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C&D Section starts on
p. 28

FINAL

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

**AMENDING THE ALAMEDA MUNICIPAL CODE BY REPEALING
AND REPLACING CHAPTER XXI (SOLID WASTE AND RECYCLING)**

BE IT ORDAINED by the City Council of the City of Alameda that:

Section 1. Chapter XXI (Solid Waste and Recycling) of the Alameda Municipal Code is repealed and replaced to read as follows:

CHAPTER XXI

SOLID WASTE AND RECYCLING

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ARTICLE I. DEFINITIONS

21-1 DEFINITIONS.

As used in this section:

Appliances shall mean discarded household appliances such as refrigerators, stoves, clothing washers and dryers, water heaters, dishwashers, etc., and similar items discarded by occupants of residential premises.

Bin shall mean a container with capacity of one to eight (1 to 8) cubic yards, with hinged lid and wheels.

Bulky items shall mean discarded appliances, furniture, tires, carpets, mattresses, and similar large items that require special collection due to their size, but can be collected without the assistance of special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. *Bulky items* do not include abandoned automobiles.

C&D Applicant means any person that undertakes a Project subject to WMP requirements pursuant to subsection 21-24.1 of this chapter.

Can shall mean a ten (10) gallon plastic container with a lid.

Cart shall mean a recycled-plastic container with a hinged lid and wheels serviced by an automated or semi-automated loading truck with varying capacities of twenty (20), thirty-two (32), sixty-four (64) or ninety-six (96) gallons, or another size approved by the Public Works Director.

City Manager shall mean the City Manager of the City of Alameda or his/her designated representative; *Public Works Director* shall mean the Public Works Director of the City of Alameda or his/her designated representative; *Building Official* shall mean the Building Official of the City of Alameda or his/her designee; *Risk Manager* shall mean the Risk Manager of the City of Alameda or his/her designee.

Commercial shall mean of, from, or pertaining to any property upon which business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding businesses conducted upon residential property which are permitted under applicable zoning regulations and are not the primary use of the property.

Compactor shall mean a mechanical apparatus that compresses materials. Compactors include two (2) to four (4) cubic yard bin compactors serviced by front-end loader collection trucks and six (6) to fifty (50) cubic yard debris boxes serviced by collection trucks.

Construction or construction and demolition shall mean construction, erection, enlargements, alteration, renovation, conversion, or movement of any building, structure, paving, or land and any other demolition attendant thereto.

Construction and demolition debris or *C&D debris* shall mean used or discarded materials removed from residential, commercial, or industrial premises as a consequence of construction.

Conversion Rate means a rate set forth in the standardized Conversion Rate Table approved by the Public Works Director pursuant to Section 21-24 for use in estimating the volume or weight of materials identified in a Waste Management Plan.

Container shall mean cans, bins, carts, compactors, and debris boxes.

Curb (or curbside) shall mean the placement of a container for pick-up, where such container is placed within the public right of way but not within the public street, or sidewalk, in a manner that would obstruct vehicular, pedestrian, or bicycle travel. Where no curb exists, the container shall be placed in the location agreed upon by the City and the Franchisee in the franchise agreement.

Customer shall mean the person to whom franchisee and/or permittee shall submit billing invoices and from whom it shall collect payment for collection services provided to a premises generating solid waste, recyclable materials, organic materials and receiving collection services from the franchisee and/or permittee. The customer may be the occupant or owner of the premises, provided that the owner of the premises shall be responsible for payment of collection services in the event an occupant of a premises, who is identified as the customer with respect to the owner's premises, fails to make such payment.

Debris box shall mean an open-top container with a capacity of six (6) to fifty (50) cubic yards that is serviced by a roll-off truck.

Decibel (dB) shall mean a unit for measuring the amplitude of sounds, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.

Disposal site shall mean a facility for ultimate disposal of solid waste.

Diversion Requirement means the diversion of at least fifty percent (50%) of the total Construction and Demolition Debris generated by a Project via reuse or recycling, unless a C&D Applicant has been granted an Infeasibility Exemption pursuant to section 21-24, in which case the Diversion Requirement shall be the maximum feasible diversion rate established by the Public Works Director for the Project.

E-scrap item or *electronic scrap item* shall mean discarded electronic equipment including, but not limited to, television sets, computer monitors, cathode ray tubes, central processing units (CPUs), laptop computers, external computer hard drives, computer keyboards, computer mice, computer printers, DVD players, CD players, stereos, radios, and VCRs.

Food Waste shall mean solid food wastes that will decompose and/or putrefy and includes, but is not limited to, all kitchen and table food wastes and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs, and paper wastes contaminated with food waste.

Franchise Agreement means an agreement with a Franchisee as defined in subsection 21-20.1 of this chapter.

Franchisee shall mean the person to whom the City shall have granted a franchise to collect, receive, carry, haul or transport solid waste, recyclable materials, and organic materials within the City, and shall include the agents or employees of the Franchisee.

Hazardous waste shall mean all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State of California in Health and Safety Code §25110.02, §25115, and §25117 or in future amendments to or recodifications of such statutes and all substances identified and listed as Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 *et seq.*), all future amendments thereto, and all rules and regulations promulgated thereunder. *Hazardous waste* excludes minimal quantities of waste of a type and amount normally found in residential solid waste 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 amended from time to time.

Medical waste shall mean all materials defined as medical waste in the California Health and Safety Code Section 25023.2, excluding waste identified as not being medical waste in Section 25023.5 and 25023.8, or the regulations promulgated thereunder, as amended from time to time.

Multi-family shall mean any residential complex, with five (5) or more units used for residential purposes irrespective of whether residence therein is transient, temporary or permanent. *Multi-family* premises includes yacht harbors and marinas where residents live aboard boats. *Multi-family* premises include condominiums and cooperative apartments with five (5) or more units. Such premises shall have centralized solid waste, recyclable materials, and organic materials collection service for all units on the premises, which service shall be billed to one (1) customer at one (1) address.

Multi-plex shall mean any residential complex, with two (2) to four (4) units used for residential purposes irrespective of whether residence therein is transient, temporary or permanent. *Multi-plex* premises include condominiums and cooperative apartments with two (2) to four (4) units. Such premises shall have individual solid waste, recyclable materials, and organic materials collection service for each unit on the premises, but may be billed to one (1) customer at one (1) address or to each individual unit.

Occupant shall mean a person who occupies a premises.

Owner shall mean the person or persons holding record title to the premises as reflected in the latest property tax assessment roll made available by the Alameda County Assessor's Office.

Organic materials shall mean solid wastes originated from living organisms that will decompose and/or putrefy. *Organic materials* which have been approved for collection by the Public Works Director include both yard waste, and food waste such as, but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small wood pieces, other types of organic yard waste, vegetable waste, fruit waste, grain waste, dairy waste, meat waste, fish waste, facial tissue, paper contaminated with food waste or otherwise not accepted in the recyclable materials collection program, pieces of unpainted and untreated wood, and pieces of unpainted and untreated wallboard. No discarded material shall be considered to be organic materials, however, unless such material is separated from solid waste and recyclable materials. Organic materials such as, but not limited to, grass cuttings, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees may not exceed six (6) inches in diameter and four (4) feet in length. *Organic materials* are included within the term *recyclable materials*.

Permittee shall mean any person authorized by a City permit to collect construction and demolition debris, recyclable materials, or organic materials pursuant to Article IV of this chapter.

Person shall mean a person, firm, association, partnership, joint venture, corporation or any entity, public or private in nature.

Premises shall mean any land or building in the City where solid waste, recyclable materials, or organic materials are generated or accumulated including each single-family unit, multi-plex unit, multi-family complex, and business establishment.

Project means any activity involving construction that requires issuance of a permit under the zoning, building and other ordinances of the City.

Recyclable materials shall mean non-hazardous residential, commercial or industrial materials or by-products which have been approved for collection by Public Works Director and 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 economy in the form of commodities. *Recyclable materials* include, but are not limited to, newspaper (including inserts, coupons, and store advertisements); mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, brown paper, paperboard, paper egg cartons, phone books, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, cereal and other similar food boxes); chipboard; corrugated cardboard; paper milk cartons; glass containers (including brown, clear, and green glass bottles and jars); aluminum (including beverage containers, foil, food containers, small pieces of scrap metal); small pieces of scrap metal weighing less than ten (10) pounds and fitting into the recyclable materials collection container; steel, tin or bi-metal cans; plastic containers (nos. 1 to 7); aseptic beverage boxes; empty steel paint cans (previously used for latex paint), used motor oil, used oil filters, small appliances, and aerosol cans.

Recycling shall mean the process of sorting, cleansing, treating, and reconstituting recyclable materials that would otherwise be disposed of at a disposal site and returning them to the economy in the form of raw materials for new, reused or reconstituted products.

Residential shall mean of, from, or pertaining to a single-family premises, multi-plex premises, or multi-family premises.

Reuse means further or repeated use of any material without reconstitution or treatment.

Salvage means the controlled removal of Construction and Demolition Debris from a permitted construction site for the purpose of recycling or reuse.

Single-family shall mean any detached house or residence designed or used for occupancy by one (1) household, provided that collection service can be and is provided to such premises as an independent unit.

Solid waste shall mean and include all putrescible and non-putrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, rubbish, ashes, industrial wastes, manure, vegetable or animal solid and semisolid wastes and other discarded solid and semisolid wastes as defined in California Public Resources Code § 40191, as that section may be amended from time to time. *Solid waste* does not include abandoned vehicles and parts thereof, hazardous waste or low-level radioactive waste, medical waste, unacceptable waste, construction and demolition debris, source separated recyclable materials or source separated organic materials.

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

Specialty recyclable materials shall mean high-value, presorted recyclable materials generated by construction and demolition activities on residential or non-residential premises and by the operation of non-residential uses. Specialty recyclable materials include scrap metal, construction and demolition debris, high-grade paper (including office mixed paper), pallets, and plastic film and other segregated recyclable materials which the Public Works Director reasonably determines are meaningfully distinct from the mixed recyclable materials collected from residential premises in the City.

Unacceptable waste shall mean any and all waste including, but not limited to, hazardous waste and medical waste, the acceptance and handling of which by franchisee or permittee would cause a violation of any permit condition, legal or regulatory requirement; substantial damage to franchisee's or permittee's equipment or facilities; or present a substantial danger to the health or safety of the public or franchisee's or permittee's employees.

Waste Management Plan means a plan for compliance with Article IV of this chapter, as approved or conditionally approved by the City.

Yard Waste shall mean those discarded vegetation materials approved by the Public Works Director that will decompose and/or putrefy, including but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small pieces of unpainted and untreated wood, and other types of organic waste. *Yard waste* is a subset of *organic materials*.

ARTICLE II. GENERAL REGULATIONS

21-2 COLLECTION AND REMOVAL.

21-2.1 Solid Waste, Recyclable Materials, and Organic Materials Collection Required.

21-2.2 Ownership of Materials.

21-2.3 Containers.

21-2.4 Placement and Removal of Containers for Collection.

21-2.5 Container Maintenance.

21-2.6 Clean-up Services.

21-2.1 Solid Waste, Recyclable Materials, and Organic Materials Collection Required.

a. *Solid Waste.* The occupant of any premises in the City in, upon, or from which solid waste is created, produced or accumulated, shall dispose of the solid waste at least once each week through the solid waste collection service of the franchisee, unless otherwise exempt as per subsection 21-20.4(d)(4). The owner or occupant of the premises shall pay the franchisee for such removal at rates established by the franchisee that comply with City-established policies and do not exceed the rate ceilings set by the City.

b. *Recyclable Materials and Organic Materials.* It is mandatory that the owner or occupant of any premises contract with and pay the franchisee for recyclable materials and organic materials collection services, unless otherwise exempt as per subsections 21-20.4(d). The owner or occupant shall pay the franchisee at rates established by the franchisee that comply with City-established policies and do not exceed the rate ceilings set by the City. It is mandatory that the occupant place recyclable and organic materials in the proper collection containers in accordance with franchisee's instructions.

c. *Service Arrangements.* Each owner or occupant shall make arrangements with the franchisee for the required collection of solid waste, recyclable materials, and organic materials. Such arrangements shall specify the location of the premises, the type and size of containers to be provided by franchisee for collection of solid waste, recyclable materials, and organic materials, and the frequency of collection. Each owner or occupant shall contract with franchisee for a sufficient number of solid waste containers to hold all solid waste that is created, produced, or accumulated on such premises between the times of successive collections by the franchisee. If the Public Works Director determines that additional receptacles or capacity are necessary, the owner or occupant shall provide for such additional service within fifteen (15) days of the mailing of a written notice by the Public Works Director.

d. *Failure to Initiate Service.* Should any owner or occupant fail to initiate the collection of solid waste, recyclable materials, or organic materials or to obtain additional service when required pursuant to paragraph c. above, the City may initiate such service or additional service at the owner's or occupant's expense.

21-2.2 Ownership of Materials.

Upon the placement of solid waste, recyclable materials, organic materials, or construction and demolition debris in a container for collection by a franchisee or permittee, the materials become the property of that franchisee or permittee. Nothing in this chapter shall be construed to work an uncompensated taking of personal property by requiring any person to give valuable commodities to the franchise or a permittee. Instead this chapter is intended to govern the conduct of those who generate materials which may be disposed of at a disposal site to accomplish the purposes of the California Integrated Waste Management Act of 1989 and the Alameda County Waste Reduction and Recycling Initiative Charter Amendment and to regulate the disposal of materials abandoned or discarded as waste by their owners.

21-2.3

Containers.

a. *General.* The occupant of each premises shall place and keep solid waste, recyclable materials, and organic materials in containers approved by the Public Works Director, which containers shall be kept closed by a close-fitting cover when not in use. Franchisee shall have the right to refuse collection service of any bags or bundles placed for collection that weigh more than 75 pounds. Franchisee shall have the right to refuse collection if any cart, container or bin weighs in excess of the maximum weight limit identified on each cart or bin.

b. *Projects.* Every person engaged in construction is hereby required to provide a solid waste container at each construction site for the deposit of solid waste by the employees or workers engaged in such construction. The container shall be kept closed by a close-fitting cover except when in use. Every person who consumes food on the premises shall deposit all food waste in that solid waste container or in an organics-material container provided at the site. Casting aside any unconsumed food or solid waste on the premises or public rights of way is forbidden.

c. *Solid Waste Containers.*

1. *Single-Family and Multi-Plex Premises.* Occupants of single-family and multi-plex premises shall place solid waste in carts owned and provided by franchisee. Upon approval by the City pursuant to subsection 21-20.4(c)(3), occupants may use a ten (10) gallon can owned and provided by the franchisee, or thirty-two (32) gallon bags provided by customer with properly applied sticker provided the franchisee. In such case, franchisee shall provide customer with a ten (10) gallon can or franchisee shall provide packages of ten (10) stickers to customer for use during a twelve (12) month period.

2. *Multi-Family Premises.* Occupants of multi-family premises shall place solid waste in carts or bins provided by franchisee. Occupants of the multi-family premises shall share the carts or bins.

3. *Commercial Premises.* Occupants of commercial premises shall place solid waste in carts, or debris boxes provided by franchisee, or in compactors provided by customer. Commercial premises may use carts for solid waste collection that are shared by the occupants of two (2) or more commercial premises, provided that the Public Works Director determines adequate capacity is provided.

4. *Overages.* Customers of single-family and multi-plex premises, except those participating in the ten (10) gallon can or thirty-two (32) gallon bag program, may purchase stickers from franchisee to be placed on thirty-two (32) gallon bags for solid waste collection of extra materials. The owner or occupant of the premises may, on a one-time or occasional basis, haul excess solid waste that cannot be accommodated by the containers regularly used on commercial premises directly to a disposal site or disposal facility, provided that other requirements of this Code, including the requirements of subsection 21-2.1, are satisfied.

d. *Recyclable Materials and Organic Materials Containers.*

1. *Single-Family and Multi-Plex Premises.* Occupants of single-family and multi-plex premises shall place recyclable materials and organic materials in carts owned and provided by franchisee.

2. *Multi-Family Premises.* Occupants of multi-family premises shall place recyclable materials and organic materials in carts or bins owned and provided by franchisee which are shared by the occupants of the multi-family premises.

3. *Commercial Premises.* Occupants of commercial premises shall place recyclable materials and organic materials in carts or bins or debris boxed provided by franchisee, or in compactors with capacities ranging from six (6) to fifty (50) cubic yards.

21-2.4 Placement and Removal of Containers for Collection.

a. *Single-Family and Multi-Plex Premises.* Single-family and multi-plex occupants shall be responsible for placing carts, cans, or bags of solid waste, recyclable materials, and organic materials curbside as directed by the franchisee, unless the customer has contracted with the franchisee for backyard service or has qualified for a disabled person service location exemption as described in subsection 21-20.4(d). Carts, cans, or bags shall not be stored on or in any public street, sidewalk, footpath, or public place. Single-family and multi-plex owners or occupants shall be responsible for placing containers curbside for collection on the days established by the franchisee for collection, or after 5:00 p.m. of the previous day. The owner or occupant shall remove all containers from the place of collection prior to 12:00 midnight of the day on which the containers are emptied.

b. *Multi-Family and Commercial Premises.* Multi-family and commercial occupants shall be responsible for placing all solid waste, recyclable materials, and organic materials containers in a location on their premises agreed upon by the customer and the franchisee. Occupants shall not place or store containers on or in any public street, sidewalk, footpath, or public place.

21-2.5 Container Maintenance.

All franchisee-provided bins, debris boxes, and compactors shall be maintained by franchisee in a clean, functional, and safe condition. Customers using cans or carts shall be responsible for maintaining them in a clean and sanitary condition.

21-2.6 Clean-up Services.

Each customer shall be entitled to clean-up collection event(s) as described in the Franchise Agreement. The customer shall contact franchisee to schedule an on-call clean-up collection event and franchisee shall provide such service to the premises on its regularly scheduled collection day within seven (7) business days of a request. For each clean-up collection event, each customer shall be permitted to place for collection at no charge up to two (2) cubic yards of solid waste, recyclable materials, and yard waste and up to three (3) appliances of which one (1) appliance may be an e-scrap item. A personal computer monitor, keyboard, mouse and CPU shall constitute one e-scrap item for this purpose. If a customer exceeds these limits, franchisee shall charge the customer at rates established by the franchisee that comply with City-established policies and do not exceed the rate ceilings set by the City. Owners or occupants shall adhere to the following guidelines:

a. No single item over seventy-five (75) pounds may be placed for collection unless customer pays the franchisee an additional fee for service.

b. No rocks, cement, dirt or unacceptable waste shall be permitted.

c. The owner or occupant shall bundle materials or place them in containers provided by franchisee.

d. Bundled materials shall not exceed four (4) feet in length.

e. Discarded materials to be collected in the clean-up event shall be placed at the collection location by the owner or occupant by 6:00 a.m. on the pickup day, but not sooner than the Saturday prior to the event.

f. Latex paint may be permitted if placed curbside in tightly sealed containers in accordance with franchisee's instructions.

21-3 PROHIBITED ACTS.

Subsections:

- 21-3.1 Deposit of Waste Upon Street or Private Premises, or in Sewer, Etc., Prohibited.**
- 21-3.2 Dumping Ground for Garbage.**
- 21-3.3 Deposit of Materials in Street Litter and Recycling Cans.**
- 21-3.4 Deposit of Materials in City Facility Solid Waste Container.**
- 21-3.5 Persons in Containers.**
- 21-3.6 Obstructing Franchisee Unlawful.**
- 21-3.7 Unauthorized Collection.**

21-3.1 Deposit of Waste Upon Street or Private Premises, or in Sewer, Etc., Prohibited.

a. *Generally.* No person shall deposit upon any public street, highway or grounds, or upon any private premises, or anywhere except in such places as may be designated for that purpose by the City Manager, or provided by ordinance, any solid waste or other material of any kind. No person shall empty, throw or deposit in any storm drain, manhole or any sewer any solid waste, hazardous waste, medical waste, construction and demolition debris, recyclable materials, organic material, or unacceptable waste.

b. *Use of Kitchen Garbage Disposal.* Kitchen garbage may be deposited into the sewer system through a mechanically operated disposal under the following conditions:

1. The garbage disposal device must be attached to the sewer in accordance with the Plumbing Code of the City and installed in a manner satisfactory to the Building Official.

2. The device must be capable of grinding garbage simultaneously with a flow of water of not less than two (2) gallons per minute, or in such additional quantity as is necessary to cause the ground garbage to flow readily through the sewer system. The garbage shall be ground such that:

- (a) At least forty (40%) percent may pass a No. 8 sieve;
- (b) At least sixty-five (65%) percent may pass a No. 3 sieve;
- (c) One hundred (100%) percent may pass a one-half (1/2") inch sieve;
- (d) Sieves shall be U.S. standard.

3. The use of garbage grinders shall be limited to:

- (a) Residential premises;
- (b) Restaurants, hotels and other commercial premises in which food or drink is prepared or consumed.

21-3.2 Dumping Ground for Garbage.

No person shall permit any land owned, leased, occupied or controlled by him/her in the City to be used as a dumping ground for solid waste or other material of any kind whatever, and no person shall deposit any solid waste or other material upon any land in the City.

21-3.3 Deposit of Materials in Street Litter and Recycling Containers.

No person shall deposit any solid waste or other material that may be generated from a residential or commercial premises in a street solid waste or street recycling container.

21-3.4 Deposit of Materials in City Facility Containers.

No person shall deposit on a City facility or in any City facility container any solid waste or other material that may be generated from a residential or commercial premises.

21-3.5 Persons in Containers.

No person shall enter or be inside a solid waste, recyclable materials, or organic materials container.

21-3.6 Obstructing Franchisee Unlawful.

It shall be unlawful for any person to hinder, threaten, impede, or obstruct any franchisee in the performance of his/her duty as defined in this chapter or in any franchise agreement.

21-3.7 Unauthorized Collection.

No person, other than the franchisee or a permittee, shall remove solid waste, recyclable materials, or organic materials from a container that has been placed by a customer at the curb or the collection location agreed upon by the customer and the franchisee or permittee.

Sections 21-4 through 21-19 RESERVED.

ARTICLE III. FRANCHISE AGREEMENTS

21-20 FRANCHISE AGREEMENTS.

Subsections:

- 21-20.1 City Council to Issue Franchise.
- 21-20.2 Collection by Franchisee.
- 21-20.3 Unlawful Collection.
- 21-20.4 Charges for Service.
- 21-20.5 Billings and Penalties.
- 21-20.6 Failure to Pay.
- 21-20.7 Payment under Protest.
- 21-20.8 Performance Review.

21-20.1 City Council to Issue Franchise.

The City Council may enter into franchise agreements for the collection, processing and/or disposal of solid waste, recyclable materials, and organic materials collected from residential and commercial premises, in accordance with City Charter Sections 3-10, 3-12, and 18-1. These franchises may be non-exclusive, exclusive, or wholly exclusive in nature.

21-20.2 Collection by Franchisee.

Collection and removal of solid waste, C&D debris, recyclable materials, and organic materials by the franchisee shall be made in accordance with the terms and conditions of this chapter and any agreement between the City and the franchisee.

21-20.3 Exclusive Hauler; Self-Hauling.

All solid waste, C&D debris, recyclable materials, and organic materials within the City shall be collected and transported through the streets of the City by franchisee only at the time and in the manner hereinafter set forth. Exempted from this requirement are:

- a. *Self-hauling.* As allowed for under Section 21-20.4d, Solid waste, recyclable materials, organic materials, and specialty recyclable materials may be removed from any premises and transported to a disposal site or processing site by the owner or occupant of such premises, by an employee of an owner or occupant, or by an independent contractor whose removal and transportation of the solid waste, recyclable materials, organic materials or specialty recyclable materials is incidental to another service performed by that contractor, such as construction or landscaping services, as where construction or demolition debris directly loaded onto a fixed body vehicle and hauled directly to a recycling or disposal facility. Any person who provides services described in the foregoing sentence shall, within 30 days of doing so, submit evidence acceptable to the Public Works Director that the materials were disposed of in a lawful manner. Such evidence shall include dump receipts, transfer facility tags or other evidence reasonably acceptable to the Public Works Director. Persons regularly engaged in this activity may shall file evidence on a monthly basis for all of their activities in the City.
- b. *Donations.* Recyclable materials and organic materials and specialty recyclable materials

source separated at any premises by an owner or occupant and donated to youth, civic, charitable, or other nonprofit organization;

c. *Commodities.* Source-separated recyclable materials or organic materials or specialty recyclable materials generated by business establishments, including City facilities, removed from the premises by a Permittee, provided that the owner or occupant receives lawful consideration for sale of the materials. Any purchaser of commodities who collects them from premises within the City and hauls them through the City shall obtain a permit under Article IV of this chapter in order to ensure that the commodities are not returned to the waste stream in a manner that would undermine the purposes of this chapter. It is the intent of this section to regulate those who purchase and haul recyclable commodities for the limited purpose of ensuring that the waste diversion goals of AB 939 and Measure D are accomplished and not to require waste or commodities to be hauled to any particular location or to interfere with the use of private property. The essential obligations imposed on haulers under this provision are to make good faith efforts to divert waste from disposal sites and to provide information to the City so that it may document compliance with AB 939 and Measure D.

d. *Redemption.* Containers delivered for recycling under the California Beverage Container Recycling Litter Reduction Act, § 14500, et seq. California Public Resources Code;

e. *Composting.* Organic materials composted on residential premises;

f. *C&D Permittee.* Construction and demolition debris removed from premises by a Permittee with respect to a construction and demolition project which the City reasonably determines will cost \$100,000 or more to construct. Construction and demolition debris removed from the premises with respect to a smaller project shall be subject to the franchise and the rates authorized thereby unless another exemption by this chapter applies;

g. *Grandfathered Recyclers.* Any person who lawfully provided recycling services within the City during calendar year 2001, who obtains a permit pursuant to this chapter may continue to provide the services it actually provided in calendar 2001 to the customers it was serving at that time. This restriction is imposed in order to serve the purposes of the City's solid waste franchise agreement and this ordinance to reduce the number of heavy vehicles serving the City which impact the City's infrastructure and disturb the peace of its residents, to ensure compliance with AB 939 and Measure D, and to reduce the burden and cost of the regulatory program accomplished by this Chapter, and to ensure the economies of scale which can be accomplished by the exclusive franchisee. However, the City grants the limited grandfathering exception of this paragraph to moderate the impact of this regulatory change on those persons who have previously established relationships with customers in the City.

h. *Grease.* Animal waste and remains from slaughterhouse or butcher shops, or grease waste for use as tallow;

i. *Sewage.* By-products of sewage treatment including sludge, grit and screenings;

j. *Hazardous Materials.* Household hazardous waste, hazardous and other unacceptable waste regardless of its source; and

k. *Schools.* Materials generated by public schools located in the City.

21-20.4 Charges for Service.

a. *Establishing Charges.* The City shall establish rate-setting policies and rate ceilings through City Council resolution or through the franchise agreement. Prior to establishing rate policies or rate ceilings, the City Council shall hold a public hearing.

b. *Payment.* Every person receiving solid waste, recyclable materials, or organic materials collection service shall pay the rate for those services established by the franchisee in accordance with

City-established policies. If an occupant of a premises fails to pay, the owner shall be responsible for payment to the franchisee.

c. *Special Rate Programs.*

1. *Low Income Residents and Senior Residents Discount.* Franchisee shall provide low income and senior discounts for residents provided that a customer may not obtain both a low income resident and a senior resident discount. Franchisee shall determine that a customer qualifies for the low income discount by obtaining documentation that the customer's household qualifies as a very-low-income household under the Section 8 eligibility guidelines as determined by the federal Housing and Urban Development (HUD) formula. Franchisee shall determine that a customer qualifies for the senior resident discount by verifying that the head of household of the residential premises is 65 years of age or older.

2. *Organic Materials Discount.* Commencing on the date food waste collection service is first provided to his or her residential premises, but not prior to that time, an owner or occupant of such premises who establishes, to the satisfaction of the franchisee, that a negligible amount of organic materials is produced on his or her premises shall qualify for an organic materials discount. This discount shall be granted only if (i) the residential premises is "hardscaped," that is, has no vegetation acceptable for yard waste collection, or (ii) on-site composting is conducted by occupant on a residential premises such that no organic material acceptable for yard waste collection is generated; or, (iii) yard waste is removed from the premises by a landscaping contractor pursuant to section 21-20.3(e) of this chapter.

3. *Solid Waste Discount.* Single-family residents who produce twenty (20) gallons or less of solid waste per month may make arrangements with the franchisee for alternative solid waste collection service by applying to the franchisee, in writing, for a solid waste service and rate reduction. Such application shall state the circumstances that justify less frequent service or use of a smaller container than required by this Chapter and by the franchise agreement.

d. *Service Exemptions.*

1. *Continuation of Prior Exemptions.* All service exemptions granted prior to the effective date of the ordinance that enacted this provision shall remain in effect for the period authorized by subparagraph (e)(4) below unless earlier terminated under the provisions of this chapter.

2. *Recyclable Materials Collection Exemption.* Any person who is otherwise subject to the requirements of subsection 21-2.1(b) shall be exempt from the recyclable materials collection if he or she can establish to the satisfaction of the franchisee, that less than five (5) percent of the solid waste produced on the premises constitutes recyclable material.

3. *Yard Waste Collection Exemption.* Prior to the date on which the franchisee commences food waste collection to a residential premises, the discount authorized by paragraph (c)(3) above shall be unavailable to the owner or occupant of those premises, but any such owner or occupant who is otherwise subject to the requirements of subsection 21-2.1(b) shall be exempt from yard waste materials collection if he or she can establish to the satisfaction of the franchisee that a negligible amount of organic materials is produced by the household for one of the following reasons:

(a) organic materials produced during landscape maintenance activities are disposed of at a licensed processing facility by a landscape maintenance provider with a valid City business license, or

(b) that the residential premises is "hardscaped," that is, has no vegetation acceptable for yard waste collection, or

(c) on-site composting is conducted by the occupant of a residential premises.

The service exemption authorized by this paragraph (d)(3) shall be unauthorized for any premises to which food waste collection is provided by the franchisee and, once that service is provided citywide, shall be unauthorized for any premises. The discount authorized by paragraph (c)(3) above, however, shall be available to premises for which food waste collection services are available.

4. *Solid Waste Collection Exemption.* A complete exemption from mandatory solid waste collection shall be granted if the customer demonstrates to the reasonable satisfaction of the Public Works Director that no solid waste of any kind is generated on the premises. The occupants of a residential structure may be completely exempted from mandatory solid waste collection only upon proof that they are regularly self-hauling solid waste generated on the property to a lawful disposal site by providing monthly dump receipts or other evidence satisfactory to the Public Works Director.

5. *Vacancy Exemption.* An owner of residential premises may receive a temporary exemption from the requirement to subscribe to and to pay for solid waste, recyclable materials, and organic materials collection services if he or she can demonstrate to the satisfaction of the Public Works Director that the premises are vacant for at least thirty days. Evidence that either water or power was not consumed on the premises shall be sufficient evidence of vacancy.

6. *Service Location Exemption for Disabled Persons.* Franchisee shall collect containers from the backyard of a single-family or multi-plex premises occupied by an owner or occupant with a disability within the meaning of the American Disabilities Act at no additional cost.

e. *Application Process.*

1. *Filing of Application.* A customer may file an application with the franchisee for a special rate or service exemption pursuant to subsections 21-20-4(c) and 21-20-4(d). The occupant must consent to an unscheduled on-site inspection by the franchisee of occupant's solid waste, recyclable materials, and organic materials in order to qualify for the organic materials discount or any service exemption.

2. *Review of Application.* The franchisee shall inspect each applicant's property, and the applicant's solid waste, recyclable materials, and organic materials. Franchisee shall complete this review within fifteen (15) business days of receipt of an application.

3. *Notification of Acceptance or Denial of Application.* Franchisee shall notify an applicant of the acceptance or denial of his/her application within twenty (20) business days of receipt of that application. Upon approval of a special rate or service exception, the franchisee shall notify the Public Works Director in writing.

4. *Duration of Special Rate or Service Exception or Exemption.* Any special rate or service exemption shall be effective for one (1) year from approval, unless service is stopped and new service is started at the premises or the circumstances that justified the special rate or service exception change. The Public Works Director may extend a special rate or service exemption for additional periods of one (1) year without further application upon receipt of certification from Customer that the circumstances justifying the special rate or service exemption have not changed. If those circumstances change, it shall be the responsibility of the owner or occupant to notify franchisee of changed circumstance and to initiate regular solid waste, recyclable materials, or organic materials collection service in accordance with the provisions of subsection 21-2.1. The Public Works Director or franchisee may review any special rate or service exemption upon receipt of evidence that such special rate or service exemption is no longer justified.

5. *Appeals.* An applicant may appeal a denial of a special rate or service exemption as described in subsections 21-20.4(c) and 21-20.4(d) by filing a notice of appeal with the City Clerk not later than ten (10) business days after the applicant was provided written notice of the decision. The notice of appeal shall be in a form prescribed by the Public Works Director and shall state why the applicant believes the denial does not comply with this section. The Public Works Director shall decide the appeal within thirty (30) calendar days of its filing, unless he or she continues that decision for good cause. The Public Works Director shall notify the applicant in writing of his or her decision within three (3) business days.

f. *Violations.* Violation of any provision of this section other than by the franchisee, the City or its employees, shall be punishable as an infraction pursuant to subsection 1-5.1 of the Alameda Municipal Code.

21-20.5 Billings and Penalties.

a. *General.* The franchisee shall bill each customer at rates that comply with the rate policies and rate ceilings established by the City. Each customer shall timely pay the amount billed. In the event commercial businesses share a container, the franchisee shall either bill one (1) customer for the total cost of the shared collection services or, at the request of the commercial customers sharing the containers, shall bill each customer for the service rate divided by the number of commercial customers sharing the service. Billing disputes shall be handled in accordance with subsection 21-20.7.

b. *Penalties.* Should any customer fail to pay any such bill within thirty (30) days of the invoice date, the franchisee may add a penalty, as established by City policy, and interest to the bill provided such interest shall not exceed the highest rate permitted by applicable law. The sum of the bill plus interest or penalty, together with any collection costs incurred may be recovered by the franchisee, as provided by law. In the event the occupant is the customer of record for a premises and occupant fails to pay such bill, the owner shall be responsible for payment.

21-20.6 Failure to Pay.

a. If a customer fails to pay a bill for 60 days or more, the franchisee shall undertake collection of the bill, including penalties and expenses of collection for one (1) year from the invoice date. Franchisee shall make reasonable efforts to obtain payment through late payment notices, telephone requests for payment, and assistance from collection agencies.

b. In the event franchisee's collection efforts fail and franchisee can demonstrate to the City that franchisee attempted on at least four (4) occasions to collect each delinquent account, the franchisee may assign its rights to the City. The City may send a letter to each delinquent account requesting payment for collection services and stating that, in the event payment is not promptly received, the City will put a lien on the property. If payment is not received, City may initiate and comply with the legal procedure to put a lien on the property. Within thirty (30) calendar days of the City's receipt of payment for past due accounts, the City shall pay those sums to franchisee, less any monies franchisee would be obliged to pay to City hereunder had those sums been received by franchisee in the first instance.

21-20.7 Payment under Protest.

Any customer who contests the amount billed shall pay such charges and file a written protest with the Public Works Director within thirty (30) days of the date the payment was due. Within 30 days of filing, the Public Works Director shall notify the customer of his or her decision. The decision of the Public Works Director may be appealed by any person upon payment of an appeal fee established by the City Council. The City Manager shall finally determine such appeals. The appeal fee shall be refunded to the customer in cases in which the City Manager sustains the appeal.

21-20.8 Performance Review.

At any time, but not more than annually, the City may hold a public hearing which franchisee may be required by City to attend, to review the franchisee's performance and to solicit public comment regarding franchisee's performance under the franchise agreement. The public hearing shall provide for discussion and review of technological, economic, and regulatory changes in order to achieve a continuing, state-of-the-art collection, transportation, processing, and disposal system and to ensure services are provided with adequate quality, effectiveness, and economy. The City may use information obtained from public comment at its discretion.

ARTICLE IV. PERMIT SYSTEM

21-21 PERMIT REQUIREMENTS.

Subsections:

- 21-21.1 Permit Issuance and Term.
- 21-21.2 Permit Requirements.
- 21-21.3 Approval or Denial of Permit.
- 21-21.4 Assignment or Transfer of Permit.
- 21-21.5 Permit Renewal.
- 21-21.6 Collection of Solid Waste, Residential Recyclable Materials, and Residential Organic Materials Prohibited.
- 21-21.7 Appeals.

21-21.1 Permit Issuance and Term.

The Public Works Director shall issue permits for the collection and hauling of recyclable materials, specialty recyclable materials, organic materials and construction and demolition debris in the City as provided in this article. Each permit shall terminate without notice from the City one year after issuance, unless earlier revoked pursuant to Section 21-22. No permit shall be issued unless the applicant satisfies all of the requirements of this article.

21-21.2 Permit Requirements.

a. *Requirements.* To obtain a permit, an applicant must demonstrate ability to comply with the following requirements:

1. Specialty recyclable materials, commercial recyclable materials, commercial organic materials and construction and demolition debris collected shall be separated and taken to a materials recovery facility and processing center where the maximum feasible amount of the materials shall be recycled or otherwise diverted from the waste stream. The Public Works Director shall determine the amount of diversion which is reasonably feasible at the time the application is approved and shall require at least 50% of the materials shall be recycled absent unusual circumstances which warrant a conclusion that this amount of diversion is not feasible for a particular permittee. The Public Works Director shall maintain a list of facilities the City has determined meet this requirement. If an applicant chooses to use an unlisted facility, the applicant shall bear the burden to prove the desired facility meets the diversion requirements of this section.

2. Vehicles used for transport of the materials are licensed and of suitable size and type, and have devices or methods to prevent spillage, overflow, outfall or leakage.

3. The applicant can obtain a bond and insurance in the type and amounts established from time to time by the Risk Manager for this purpose.

4. The applicant agrees to comply with the requirements of Articles IV through VI of this chapter; with all other provisions of the Alameda Municipal Code; and with County, State and Federal laws and regulations as required by subsection 21-21.2(g).

5. The applicant has, or will obtain, a City of Alameda business license.

6. The applicant has relevant collection experience.

b. *Required Application Information.* The applicant shall provide the Public Works Director the following information:

1. Name and legal form of the applicant.
2. Statement of relevant collection experience of company and its personnel.
3. Business address and telephone number of the applicant.
4. The name and location of the material recovery facility where the applicant intends to legally process the specialty recyclable materials, organic materials, and construction and demolition debris.
5. The name and telephone number of the person responsible for responding to inquiries and complaints.
6. If a joint venture, a partnership, limited partnership, or limited liability company, the names of all members, partners and officers, and their percentages of participation and permanent addresses.
7. If a corporation, the names and permanent addresses of each shareholder with greater than a ten percent (10%) ownership in the corporation and his or her percentage of ownership, and the names of all officers.
8. A list of all vehicles to be used in collection or transportation of specialty recyclable materials, recyclable materials, organic materials, and construction and demolition debris. Such list shall identify the following for each vehicle: license plate number; vehicle identification number; vehicle type, make and model; age; carrying capacity; and a description of the method(s), cover, or other features used to prevent spillage, overflow, outfall, leakage, or other escape of materials or liquids from the vehicles.
9. Copy of the vehicle registration issued by the California Department of Motor Vehicles for each vehicle.
10. Statement that the applicant owns or has access to suitable facilities to maintain the collection equipment in a clean and sanitary condition and the address of such facilities.
11. Proof of insurance in the types and amounts specified in subsection 21-21.2(e) below.
12. Bond required in subsection 21-21.2(c) below.
13. A statement that the applicant agrees to comply with requirements of Article IV through VI including, but not limited to, the requirement to indemnify the City required by subsection 21-21.2(d) below and to comply with Local, State, and Federal Laws and Regulations required by subsection 21-21.2(g) below.
14. The applicant's City of Alameda business license number and expiration date.
15. The signature and title of the person submitting the application.
16. Such other facts or information as the Public Works Director may reasonably require.

c. *Bond Required.* Before obtaining a permit under the provisions of this article, the applicant shall post with the City Clerk a bond in an amount reasonably established by the Public Works Director. The bond shall be conditioned upon the full and faithful performance by the permittee of obligations under the applicable provisions of this chapter and shall be kept in full force and effect by the permittee throughout the life of the permit. The bond shall be issued by an insurer admitted to transact surety insurance in the state of California and shall be subject to the approval of the City Attorney as to its form. The bond will also stand as security for the faithful performance of Waste Management Plans where required and may be drawn upon or forfeited to City in payment of any fees or penalties assessed pursuant to subsection 21-24.3.

d. *Indemnification by Permittee.* Before obtaining a permit under the provisions of this article, the applicant shall agree to indemnify and save the City, the Alameda Reuse and Redevelopment Authority, the Alameda Housing Authority and their officers, employees and agents (hereinafter, "indemnitees") harmless of and from all claims, demands, actions or causes of actions of every kind and description resulting directly or indirectly from, arising out of, or in any way connected with, the exercise

of the privileges conferred by permit, including, but limited to, any act or omission of any officer, employee or agent of permittee, and further specifically including any and all liability of the indemnitees arising from permittee's arranging for or disposing of any waste in any disposal site, whether to the U.S. Government, state of California or any other person.

e. *Insurance.* Before obtaining a permit, the applicant shall procure, and maintain for the term of the permit, insurance against claims for injuries to persons (including death) or damage to property which may arise from or in connection with the exercise of the privileges conferred by the permit by the applicant, its agents, representatives, employees or subcontractors as required by the Risk Manager.

f. *Compliance with Motor Vehicle Code.* The permittee's vehicles must comply with the California Motor Vehicle Code, all other applicable California codes, and this chapter.

g. *Compliance with Local, State and Federal Laws and Regulations.* Before obtaining a permit under the provisions of this article, the applicant shall agree to exercise the privileges conferred by the permit in compliance with all ordinances and regulations of the City and applicable laws and regulations and to obtain and keep in force all required permits and licenses.

h. *Additional Prerequisites.* The Public Works Director may require additional prerequisites to the issuance of a permit and such terms and conditions regulating the activities of permittees as the City Council may deem necessary or proper and the City Council may, from time to time, amend this chapter, in which case, such amendments shall be binding upon any permittee as of the effective date of such amendment. Accordingly, issuance of a permit pursuant to this chapter does not grant a vested right to maintain operations in the City free from any newly imposed requirements established by ordinance of the City Council.

i. *Permit Fee.* Prior to issuance or renewal of a permit, the applicant or permittee shall pay fees established by resolution of the City Council.

21-21.3 Approval or Denial of Permit

Within sixty calendar days of receipt of an application for a permit to collect specialty recyclable materials, recyclable materials, organic materials, and construction and demolition debris, the Public Works Director shall review the application submitted by applicant, determine if the application includes all information required by subsection 21-21.2 of this article, and approve or deny the permit.

21-21.4 Assignment or Transfer of Permit.

A permit issued under this article may not be transferred or assigned. Any such transfer or assignment shall be void and the attempted assignment shall result in the revocation of the permit. For the purposes of this section, "transfer" or "assignment" shall include, but not be limited to, (1) a sale, exchange or other transfer of substantially all of permittee's assets dedicated to service under this chapter; (2) a sale, exchange or other transfer to a person that is not an equity holder of twenty percent (20%) or more of the outstanding equity or ownership interests of permittee; (3) any reorganization, consolidation, merger, recapitalization, stock issuance or reissuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction to which permittee or any of its equity holders is a party which results in a change of ownership or control of twenty percent (20%) or more of the value or voting rights in the equity or ownership interests of permittee; and (4) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership.

21-21.5 Permit Renewal.

Any permit issued pursuant to this article must be renewed annually within the sixty (60) days prior to the anniversary of the permit. The permittee shall submit to the Public Works Director its most recent annual report as required by subsection 21-23.9(c), with its request for permit renewal. Renewal shall depend on demonstration of the permittee's continued ability to adhere to the requirements of this section.

21-21.6 Collection of Solid Waste, Residential Recyclable Materials, and Residential Organic Materials Prohibited.

Permittee shall not collect solid waste, residential recyclable materials, or residential organic materials. Permittee shall only collect specialty recyclable materials, commercial recyclable materials and commercial organic materials, from customers with whom Permittee has an agreement pursuant to which customer either receives consideration from the Permittee or from which the Public Works Director reasonably determines are meaningfully distinct from the mixed recyclable materials collected from Premises in the City. Permittee shall only collect construction and demolition debris from commercial customers with whom it has such an agreement and only with respect to projects that the Building Official reasonably determines to have a construction cost of \$100,000 or more. Each such customer shall separate construction and demolition debris, specialty recyclable materials, other recyclable materials and organic materials from solid waste.

21-21.7 Appeals.

An applicant may appeal a decision of the Public Works Director to deny, approve, conditionally approve or renew a permit by filing a notice of appeal with the City Clerk not later than the sixth (6th) calendar day following issuance of written notice of the Public Works Director decision. The notice of appeal shall be in a form prescribed by the Public Works Director, shall state why the applicant believes the Public Works Director's decision to deny, approve, or conditionally approve the permit does not comply with this article, and the relief requested. The appeal shall be heard and finally decided by the City Manager within thirty (30) calendar days unless continued by the City Manager for good cause. The City Manager shall notify the applicant of his or her decision in writing within five (5) business days of the decision.

21-22 PERMIT REVOCATION.

Subsections:

21-22.1 Conditions and Procedures for Revocation.

21-22.2 Hearing for Noncompliance.

21-22.1 Conditions and Procedures for Revocation.

a. *Conditions.* A permit shall be revoked by Public Works Director if:

1. There is a change of ownership of more than twenty percent (20%) (other than to a person that already owns an equity or ownership interest in permittee) or management control of permittee, unless approval therefore has been obtained in writing from the Public Works Director; or,

2. The permittee has not complied with the provisions of this chapter or other applicable statutes, ordinances, rules and regulations.

b. *Procedure.* The Public Works Director shall have authority to hear complaints against any person representing or employed by the permittee, receive complaints of: discourteous, insolent or threatening conduct; violation of any sanitary regulations; or violations of this article by the permittee and may revoke a permit if the conditions of this subsection for revocation are proven after hearing under this section.

c. *Notice and Appeal.* The Public Works Director shall notify the permittee in writing of any revocation or of any finding of noncompliance. If the Public Works Director finds a permittee out of compliance but does not order revocation of the permit, she or he shall order the permittee to come into compliance within thirty (30) days. Any determination by the Public Works Director under this subsection 21-22.1 may be appealed pursuant to subsection 21-21.7.

21-22.2 Hearing for Noncompliance.

Prior to ordering compliance or revoking a permit under subsection 21-22.1, the Public Works Director shall notify the permittee in writing of the alleged noncompliance or basis for revocation and of the time and place for a hearing on those allegations. After affording the permittee reasonable opportunity to respond to the allegations, the Public Works Director shall determine on the basis of available evidence whether or not the permittee is in compliance with this chapter and, if not, whether revocation of the permit is appropriate. If the Public Works Director only orders the permittee to correct the noncompliance, and the permittee fails to do so within thirty (30) days of written notice, after further hearing, the Public Works Director may revoke the permit pursuant to subsection 21-22.1 or take such other action as he or she shall reasonably determine.

ARTICLE V. FRANCHISEE'S AND PERMITTEES' OBLIGATIONS.

21-23 FRANCHISEE'S AND PERMITTEES' OBLIGATIONS.

Subsections:

- 21-23.1 Properties, Facilities, Equipment, Etc.**
- 21-23.2 Care of Private Property.**
- 21-23.3 Hours of Collection.**
- 21-23.4 Specifications and Restrictions on Collection Vehicles.**
- 21-23.5 Use of Vehicles.**
- 21-23.6 Deposit of Contents of Containers; Delivery of Contents of Vehicles.**
- 21-23.7 Maintenance of Containers.**
- 21-23.8 Franchisee's and Permittees' Employees.**
- 21-23.9 Required Reporting and Record Keeping.**
- 21-23.10 Retention of Records.**
- 21-23.11 Inspection Availability.**
- 21-23.12 Cooperation with City-Initiated Studies.**
- 21-23.13 Payment of Fees.**

21-23.1 Properties, Facilities, Equipment, Etc.

Franchisee and each permittee shall maintain all of their respective properties, facilities and equipment used in providing service in accordance with this chapter in a safe, neat, clean and operable condition at all times. Nothing in this Section 21-23 shall be interpreted to interfere with the exclusive rights of the franchisee as set forth in this chapter or in a franchise agreement.

21-23.2 Care of Private Property.

a. Franchisee and each permittee shall ensure that their respective employees close all gates opened in making collections, unless otherwise directed by the owner or occupant, and shall not cross landscaped areas or climb or jump over hedges and fences in the provision of any collection service. The City shall refer complaints about damage to private property to franchisee or permittee. Franchisee or permittee, as appropriate, shall repair all damage to private property caused by its employees.

b. Franchisee and each permittee shall use due care when handling solid waste, recyclable materials, organic materials, specialty recyclable materials, and construction and demolition debris containers. Containers shall not be thrown from trucks, roughly handled, damaged or broken. Franchisee and permittees shall return containers to the collection point upright, with lids properly secured.

21-23.3 Hours for Collection.

a. *Residential Premises.* Collection from residential premises and from non-residential premises within two hundred feet (200') of residential premises may occur only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. In the event of an unforeseen circumstance, the franchisee may collect from such premises between the hours of 6:00 a.m. and 10:00 p.m., Monday through Friday upon approval of the Public Works Director.

b. *Commercial Premises.* Collection from commercial premises more than two

hundred feet (200') from residential premises may occur between the hours of 5:30 a.m. and 10:00 p.m.

21-23.4 Specifications and Restrictions on Collection Vehicles.

All vehicles used for collection within the City shall comply with the following:

a. They shall be completely enclosed with a rigid, nonabsorbent cover while transporting solid waste, recyclable materials, organic materials, specialty recyclable materials, or construction and demolition debris in or through the City unless the Public Works Director reasonably determines that a tarp or other non-rigid cover will accomplish the purposes of this provision in light of the nature materials to be hauled. Solid waste, recyclable materials, organic materials, specialty recyclable materials, or construction and demolition debris shall not be visible from the street nor shall any substances be permitted to leak, spill or become deposited along the public streets.

b. They shall be identified by permittee's or franchisee's name, local telephone number, and unique vehicle identification number prominently displayed in figures no less than 2-1/2" high.

21-23.5 Use of Vehicles.

The franchisee and each permittee shall operate privately-owned solid waste, recyclable materials, organic materials, specialty recyclable materials, or construction and demolition debris vehicles in accordance with all Federal, State and local laws, permits and regulations and shall also abide by the following:

a. No person shall park trucks loaded with solid waste, recyclable materials, organic materials, specialty recyclable materials, or construction and demolition debris on City streets for more than four (4) hours.

b. Franchisee and each permittee shall ensure that each vehicle carries, in a readily accessible location, the vehicle registration, certificate of insurance card and an identification card with the name of a person to contact in case of an accident. Each vehicle shall also be equipped with a five-pound fire extinguisher certified by the California State Fire Marshal.

c. Franchisee and each permittee shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles that are not operating properly shall not be used to provide service until repaired.

d. Franchisee and each permittee shall perform all scheduled maintenance for vehicles and other equipment in accordance with the manufacturer's specifications and schedule.

e. Franchisee and each permittee shall keep accurate records of all vehicle inspections and maintenance, recorded according to date and mileage, and shall make such records available to the Public Works Director upon request.

f. Franchisee and each permittee shall furnish the Public Works Director a written inventory of all vehicles, including collection vehicles, used in providing service and shall update the inventory annually. For each vehicle, the inventory shall list the vehicle manufacturer, vehicle identification number, date of acquisition, type, capacity and decibel rating.

21-23.6 Deposit of Contents of Containers; Delivery of Contents of Vehicles.

The franchisee and each permittee shall deposit the contents of all solid waste, recyclable materials, organic containers, specialty recyclable materials, and construction and demolition debris directly into the vehicle provided therefor and shall process or dispose of the contents of such vehicle on the day of collection.

21-23.7 Maintenance of Containers.

Franchisee and each permittee shall be responsible for repair and maintenance of all its containers provided to customers. Franchisee and each permittee shall be responsible for periodically cleaning its containers, except its carts, so that such containers are sanitary and have a clean and neat appearance. Customers using carts shall be responsible for cleaning carts so that they are sanitary and have a clean and neat appearance.

21-23.8 Franchisee's and Permittees' Employees.

a. *General.* Franchisee and each permittee shall employ only competent, qualified, sober and drug-free persons who serve the public in a courteous, helpful and impartial manner.

b. *Non-Discrimination.* Franchisee shall hire employees without regard to race, religion, color, national origin, sex, political affiliation, or any other non-merit factor.

c. *Licenses.* Any employee driving the franchisee's or permittees' vehicles shall have in his or her possession at all times a valid and appropriate vehicle operator's license issued by the State of California.

d. *Training.* Franchisee and each permittee shall provide suitable operational and safety training for all employees who operate vehicles or equipment. Franchisee and each permittee shall train employees involved in solid waste, recyclable materials, organic materials, specialty recyclable materials, or construction and demolition debris collection to identify, and not to collect, unacceptable waste.

e. *Supervision.* Franchisee and each permittee shall designate one qualified employee as supervisor of field operations within the City. Unless otherwise approved by the Public Works Director upon a showing of impracticality or hardship, the field supervisor will devote his or her time in the field checking on collection operations, and responding to complaints.

21-23.9 Required Reporting and Record Keeping.

Franchisee and each permittee shall provide full, complete and accurate reports and records listed below that shall be subject to review and reproduction by the Public Works Director.

a. *Daily Records.* Franchisee and permittee shall record on a daily basis the quantities of solid waste, recyclable materials, organic materials, specialty recyclable materials, and construction and demolition debris collected, and shall retain receipts documenting the delivery of all materials to material recovery facilities and processing sites.

b. *Quarterly Reports.* On or before January 15, April 15, July 15, and October 15 of each year, each permittee shall submit quarterly reports to the Public Works Director. The quarterly report shall provide information regarding permittee's collection operations in the City including, but not limited to:

1. Monthly tonnage of construction and demolition debris, specialty recyclable materials or recyclable materials collected by the permittee in the City by material type, listed separately for residential and commercial customers;
2. The quantity of each type of construction and demolition debris collected;
3. The quantities of each type of material diverted from a disposal site;
4. Names of the materials recovery facilities and processing sites to which the materials were delivered and the quantities of materials delivered to each; and,
5. Customer account summary, listing the number of customers by material

type collected, container size, frequency of pickup and commercial or residential customer.

c. *Annual Reports.* On or before January 15 of each year, permittee shall submit an annual report to the Public Works Director. The annual report shall provide information regarding permittee's collection operations in the City including, but not limited to:

1. All information required by the quarterly reports as described in subsection 21-23.9(b).

2. A written inventory of vehicles as required by subsection 21-23.5(f).

d. *Franchise Agreement.* Franchisee shall provide reports as required in the franchise agreement.

e. *Other Records.* Other records shall be maintained pursuant to this section as may be necessary to assist the City in meeting its obligations under the California Integrated Waste Management Act of 1989.

21-23.10 Retention of Records.

Franchisee and permittees shall keep and preserve all records required under this article, or any other similar records or reports that the Public Works Director deems, in his or her sole discretion, necessary to evaluate franchisee's and permittees' performance under this chapter for five (5) years after termination or expiration of the franchise or permit.

21-23.11 Inspection Availability.

The Public Works Director shall have the right to inspect, review, and reproduce the documents and records required pursuant to this article. The records shall be made available for unannounced, onsite inspection during regular business hours.

21-23.12 Cooperation with City-Initiated Studies.

Franchisee and each permittee shall cooperate with the Public Works Director in performance of City-initiated studies of solid waste, recyclable materials, organic materials, specialty recyclable materials, or construction and demolition debris such as, but not limited to, waste characterization and composition studies.

21-23.13 Payment of Fees.

a. Franchisee and each permittee shall remit to City all fees established by the City on or before the twentieth (20th) day of each month. If such remittance is not paid to the City on or before the twentieth (20th) day of any month, franchisee and permittee shall pay in addition to the amount owed to City a penalty of two percent (2%) of the amount owing for that month. Franchisee and each permittee shall pay as a further penalty an additional two percent (2%) owing on any unpaid balance for each following thirty (30) calendar day period the fee remains unpaid.

b. Each monthly remittance submitted shall be accompanied by a statement itemizing each fee paid, detailing calculation of all fees.

ARTICLE VI. WASTE MANAGEMENT PLANS.

21-24 WASTE MANAGEMENT PLANS.

Subsections:

- 23-24.1 Projects Subject to WMP Requirement.
- 23-24.1A Submission of Waste Management Plans.
- 23-24.2 Approval/Non-Approval of Waste Management Plans.
- 23-24.3 Compliance with Waste Management Plans.
- 23-24.4 Infeasibility Exemption.
- 23-24.5 Appeal.

23-24.1 Projects Subject to Waste Management Plan (WMP) Requirement.

a. *Mandatory Compliance.* All projects within the City, including City-sponsored projects, which the City reasonably determines will cost \$100,000 or more to construct shall be subject to the WMP requirement of subsection 21-24.-1A. Failure to comply with any of the terms of this chapter shall be punishable as an infraction pursuant to subsection 1-5.1 of this Code. For purposes of this provision, one or more permits for construction or demolition issued within a short period of time (as for example, the time between the application for the initial approval and the issuance of a certificate of occupancy or final inspection approval for that initial approval) and with respect to the same premises or with respect to multiple premises owned by the same person shall be deemed a single "project" unless the Building Official determines that treating such permits as involving multiple projects will not obstruct the accomplishment of the purposes of this chapter.

b. *Voluntary Compliance.* Applicants for permits for construction, demolition, and renovation Projects which the Building Official reasonably determines will less than \$100,000 to construct shall be encouraged to divert at least fifty percent (50%) of all project-related construction and demolition debris. Such applicants shall be required to make a good faith effort toward diversion.

c. *Compliance as a Condition of Approval.* Compliance with the provisions of this Article shall be a condition of approval on any building or demolition permit issued by the City and the Building Official shall provide the applicant written notice of that fact.

21-24.1A Submission of Waste Management Plans.

a. *WMP Forms.* Applicants for building or demolition permits valued at more than \$100,000 shall complete and submit a Waste Management Plan ("WMP") on a form approved by the Public Works Director. Applicants certifying that they have employed the services of a franchisee holding a franchise under Section 21-20 shall be exempt from the filing of a WMP but shall meet the standards of Section 21-24.3 of this chapter. A completed WMP shall indicate all of the following:

1. the estimated volume or weight of C&D debris, by materials type, to be generated;

2. the maximum volume or weight of such materials that can feasibly be diverted via reuse or recycling;
3. the vendor or facility that the C&D Applicant proposes to use to collect or receive that material; and
4. the estimated volume or weight of C&D materials that will be sent to a disposal site.

b. *Calculating Volume and Weight of Debris.* In estimating the volume or weight of materials identified in the WMP, the C&D Applicant shall use Conversion Rates approved by the City for this purpose.

21-24.2 Approval/Non-approval of Waste Management Plans.

a. *Approval.* No building or demolition permit shall be issued for any Project valued at more than \$100,000 unless the applicant has identified the franchisee as his or her hauler or until the Public Works Director has approved the WMP or an exemption from the WMP requirement. Approval shall not be required, however, where demolition is urgently required to protect public health or safety. The Public Works Director shall only approve a WMP if he or she determines that the following conditions have been met:

1. the WMP provides all of the information required by subsection 21-24.1A of this Article;
2. the WMP indicates that at least fifty percent (50%) of all C&D debris generated by the Project, measured by weight or volume as the Public Works Director shall determine in granting the approval, will be diverted from disposal sites; and
3. the Franchisee or Permittee to be employed by C&D Applicant to collect or receive the material has obtained a permit pursuant to subsection 21-21.1 and submitted the bond required by subsection 21-21.2.

In approving a WMP pursuant to this Section, the Public Works Director may impose reasonable conditions.

b. *Non-approval.* If the Public Works Director determines that the WMP is incomplete or fails to indicate that at least fifty percent (50%) of all C&D debris generated by the Project will be reused or recycled, he or she shall either:

1. Deny the permit and provide the C&D Applicant a statement of reasons,
- or
2. Return the WMP to the C&D Applicant requesting additional information.

21-24.3 Compliance with Waste Management Requirements.

a. *Documentation.* Within 30 days after the completion of any Project, the C&D Applicant shall submit to the Public Works Director documentation that it has met the Diversion Requirement for the Project. This documentation shall include all of the following:

1. Receipts from the vendor or facility that collected or received each material, showing the actual weight or volume of that material;
2. A copy of the WMP for the Project to which has been added the actual volumes or weights of each material diverted and not diverted from disposal sites;
3. Any additional information the C&D Applicant believes is relevant to determining its efforts to comply in good faith with this Article VI.

b. *Weighing of Wastes.* C&D Applicants shall make reasonable efforts to ensure that all C&D debris diverted or not diverted from disposal sites is measured and recorded using

the most accurate method of measurement available. To the extent practical, all C&D debris shall be weighed on scales that comply with all regulatory requirements for accuracy and maintenance. For C&D debris for which weighing is not practical due to small size or other considerations, the C&D Applicant shall measure the volume of the waste and express that volume in terms of weight using the Conversion Rates approved by the City for this purpose.

c. *Determination of Compliance:* The Public Works Director shall review the information submitted under subsection (a) of this Section and determine whether the C&D Applicant has complied with the Diversion Requirement, as follows:

1. *Full Compliance.* If the Public Works Director determines that the C&D Applicant has fully complied with the Diversion Requirement, he or she shall release the Performance Security with respect to the Project.

2. *Good Faith Effort to Comply.* If the Public Works Director determines that the Diversion Requirement has not been achieved for a Project, he or she shall determine whether the C&D Applicant has made a good faith effort to comply with this Article VI. In making this determination, the Public Works Director shall consider the availability of markets for the C&D debris not diverted from disposal sites, the size of the Project, and the documented efforts of the C&D Applicant to divert C&D debris. If the Public Works Director determines that the C&D Applicant has made a good faith effort to comply with this Article, he or she shall release the Performance Security with respect to the Project.

3. *Noncompliance.* If the Public Works Director determines that the C&D Applicant has not made a good faith effort to comply with this Article, or if the C&D Applicant fails to submit the documentation required by subsection (a) of this subsection within the required time period, then the C&D Applicant shall be assessed a fine and penalty in an amount annually established by the Public Works Director for each ton of material that was to be diverted as set forth in the WMP, but was not demonstrated by C&D Applicant to have been diverted. The Public Works Director may collect the penalty from the C&D Applicant or from the Franchisee or Permittee or may deduct it from the bond posted by the Franchisee or Permittee pursuant to subsection 21-21.2.

d. *Withholding Construction Permits for Non-Compliance.* The Building Official shall not issue a certificate of occupancy or a final inspection approval pursuant to the building code of the City for any project for which a C&D Applicant is not in compliance with this article unless that non-compliance has been resolved by payment of the penalty provided in paragraph (c)(3) of this subsection.

e. *Compliance Requirements for Franchisee.* C&D debris hauled by a franchisee holding a franchise under Section 21-20 is exempt from the requirement of a WMP under Section 21-24.1A(a), but must nonetheless be handled so as to divert from disposal sites at least 50% of the C&D debris by weight or volume, as determined by the Public Works Director, unless an exemption is granted pursuant to Section 21-24.4. Failure of the C&D Applicant or a franchisee to attain the 50% diversion requirement or a lesser requirement established pursuant to Section 21-24.4 shall be subject to the penalties and other remedies provided by this chapter for violation of the diversion requirement of a WMP, including withholding of a certificate of occupancy or final inspection approval from the C&D Applicant or penalizing the franchisee and liquidating that penalty by resort to any bond submitted by franchisee pursuant to this chapter.

21-24-4 Exemption.

a. *Application.* If a C&D Applicant experiences unique circumstances that the he or she believes make it infeasible to comply with the Diversion Requirement, the C&D Applicant may apply for an exemption at the time that he or she submits the WMP required under

subsection 21-24.1. The C&D Applicant shall indicate the maximum diversion rate he or she believes is feasible for each material and the specific circumstances that he or she believes make it infeasible to comply with the Diversion Requirement.

b. *Meeting with Public Works Director.* The Public Works Director shall review the information supplied by the C&D Applicant and may meet with the C&D Applicant to discuss ways to meet the Diversion Requirement. Based on the information supplied by the C&D Applicant, the Public Works Director shall determine whether it is possible for the C&D Applicant to meet the Diversion Requirement.

c. *Granting of Exemption.* If the Public Works Director determines that it is infeasible for the C&D Applicant to meet the Diversion Requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate this rate on the WMP.

d. *Denial of Exemption.* If the Public Works Director determines that it is possible for the C&D Applicant to meet the Diversion Requirement, he or she shall so inform the C&D Applicant in writing. The C&D Applicant shall have 30 days to resubmit a WMP in full compliance with subsection 21-24.1A.

e. *Denial for Failure to Resubmit.* If the C&D Applicant fails to resubmit the WMP, or if the resubmitted WMP does not comply with subsection 21-24.1A, the Public Works Director shall deny the WMP.

21-24.5 Appeal.

A Franchisee, Permittee or C&D Applicant may appeal a decision of the Public Works Director to deny, approve, or conditionally approve a WMP, to determine compliance or non-compliance with a WMP or to determine eligibility for an Infeasibility Exemption by filing a notice of appeal with the City Clerk not later than six (6) calendar days following issuance of the Public Works Director's decision. The notice of appeal shall be in a form prescribed by the Public Works Director, shall contain a statement of the reasons why the appellant believes the Public Works Director's decision or determination does not comply with this section, and shall set forth the relief requested. The appeal shall be heard and finally decided by the City Manager within thirty (30) calendar days following the filing of the notice of appeal, unless continued by the City Manager for good cause. The City Manager shall notify the appellant in writing of his or her decision within three (3) business days.

Section 2. This ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Section 3. The City Council of the City of Alameda hereby declares that it would have adopted each and every provision of this Ordinance notwithstanding the fact that any other provision hereof might later be declared unenforceable and to that end the provisions of this Ordinance are severable. The provisions of this Ordinance shall be construed to the extent possible to be constitutional, not preempted by prevailing state or federal legislation and otherwise lawful. If such construction is not possible, then the offending provision shall be severed from the remainder of this ordinance, which remainder shall be enforced to the fullest extent of the City's legal authority.

Section 4. City of Alameda Ordinance No. _____, "Urgency Ordinance Adopting Ordinance No. _____ Which Repeals and Replaces Chapter XXI (Solid Waste and Recycling) of Alameda Municipal Code and Making Said Ordinance Effective on October 6, 2002", adopted by the City Council on September 17, 2002, is hereby repealed.

Presiding Officer of the Council

Attest:

City Clerk

* * * * *

10/08/02 4:21 (G\Colantuono\Solid Waste Ordinance)