as an incidental part of a sale of merchandise; and
9. Recyclable materials removed from a premises for no more than a nominal charge by a reuse facility or reuse business.

B. Commercial Recyclable Materials. It is unlawful for any person or entity other than the following to collect or haul any recyclable material from commercial premises within the city: (a) a commercial recycler or those persons employed by a commercial recycler, or (b) the MM&O and RR collectors or those persons employed by the MM&O or RR collectors while collecting and transporting commercial recyclable materials for which they have the exclusive rights to collect and transport under the MM&O and RR contracts, respectively.

A. Permits. All persons collecting and transporting recyclables or organic recyclable material within the city must hold a valid city business license. Recyclers - C. Commercial Recycler Permits. All commercial recyclers collecting and transporting commercial recyclable materials within the city, other than the MM&O and RR collectors or those persons employed by the MM&O or RR collectors while collecting and transporting commercial recyclable materials for which they have the exclusive rights to collect and transport under the MM&O and RR contracts respectively, must hold a commercial recycling permit. A person desiring to obtain a commercial recycling permit shall apply to the Director. The Director shall grant the permit if he or she finds that the applicant has satisfied the applicable requirements specified in the regulations adopted by the City Council governing commercial recyclers and paid the applicable permit fee. The Director may revoke a commercial recycling permit if he or she finds, after providing the permit holder notice and opportunity to be heard, that the permittee has failed to meet the requirements of the permit or has violated any provision of this chapter. Commercial recyclers shall be required to maintain records, in a prescribed format and schedule, documenting that all ~~recyclables or organic recyclable material~~ materials that they collect and transport, less allowable residual, is recycled. Such records shall be maintained in an auditable form for at least three (3) years, and the city shall have the right promptly to examine said records upon written request. Notwithstanding anything to the contrary in this subsection, a commercial recycling permit shall not be required until such time as the City Council has adopted regulations governing commercial recyclers.

BD. ~~Limits on Residual Content. Recyclables or organic recyclable material~~ Recyclable materials collected by commercial recyclers shall be ~~source separated and recycled at a recycling facility, that holds all applicable permits, and (1) if mixed paper, may contain no more than ten percent by weight of residual per load; or (2) if commingled recyclables other than mixed paper may contain no more than five percent by weight of residual per load.~~ Any load of ~~recyclables and/or organic recyclable material which~~ materials that contains more than the aforementioned residual, shall be disposed of in accordance with all applicable laws and regulations. Disputes over whether material should be classified as ~~recyclables or organic recyclable material or solid waste materials or mixed materials~~ will be resolved by the Director. The Director's decision may be appealed to the ~~City Manager~~ Administrator in writing, explaining the basis of the appeal, within ten ~~(10)~~ days of such decision and the payment of a five hundred dollar (\$500.00) appeal fee. The burden of proof shall be on the person challenging the Director's decision. The ~~City Manager~~ Administrator or his or her ~~designee~~ designated hearing officer shall hear said dispute and render a written decision ~~which shall be final. It is unlawful for any person except for the collector to collect organic recyclable material, other than wood, mixed with recyclables. However, simultaneous collection of recyclables and organic recyclable material shall be permitted if said organic recyclable material is placed in a separate watertight compartment of the collection vehicle., which shall be final.~~

~~C. Service and Permit Fees. Nothing herein shall prevent recycler from charging fees for collection, transporting, and/or processing services rendered for recyclables or organic recyclable materials.~~

8.28.040 - ~~Ownership of recyclable materials.~~

A. Mixed Materials & Organics Collector. Title to materials collected by the MM&O collector under the terms of the MM&O contract shall pass to the MM&O collector at such time as said materials are placed in a container and/or set out for collection provided, however, title to unacceptable waste shall remain with the generator unless expressly accepted by the MM&O collector.

B. Residential Recyclables Collector. Title to materials collected by the RR collector under the terms of the RR contract shall pass to the RR collector at such time as said materials are placed in a container and/or set out for collection provided, however, title to unacceptable waste shall remain with the generator unless expressly accepted by the RR collector.

~~Recyclables or organic~~ C. Commercial Recyclers. Title to commercial recyclable materials collected by a commercial recycler shall become the property of the authorized commercial recycler when placed at designated recycling locations for collection by the recycler unless otherwise provided by contract between the authorized commercial recycler and the generator of the materials or his or her agent. A ~~recycling~~ recyclable materials collection container shall constitute a designated recycling location.

8.28.050 - ~~Right of persons to dispose of recyclables or organic control the handling of recyclable material.~~ materials.

A. Residential Recyclable Materials. Nothing in this chapter shall limit the right of any person to donate, sell, or transport residential recyclable materials that they generate to a facility that holds all applicable permits provided that any such activity is in accordance with the provisions of this chapter.

~~Nothing in this chapter shall limit the right of any person to donate, sell, transport, B.~~

Commercial Recyclable Materials. Nothing in this chapter shall limit the right of any person to donate, sell, transport, or pay a commercial recycler for the removal of, or otherwise dispose of their own recyclables or organic recyclable material materials they generate on commercial premises the person occupies, provided that any such activity is in accordance with the provisions of this chapter.

8.28.060 - Collection of ~~solid waste~~ mixed materials and organic materials restricted to MM&O collector.

It is unlawful for any person other than the MM&O collector or those persons employed by the MM&O collector to collect or haul any ~~solid waste, and source separated yard waste from single family dwellings~~ mixed materials, organic materials, or bulky goods from premises within the city except:

- ~~A. Source separated recyclables, including but not limited to those collected by a person under contract to the city and those collected through private arrangements between the generator and the collector. Loads which consist of mixed paper and which contain more than ten percent by weight of residual shall not be considered source separated recyclables. Loads which consist of recyclables other than mixed paper and which contain more than five percent by weight of residual shall not be considered source separated recyclables;~~
- A. Persons who haul mixed materials and organics pursuant to a self-haul permit as set forth in Section 8.28.115 herein.
- ~~B. Construction debris (1) removed from a premises by a licensed contractor as an incidental part of a total construction, remodeling or demolition service offered by that contractor, rather than as a separately contracted or subcontracted hauling service using debris boxes or similar apparatus, or (2) directly loaded onto a fixed body vehicle and hauled directly to a transfer station or disposal facility;~~
- C. Lawn and garden trimmings (1) removed from a premises by a contractor B. Service providers transporting organic materials removed from a premises as an incidental part of a total landscaping or gardening service offered by that contractor, service provider rather than as a separately contracted or subcontracted hauling service using debris boxes or similar apparatus; or (2) directly loaded onto a fixed body vehicle and hauled directly to a transfer station or disposal facility;.
- ~~D. Animal C. Persons transporting animal waste and remains from slaughterhouses and butcher shops, or grease waste for use as tallow;.~~
- E. By-products D. Persons transporting by-products of sewage treatment, including sludge, grit and screenings;.
- ~~F. Solid waste or yard waste collected and transported by city crews E. City crews collecting mixed materials, bulky goods, or organic materials and transporting that material to a disposal facility, transfer station, processing facility, or material recovery facility;.~~
- G. Solid waste hauled F. A person who generates mixed materials, organic materials, or bulky goods and hauls those materials directly to a transfer station or disposal facility by a person who is also the generator of the solid waste; and.
- HG. A person transporting homogeneous organic by-products such as spent hops or coffee bean chaff which are generated by food product manufacturers and processors delivered

to destinations other than solid waste or compost facilities and used as livestock feed

III. A retailer removing bulky goods from a premises for no more than a nominal charge as an incidental part of a sale of merchandise

II. A facility or reuse business removing bulky goods from a premises for no more than a nominal charge.

H. Recyclables which are donated to a youth, civic or charitable organization.

8.28.070 - Transportation of solid waste-mixed materials, organics, and recyclable materials on city streets restricted to collector.

It is unlawful for any person other than the A. It is unlawful for any person other than the MM&O collector or those persons employed by the MM&O collector to transport over or upon the streets of the city any solid waste, or source-separated yard waste from single-family dwellings, mixed materials, organic materials, or bulky goods from any premises, produced in the city, except in those cases described in Section 8.28.060.

B. It is unlawful for any person other than the RR collector or those persons employed by the RR collector to transport over or upon the streets of the city any recyclable materials from single-family or multi-family dwellings, produced in the city, except in those cases described in Sections 8.28.030 and 8.28.050.

C. It is unlawful for any person other than an authorized commercial recycler or those persons employed by an authorized commercial recycler or the MM&O and RR collectors or those persons employed by the MM&O or RR collectors while collecting and transporting commercial recyclable materials for which they have the exclusive rights to collect and transport under the MM&O and RR Contracts, respectively, to transport over or upon the streets of the city any recyclable materials from commercial premises, produced in the city, except in those cases described in Sections 8.28.030 and 8.28.050.

8.28.080 - City Franchise fees.

The city may attach a surcharge on solid waste fees collected by the collector to compensate the city for some or all of the cost of programs to clean up litter and illegal dumping on public streets and rights-of-way. Said surcharges shall be collected by the collector and remitted to the Finance Officer on a scheduled basis and shall be in the amounts established by the City Council.

In consideration of the special franchise right granted by the city to the MM&O collector and the RR collector, to transact business, provide services, use the public street and/or other public places, and to operate a public utility for MM&O and RR collection services, the city may negotiate and collect a franchise fee from the MM&O collector and from the RR collector. The amount and terms of payment of the franchise fee shall be as specified in the award of the franchise, the contract, or both.

8.28.090 - Recycling surcharge fee.

The city may attach a surcharge on Solid Waste fees collected by the collector to compensate the city for some or all costs incurred in achieving the waste reduction mandates set by the state of California in the Integrated Waste Management Act of 1989 or any other applicable state or local statute. Said surcharge shall be collected by the collector and remitted to the Finance Officer on a scheduled basis and shall be in the amounts established by the City Council.

The city may, pursuant to Public Resources Code section 41901 (as it may be amended from time to time), impose a fee on MM&O customers, to be collected by the MM&O collector,

in amounts sufficient to pay the costs of preparing, adopting, and implementing the Alameda County Integrated Waste Management Plan. The fee shall be enacted by Ordinance.

8.28.100 – Required – Proper solid waste collection and disposal required.

Every owner of any premises in the city in, upon, or from which shall ensure that arrangements are made to properly dispose of the solid waste is created, produced, or accumulated shall dispose of on the solid waste premises through the either maintaining a subscription for regular solid waste collection service of the collector, and shall pay therefor the rate or rates set by the city from the MM&O collector or self-hauling pursuant to a permit issued under Section 8.28.115. Arrangements with the collector shall be made by each such owner for the required collection of solid waste, and such arrangements shall specify the location of the premises, solid waste container types and sizes, and the frequency of collection. Exemptions from required solid waste collection may be granted by the Director. The Director may grant exemptions from the solid waste disposal requirement. The Director may determine that the solid waste created, produced, or accumulated on the premises requires additional containers, and, upon such determination, the owner shall provide them upon written notification from the Director. The additional containers shall meet the requirements set forth in Section 8.28.140. 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.

The owner of a single family dwelling or multifamily dwelling must by prior agreement with the collector and with the occupants of such dwellings arrange for the individual, joint, or communal use of solid waste containers thereon and for the payment of solid waste collection rates; and such owner shall be responsible for the payment of the solid waste collection rate or rates to the collector.

8.28.110 - Failure to initiate service or to provide sufficient solid waste containers Exception – Initial occupancy.

The owner of any dwelling shall start service comply with Section 8.28.100 within fifteen (15) days of occupancy of such dwelling the premises. In the absence of service start-up by owner If the owner fails to do so within such time period (or such service is terminated or suspended), the Director may give the owner written notification that such service compliance with Section 8.28.100 is required. If service is not initiated the owner fails to either subscribe to solid waste collection service or obtain a self-haul permit within fifteen (15) days from the date of mailing of the notice, then the Director may require the collector to initiate and continue solid waste service for said dwelling. When in the judgment of the Director additional solid waste containers and/or collection services are required, they shall be provided by the owner upon written notification from the Director. The additional solid waste containers shall meet the requirements set forth in Section 8.28.140. the owner shall be deemed to be in violation of Section 8.28.100.

8.28.115 – Self-Haul Permit

An owner or an occupant of any premises may elect to self-haul solid waste and organics 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 8.28.100 shall obtain a permit to do so from the Director. The permit shall authorize the permit holder to self-haul solid waste for a period not to exceed twelve (12) months; require the permit holder to deliver the solid waste to an approved transfer facility or disposal facility and to deliver any organics to a transfer facility, a material recovery facility, or a processing facility for processing; require the permit holder to maintain records indicating such waste was removed from the premises and disposed of and processed

consistent with this section or was composted onsite; authorize city officials to inspect the premises at reasonable periods of time; require the payment of an annual fee, as established in the city's master fee schedule, for the administrative costs to the city associated with issuing the permit and monitoring the self-hauler's operations, including components associated with periodic inspection of the premises; and include such reasonable terms and conditions as the Director may require. The Director may, after providing the permit holder notice and an opportunity to be heard, revoke the self-haul permit if he or she finds that the permit holder has not complied with the terms of the permit. Upon revocation of the self-haul permit, the Director shall order the owner to comply with Section 8.28.100. The Director shall not, for a period of twelve (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.

8.28.120 - Frequency of solid waste collection or removal.

Collection of The owner shall ensure that solid waste created, produced, or accumulated on the premises is either collected by the collector from each solid waste container shall be made 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. Exemptions from weekly service may be granted by the Director to those dwellings which produce minimal solid waste and whenever less frequent service will not produce a public health and safety concern. 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.

8.28.130 - Materials prohibited from solid waste disposal in containers.

Hazardous waste, medical waste, unacceptable waste, earth, rocks, ~~batteries~~ waste, u-waste, human waste and other potentially infectious material, and liquid wastes shall not be deposited or placed in solid waste containers. Organic waste of the type produced in the preparation of food shall be drained of all moisture and completely wrapped before it is placed or put in solid waste mixed material, organic material, or recyclable material containers.

8.28.140 - Required provision of approved solid waste containers and minimum service and container capacity; container placement; residential occupants' access to services.-

All solid waste A. All mixed material, and organic material created or produced in the city shall be deposited in a container or containers approved by the Director, equipped with suitable handles and a tight-fitting cover, and watertight. Every person in possession, charge, or control of any single-family dwelling, multi-family dwelling or commercial premises shall provide a sufficient number of such containers of sufficient capacity to hold all solid waste which is mixed materials, recyclable materials, and organic materials which are created, produced, or accumulated on such premises between the time of successive collections by the collector. Such solid waste or removal under self-haul permit, to meet the minimum SFD and MFD service and container capacity requirements of this section, and to meet county and/or state requirements for organic materials capacity and/or recyclable materials capacity.

B. The minimum service and container capacity requirements are as follows:

1. Single-family dwellings: for each residential unit, mixed material container capacity of at least twenty (20) gallons.

2. Multi-family dwelling: mixed material container and collection frequency such that the weekly capacity is equal to the number of dwelling units in the multi-family dwelling multiplied by twenty (20) gallons.

C. Such containers shall be kept in a suitable location upon such premises, readily accessible to the collector, if backyard service is provided. Every person subscribing to curbside collection of solid waste shall place the container(s) at curbside or streetside on their collection day in a manner that does not block any driveway, sidewalk or street. Containers placed at curbside or streetside shall be timely returned to their normal storage area after the collector has emptied the container(s). By written permission of the Director, a location for such container or containers upon public property may be arranged.

~~Solid waste containers for joint or multiple use may be provided for multifamily dwellings, provided that each container is clearly marked so as to designate the dwelling which it serves. Each solid waste container for individual, joint, or multiple use shall have a capacity of not more than thirty-two (32) gallons if collected manually by the collector and shall be kept in a clean, neat, and sanitary condition at all times. The combined weight of each thirty-two (32) gallon container and its contents shall not exceed seventy-five (75) pounds.~~

D. Owners of SFD and MFD premises shall ensure that the occupants of such premises have reasonable access to the services provided by the MM&O and RR collectors, including the collection of mixed materials, organic materials, recyclable materials, and bulky goods.

8.28.150 - Prohibition on disposal/improper placement of solid waste.

It is unlawful to ~~dispose of~~ place solid waste anywhere in the city except as provided for in this chapter.

8.28.155 - Prohibition on accumulation of solid waste on unoccupied property.

It is unlawful for an owner to allow solid waste to accumulate on a premises.

8.28.160 - Use of litter receptacles.

It is unlawful for any person to deposit any material from any building or yard in, on top of, or alongside the street litter receptacles placed in the sidewalk area; provided, that pedestrians and other persons using said streets shall be permitted to deposit in said receptacles miscellaneous small articles of refuse carried by them.

8.28.170 - MM&O Collector entitled to payment for services rendered/right to terminate service for non-payment.

~~Pursuant to the provisions of this chapter, the collector shall be entitled to payment from owner for any services rendered. City is not responsible for any payment due collector by reason of either entering into a franchise agreement, setting rates, adjusting rates, or failing to adjust rates, except if, and to the extent it is explicitly stated in such franchise agreement. Should there be a failure by an owner to make payment for any services rendered by the collector, the means for effecting payment shall be in accordance with the procedure set forth in Sections 8.28.180 to 8.28.240, inclusive.~~

Pursuant to the provisions of this chapter, the MM&O collector shall be entitled to terminate service to a customer for non-payment for any services rendered, provided that it has first complied with all applicable provisions of this chapter and the contract. At least thirty (30) days prior to terminating the service to a premises for non-payment, the MM&O Collector shall notify the owner

in writing of its intention to do so if the account remains delinquent. The Finance Officer may specify the form and manner in which such notification shall be given.

8.28.180 - Complaint of nonpayment- Summary abatement of nuisance.

The Director may, as authorized by Government Code section 38773 (as it may be amended from time to time), summarily abate nuisance conditions created by the failure of an owner of an SFD or MFD premises to comply with Section 8.28.100 or Section 8.28.120 by subscribing to solid waste collection service for the property on which the nuisance conditions are maintained. The city may do so when such nuisance conditions are created as a result of contractor's termination of service for non-payment, due to failure of occupant to initiate service, or otherwise.

8.28.190 - Collection of costs—Special assessment.

In accordance with Government Code section 38773.5 (as it may be amended from time to time), the city may make the costs of subscribing to service on behalf of the owner pursuant to Section 8.28.180, including the administrative costs associated therewith, a special assessment against the property upon which the nuisance conditions are maintained. The Finance Officer shall give the owner notice of its intention to impose of the special assessment under Section 8.28.180. Such notice shall also be provided to the premises if it is different than the address identified pursuant to Section 8.28.220. A separate special assessment shall be imposed for each billing period for which the city subscribes to service on behalf of the owner, and the city may continue imposing special assessments for subsequent billing periods until the owner has complied with Section 8.28.100 or Section 8.28.120, as the case may be. The notice shall include the information required by Section 8.28.210 and shall specify that the property may be sold after three (3) years by the tax collector for unpaid delinquent assessments. In all other respects, the Finance Officer may specify the form and manner in which such notice is given.

~~Upon the expiration of the period during which the collector has rendered service and has presented the owner with a bill for such service, if the bill has not been paid in full, the collector shall send to the owner a second request for payment. The form and content of the second request for payment sent by the collector shall be approved by the Finance Officer.~~

~~Upon the expiration of not less than ten days following the mailing of the second request for payment by the collector, if the bill remains unpaid, the collector may file with the Finance Officer a verified written complaint which shall contain the specific allegations setting forth the name or names of said owner(s), the address of the dwelling served, the period of such service, the amount due, the steps taken to secure payment, and such other information as the Finance Officer may reasonably require. Such verified written complaints shall be submitted by the collector to the Finance Officer not more than ninety (90) days following the end of the service period.~~

~~8.28.190 - Payment for services rendered and the assessment of administrative charges.~~

~~Upon receipt of the complaint filed in accordance with Section 8.28.180, the Finance Officer shall pay the amount due the collector from a revolving fund provided herein under Section 8.28.260 and owner shall be liable to the city for service charges paid, plus an administrative charge as established by the city's master fee schedule.~~

~~8.28.200 - Administrative hearing-Collector to provide opportunity to protest on delinquent charges.~~

~~The MM&O collector shall, within fifteen (15) days of declaring the charges delinquent, provide customer(s) and owner(s) of premises an opportunity to appeal, at an administrative conference conducted by the MM&O Collector, the delinquent charges asserted by the MM&O Collector.~~

8.28.210 - Administrative hearing on proposed special assessment.

After making payment to the collector for services rendered, the Finance Officer will ~~The notice of the city's intention to impose a special assessment provided under section 8.28.190 shall establish a time and place for an administrative hearing to allow the customer(s) and/or owner(s) of premises against which delinquent charges are assessed an opportunity to protest the charges~~ imposition of the special assessment. The Finance Officer shall cause notice of this hearing to be mailed to the premises and each person to whom such described property is assessed in the most recent property ownership records provided to the city by the County Assessor on the date that the Finance Officer causes notice to be mailed. Notice of this hearing may be combined with notice of the hearing before the City Council as provided herein under Section 8.28.220.

At the administrative hearing, the ~~City Manager and the collector or their designated representative(s)~~ Finance Officer will hear any protests regarding delinquent charges for services rendered. ~~The City Manager and the collector or their designated representative(s)~~ the proposed imposition of the special assessment. The Finance Officer and the MM&O collector shall investigate the protest as may be required and report their findings to the owner prior to the hearing before the City Council provided herein ~~under Section 8.28.220.~~ The City Manager or his or her designated representative may waive the service fee. The Finance Officer may require the MM&O collector to reinstate service and/or may waive the administrative costs in those cases where he or she has found that the delinquent charges have been that led to the termination of services were made improperly; or where he or she has found that the owner was improperly notified of the delinquent service fee, he or she may waive the administrative charges established under Section 8.28.190; or he or she may recommend to the City Council that the owner receive no waiver of payment of service fees and/or administrative charges.

~~8.28.210~~ 8.28.220 - Report of delinquent charges ~~proposed special assessments~~ transmitted to City Council.

Upon receipt of verified written complaints from the collector ~~Following the administrative hearing,~~ the Finance Officer shall transmit to the City Council a report of ~~delinquent charges~~ the special assessments proposed to be imposed. Upon receipt ~~by of the report,~~ the City Council ~~of the report,~~ it shall fix a time, date and place for hearing the report and any protests or objections thereto.

~~8.28.220~~ 8.28.230 - Notice of hearing on proposed special assessments.

The City Council shall cause written notice of the hearing to be mailed to the owner of the premises to which the service was rendered not less than ten (10) days prior to the date of hearing. The said written notice shall be mailed to each person to whom such premises is assessed in the most recent property ownership records provided to the city by the County Assessor on the date the City Council causes notice to be mailed.

~~8.28.230~~ - Recordation of lien for delinquent charges.

Upon confirmation of the report of delinquent charges by the City Council, a lien on the premises to which the service was rendered will be recorded with the Recorder of the county of Alameda.

8.28.240 - Payment of special assessment prior to placement on tax roll.

At any point prior to the placement of the special assessment on the tax roll, the owner may avoid the collection of the special assessment on the tax roll by paying the city the service charge for the period during which the city subscribed to service on behalf of the owner plus the city's administrative costs.

~~8.28.240~~ 8.28.250 - Collection of delinquent charges by Imposition of special assessment.

Upon the confirmation of the report pursuant to Section 8.28.210 by the City Council, the ~~delinquent charges contained therein which remain unpaid by the owner shall constitute a special assessment shall be imposed, pursuant to Government Code section 38773.5 (as it may be amended from time to time), against the premises property to which service was rendered and is or will be rendered as a result of the city subscribing on behalf of the owner for a specified billing period as a means of abating the nuisance conditions. The special assessment shall be collected at such time as established by the County Assessor for inclusion in the next property tax assessment.~~

The Finance Officer shall turn over to the County Assessor for inclusion in the next property tax assessment the total sum of ~~unpaid delinquent charges special assessments~~ consisting of the ~~delinquent solid waste collection service charges and the administrative charges, plus an assessment costs. The administrative costs shall be as established by in the city's master fee schedule as a special assessment against the premises to which said service was rendered.~~

Thereafter, ~~said assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedures of sale as provided for delinquent ordinary municipal taxes. The assessment shall be subordinate to all existing special assessment liens previously imposed upon the premises and paramount to all other liens except for those of state, county and municipal taxes, with which it shall be upon parity. The lien shall continue until the assessment and all interest and charges due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to said special assessments.~~

8.28.250 – Release of lien assessment.

In addition to the assessments as provided by Section 8.28.240, there is assessed a procedural fee ~~in an amount equal to the amount charged by the Alameda County Recorder's Office as and for a county service charge and a release of lien filing fee.~~

8.28.260 – Mandatory refuse 8.28.260 – Special assessment collection fund.

The ~~mandatory solid waste special assessment~~ collection fund shall be credited with such sums as may be appropriated by the City Council, ~~delinquencies payments~~ collected by the Finance Officer ~~prior to the recordation of, and in lieu of, the special assessment, special assessments~~ collected by the Tax Collector, and sums received in consideration of release of ~~special assessment~~ liens. ~~Expenditures~~ The ~~expenditures~~ from said fund shall include payments to the MM&O collector for ~~owner delinquent accounts service to which the city has subscribed on behalf of the owner,~~ and those operating expenses incurred by the city for the administration of the ~~mandatory solid waste program.~~ The sum of one hundred forty thousand dollars (\$140,000.00) shall be maintained in the ~~mandatory solid waste collection fund; and excess over this sum shall be transferred to the unappropriated balance of the general fund. Transfers from the unappropriated balance of the general fund shall also be authorized, as necessary, to maintain the integrity of the mandatory solid waste collection fund~~ ~~nuisance abatement special assessment process.~~

8.28.270 - Manner of giving notices.

Any notice required to be given hereunder by the city, the Director, the Finance Officer or ~~any~~ the MM&O collector to an owner shall be sufficiently given for all purposes hereunder if personally served upon the owner or if deposited, postage prepaid, addressed to the "Owner" at the official address ~~if of~~ the owner maintained by the Tax Collector for the mailing of tax bills, or, if no such address is available, to the owner at the address of the dwelling.

8.28.280 - Violations, enforcement and remedies.

- A. **Penalty for Violation.** Any person convicted of an infraction under the provision of this chapter shall be punished upon a first conviction by a fine of not more than one hundred dollars (\$100.00) and, for a second conviction within a period of one (1) year, by a fine of not more than two hundred dollars (\$200.00) and, for a third or any subsequent conviction within a one-year period, by a fine of not more than five hundred dollars (\$500.00). Any violation beyond the third conviction within a one-year period may be charged by the City Attorney or the District Attorney as a misdemeanor and the penalty for conviction of the same shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not more than six (6) months or by both.
- B. **Continuing Violation.** Unless otherwise provided, a person shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person and shall be punishable accordingly as herein provided.
- C. **Violations Deemed a Public Nuisance.** In addition to the penalties herein provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety and welfare, and is declared and deemed a nuisance.
- D. **Civil Actions.** 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).
- E. **Authority to Issue Citations.** Authorized enforcement officials or employees may issue a citation and notice to appear in the manner prescribed by Chapter 5c of Title 3, Part 2 of the Penal Code, including Section 853.6 (or as the same may hereafter be amended). It is the intent of the City Council that the immunities prescribed in Section 836.5 of the Penal Code (as it may be amended from time to time) be applicable to public officers or employees or employees acting in the course and scope of employment pursuant to this chapter.
- F. **Administrative Enforcement Option.** Chapters 1.08, 1.12 and 1.16 of this code, which provide for alternative code enforcement mechanisms, including but not limited to a civil penalty program and an administrative citation program, are incorporated by reference as if fully set forth herein.
- G. **Remedies Not Exclusive.** 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.

~~8.28.290—Rates of compensation for solid waste collection.*~~

~~* Editor's note: Ordinance 12499 § 4 authorizes annual rate increases for solid waste collection without presentation of rate changes to the City Council.~~

The current rates to be charged by collector for the collection and disposal of solid waste are set forth in this section, as adjusted pursuant to Section 8.28.020. These rates shall become effective as of July 1, 1996.

City of Oakland
Single Family Residential Rates (Monthly)

July 1, 2014 — June 30, 2015

	Contractor Supplied Carts	Customer Supplied Cans
Curbside Service *		
Mini Can Rate — 20 Gallon	\$22.21	
35 Cart	\$29.80	
64 Cart	\$64.98	
96 Cart	\$100.11	
Premium Backyard Service *		
Mini Can Rate — 20 Gallon	\$39.83	\$35.92
35 Cart	\$47.42	\$43.51
64 Cart	\$82.60	\$78.69
96 Cart	\$117.73	\$113.82
Physically disabled customers receive Backyard Service at Curbside rates.		
Low Income Senior Rate Discount: 12.5%		

~~Bag It Rate\$6.24~~

~~BAGSTER Rate\$181.92~~

~~Additional 64-gallon Yard Trimmings/Food Scraps Cart(s)\$9.77~~

~~Residential Special P/U Rate — Other Than Regular Day\$29.82~~

~~Residential Special P/U Rate — Regular Day — Scheduled\$7.93~~

~~Residential Special P/U Rate — Regular Day — Unscheduled\$11.35~~

~~One 32-gallon Can Service — Commercial Rate *\$29.96~~

~~Additional 32-gallon can\$29.58~~

~~Monthly Excess/Overage Charge — Can Service, per gallon\$0.93~~

~~Bin Service — Monthly Excess/Overage Charge:~~

~~Residential, per gallon\$1.11~~

~~Commercial, per gallon\$0.93~~

*Rates do not include StopWaste Benchmark Fee of \$0.15—\$0.62 per month depending on service level (Alameda County Waste Management Authority Resolution #WMA 2012-6).

City of Oakland

Multi Family Residential Rates (Monthly)

Rates Discounted to Account for Tenant Vacancy

July 1, 2014—June 30, 2015

These rates DO NOT INCLUDE bulky pick-up service.⁽¹⁾

# of units	Rates for apartment complexes with 5 or more units ⁽¹⁾				
	1/week	2/week	3/week	4/week	5/week
	\$23.71 Discounted rate ^{(2), (3)}	\$47.38 Discounted rate ^{(2), (3)}	\$71.10 Discounted rate ^{(2), (3)}	\$94.76 Discounted rate ^{(2), (3)}	\$118.48 Discounted rate ^{(2), (3)}
5	\$118.55	\$236.90	\$355.50	\$473.80	\$592.40
6	\$142.26	\$284.28	\$426.60	\$568.56	\$710.88
7	\$165.97	\$331.66	\$497.70	\$663.32	\$829.36
8	\$189.68	\$379.04	\$568.80	\$758.08	\$947.84
9	\$213.39	\$426.42	\$639.90	\$852.84	\$1,066.32
10	\$237.10	\$473.80	\$711.00	\$947.60	\$1,184.80
11	\$260.81	\$521.18	\$782.10	\$1,042.36	\$1,303.28
12	\$284.52	\$568.56	\$853.20	\$1,137.12	\$1,421.76
13	\$308.23	\$615.94	\$924.30	\$1,231.88	\$1,540.24
14	\$331.94	\$663.32	\$995.40	\$1,326.64	\$1,658.72
15	\$355.65	\$710.70	\$1,066.50	\$1,421.40	\$1,777.20
16	\$379.36	\$758.08	\$1,137.60	\$1,516.16	\$1,895.68
17	\$403.07	\$805.46	\$1,208.70	\$1,610.92	\$2,014.16
18	\$426.78	\$852.84	\$1,279.80	\$1,705.68	\$2,132.64
19	\$450.49	\$900.22	\$1,350.90	\$1,800.44	\$2,251.12
20	\$474.20	\$947.60	\$1,422.00	\$1,895.20	\$2,369.60
21	\$497.91	\$994.98	\$1,493.10	\$1,989.96	\$2,488.08
22	\$521.62	\$1,042.36	\$1,564.20	\$2,084.72	\$2,606.56
23	\$545.33	\$1,089.74	\$1,635.30	\$2,179.48	\$2,725.04
24	\$569.04	\$1,137.12	\$1,706.40	\$2,274.24	\$2,843.52
25	\$592.75	\$1,184.50	\$1,777.50	\$2,369.00	\$2,962.00
26	\$616.46	\$1,231.88	\$1,848.60	\$2,463.76	\$3,080.48

27	\$640.17	\$1,279.26	\$1,919.70	\$2,558.52	\$3,198.96
28	\$663.88	\$1,326.64	\$1,990.80	\$2,653.28	\$3,317.44
29	\$687.59	\$1,374.02	\$2,061.90	\$2,748.04	\$3,435.92
30	\$711.30	\$1,421.40	\$2,133.00	\$2,842.80	\$3,554.40

⁽¹⁾ Rates do not include StopWaste Benchmark Fee of \$0.62 – \$1.85 per month depending on service level (Alameda County Waste Management Authority Resolution #WMA 2012-6).

⁽²⁾ Discounted rates shown in this table are based on 32 gallons of weekly service per unit and include the following discounts:

*Assumed vacancy discount: 8%

*Single payer discount (bill paid by one person/Mgmt. Co.): 8%

⁽³⁾ If bill is paid by more than one party, an additional charge of 8% may be applied to above rates.

City of Oakland

Commercial Rates for Bins (Monthly)

July 1, 2014 – June 30, 2015

Container Size	Frequency Per Week						Special Pick Up
	1	2	3	4	5	6	
1 Yard	\$139.88	\$283.42	\$445.19	\$620.13	\$754.49	\$888.98	\$46.54
1.5 Yard	\$195.75	\$358.40	\$591.92	\$847.56	\$1,053.23	\$1,258.87	\$59.50
2 Yard	\$255.92	\$472.84	\$783.71	\$1,123.74	\$1,397.32	\$1,671.04	\$72.52
3 Yard	\$366.75	\$692.15	\$1,156.02	\$1,664.34	\$2,072.75	\$2,481.13	\$97.31
4 Yard	\$472.63	\$896.27	\$1,451.79	\$2,092.19	\$2,606.38	\$3,120.66	\$115.73
6 Yard	\$655.50	\$1,259.23	\$1,862.80	\$2,466.49	\$3,070.11	\$3,673.75	\$155.02
7 Yard	\$766.70	\$1,471.03	\$2,175.21	\$2,879.54	\$3,583.74	\$4,288.07	\$177.71

Rates do not include StopWaste Benchmark Fee of \$0.62 – \$1.85 per month depending on service level (Alameda County Waste Management Authority Resolution #WMA 2012-6).

City of Oakland
Roll-Off Rates (Per Service)

July 1, 2014 — June 30, 2015

Box Size — Rates

20 Yard Box or Less\$583.00

30 Yard Box\$874.53

40 Yard Box\$1,166.03

50 Yard Box\$1,457.53

—Relocation Charge\$116.86

Stand-by Time\$134.71

Placement Charge\$78.34

Demurrage Charge Per Week\$37.67

Demurrage Charge Per Day Thereafter\$5.40

Flasher Charge per Pull\$39.09

Per Additional Yard if Overloaded 6 Yards or More\$29.12

Note: ~~Compactor Rates twice the regular rate.~~
Demurrage charge to permanent customers when frequency falls below minimum level of service of 1 time per week.

Rates do not include StopWaste Benchmark Fee of \$0.62 — \$1.85 per month depending on service level (Alameda County Waste Management Authority Resolution #WMA 2012-6).

Section 2. This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

Section 3. The City Council has independently reviewed, considered, and confirmed this environmental determination and finds and determines that the action complies with the CEQA for the reasons stated in the June 2, 2015 Council Agenda Report, hereby incorporated by reference, and directs the City's Environmental Review Officer to file a Notice of Exemption.

Section 4. The City Council does hereby find and declare that the above recitals are true and correct and hereby makes them a part of this Ordinance.

Section 5. The previously created “mandatory solid waste collection fund” shall remain in existence until such time as all existing liens and special assessments payable to said fund are paid or otherwise discharged. Any funds remaining thereafter shall be transferred to the general fund and the fund’s existence shall be terminated.

Section 6. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses, or phrases may be declared invalid or unconstitutional.

Section 7. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 8. This Ordinance is enacted pursuant to the City of Oakland's general police powers, specified in Section 106 of the Charter of the City of Oakland and Article XI of the California Constitution.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 8.28 ("SOLID WASTE COLLECTION AND DISPOSAL AND RECYCLING"), TO IMPLEMENT THE ZERO WASTE SYSTEM DESIGN AND ZERO WASTE COLLECTION SERVICES FRANCHISE CONTRACTS, BY: 1) ESTABLISHING A NUISANCE ABATEMENT PROCESS TO ADDRESS FAILURES TO ENSURE PROPER HANDLING OF SOLID WASTE; 2) RESTRICTING COLLECTION OF COMMERCIAL ORGANIC MATERIALS TO AUTHORIZED COLLECTORS; 3) CHANGING DEFINITIONS AND OTHER PROVISIONS TO ALLOW FOR REGULATION OF COMMERCIAL RECYCLERS AND NON-EXCLUSIVE FRANCHISE HAULERS OF CONSTRUCTION AND DEMOLITION DEBRIS, AND 4) CONFORMING THE NEW ZERO WASTE SYSTEM TO THE ZERO WASTE COLLECTION SERVICES FRANCHISES AWARDED BY CITY COUNCIL, SERVICES TO BEGIN JULY 1, 2015.

NOTICE AND DIGEST

The Ordinance amends the Oakland Municipal Code to implement the Zero Waste System Design and Zero Waste Collection Services Franchise Contracts, by establishing a nuisance abatement process to address failures to ensure proper handling of residential solid waste, and by regulating and restricting collection of discarded materials. The ordinance makes appropriate findings required by the California Environmental Quality Act.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2015 JUN -8 PM 1:56

7.7-1

MEETING OF THE
OAKLAND CITY COUNCIL

JUN 16 2015