

ORDINANCE NO. 576-01

**AN ORDINANCE OF THE CITY OF UNION CITY
ADDING CHAPTER 15.75 TO THE UNION CITY MUNICIPAL CODE
AND AMENDING CHAPTER 7.04 OF THE UNION CITY MUNICIPAL CODE
~~TO REQUIRE RECYCLING OF WASTE FROM CONSTRUCTION SITES~~
(CONSTRUCTION AND DEMOLITION ORDINANCE)**

THE CITY COUNCIL OF THE CITY OF UNION CITY DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 15.75 is hereby added to the Union City Municipal Code, as shown on Exhibit A attached hereto and made a part hereof as if fully set forth,

SECTION 2. The amendments to Chapter 7.04 are hereby created as shown in Exhibit B attached hereto and made a part hereof as if fully set forth,

SECTION 3. This Ordinance shall take effect immediately upon the effective date of a Service Agreement for Solid Waste Collection, Disposal and Recycling Services, or January 1, 2003, whichever is sooner. Before the expiration of fifteen (15) days after its passage, this Ordinance shall be published once on THE ARGUS, a newspaper of general circulation, printed and published in the County of Alameda and circulated in the City of Union City.

Chapter 15.75

CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING

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15.75.010 PURPOSES

It is the purpose of this chapter to regulate the disposal of debris from construction and demolition projects within the city and to divert such debris from landfill. This chapter establishes a requirement for submitting a Waste Management Plan when applying for building or demolition permits when the construction or demolition projects meets the requirements of this chapter.

15.75.020 AUTHORITY FOR ADOPTION

This Chapter is adopted under the authority of California Waste Management Act of 1989,(Assembly Bill 939) and Alameda County Waste Reduction and Recycling Act of 1990 (Measure D).

15.75.030 DEFINITIONS

For the purposes of this Chapter, the following definitions shall apply:

- a. "Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City.
- b. "Construction" means the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.

c. "Construction and Demolition Debris" means used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure.

d. "Conversion Rate" means the rate set forth in the standardized Conversion Rate Table approved by the City pursuant to this Chapter for use in estimating the volume or weight of materials identified in a Waste Management Plan.

e. "Covered Project" shall have the meaning set forth in 15.75.040 of this Chapter.

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

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

h. "Diversion Requirement" means the diversion of at least fifty (50) percent of the total Construction and Demolition Debris generated by a Project via reuse or recycling, unless the Applicant has been granted an Infeasibility Exemption pursuant to Section 15.75.90 of this Chapter, in which case the Diversion Requirement shall be the maximum feasible diversion rate established by the Waste Management Plan Compliance Official for the Project.

i. "Non-covered Project" shall have the meaning set forth in 15.75.040 of this Chapter.

j. "Performance Security" means any performance bond, surety bond, money order, letter of credit, or certificate of deposit submitted to the City pursuant to Section 15.75.060 of this Chapter.

k. "Project" means any activity which requires an application for a building or demolition permit or any similar permit from the City.

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

m. "Renovation" means any change, addition, or modification in an existing structure.

n. "Reuse" means further or repeated use of Construction or Demolition Debris.

o. "Salvage" means the controlled removal of Construction or Demolition Debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

p. "Waste Management Plan" means a completed Waste Management Plan form, approved by the City for the purpose of compliance with this Chapter, submitted by the Applicant for any Covered or Non-covered Project.

q. "Waste Management Plan Compliance Official" means the designated staff person(s) authorized and responsible for implementing this Article.

15.75.040 THRESHOLD FOR COVERED PROJECTS

a. Covered Projects: All construction, demolition, and renovation projects within the City the total

costs of which are, or are projected to be, greater than or equal to \$100,000 shall comply with this Chapter. For residential remodels, projects which increase the square footage of the building by 50% or more shall also comply with this Chapter. Failure to comply with any of the terms of this Chapter shall subject the Project Applicant to the full range of enforcement mechanisms in Section 15.75.110 set forth below.

b. Non-covered Projects: Applicants for construction, demolition, and renovation projects within the City whose total costs are less than \$100,000 (~~"Non-covered Projects"~~) shall be encouraged to divert at least fifty (50) percent of all project-related construction and demolition debris.

c. City-Sponsored Projects: All City-sponsored construction, demolition, and renovation Projects, whose total costs are equal to or greater than \$100,000, shall be considered "Covered Projects" for the purposes of this Chapter and shall submit a Waste Management Plan to the WMP Compliance Official prior to beginning any construction or demolition activities and shall be subject to all applicable provisions of the Chapter.

d. Compliance as a Condition of Approval: Compliance with the provisions of this Chapter shall be listed as a condition of approval on any building or demolition permit issued for a Covered Project.

15.75.050 SUBMISSION OF WASTE MANAGEMENT PLAN

a. Waste Management Plan Forms: Applicants for building or demolition permits involving any Covered Project shall complete and submit a Waste Management Plan (WMP), on a WMP form approved by the City for this purpose as part of the application packet for the building or demolition permit. The completed WMP shall indicate all of the following: (1) the estimated volume or weight of project 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 vendors or facilities that the Applicant proposes to use to collect or receive that material; and (4) the estimated volume or weight of C&D materials that will be landfilled.

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

c. Deconstruction: In preparing the WMP, applicants for building or demolition permits involving the removal of all or part of an existing structure shall consider deconstruction, to the maximum extent feasible, and shall make the materials generated thereby available for salvage prior to landfilling.

15.75.060 PERFORMANCE SECURITY AND PERMIT FEE

The Applicant for any Covered Project shall submit with the Waste Management Plan (WMP) a Performance Security and Permit Fee. The amount of the Performance Security shall be calculated as the lesser of three (3) percent of total Project cost or \$10,000. Acceptable forms of Performance Security include the following: Performance Bonds; Surety Bonds; Money Orders; Letters of Credit; and Certificates of Deposit. The WMP Compliance Official may waive the Performance Security if the total security required pursuant to this Section would be fifty (50) dollars or less. The amount of the Permit Fee shall be set by the City Council in the Master Fee Schedule.

15.75.070 REVIEW OF WASTE MANAGEMENT PLAN

a. Approval: Notwithstanding any other provision of this Code, no building or demolition permit shall be issued for any Covered Project unless and until the Waste Management Plan (WMP) Compliance Official has approved the WMP. Approval shall not be required, however, where an emergency demolition is required to protect public health or safety. The WMP Compliance Official shall only approve a WMP if he or she first determines that all of the following conditions have been met: (1) the WMP provides all of the information set forth in 15.75.050 of this Chapter; (2) the WMP indicates that at least fifty (50) percent of all C&D debris generated by the Project will be diverted; and (3) the Applicant has submitted an appropriate Performance Security in compliance with Section 15.75.060 of this Chapter.

If the WMP Compliance Official determines that these three conditions have been met, he or she shall mark the WMP "Approved", return a copy of the WMP to the Applicant, and notify the Building Department that the WMP has been approved.

b. Nonapproval: If the WMP Compliance Official determines that the WMP is incomplete or fails to indicate that at least fifty (50) percent of all C&D debris generated by the Project will be reused or recycled, he or she shall either: (1) Return the WMP to the Applicant marked "Denied", including a statement of reasons, and so notify the Building Department, which shall then immediately stop processing the building or demolition permit application, or (2) Return the WMP to the Applicant marked "Further Explanation Required".

15.75.080 COMPLIANCE WITH WASTE MANAGEMENT PLAN

a. Documentation: Within 30 days after the completion of any Covered Project, the Applicant shall submit to the Waste Management Plan (WMP) Compliance Official documentation that it has met the Diversion Requirement for the Project. The Diversion Requirement shall be that the Applicant has diverted at least fifty (50) percent of the total C&D debris generated by the Project via reuse or recycling, unless the Applicant has been granted an Infeasibility Exemption pursuant to 15.75.90 of this Ordinance, in which case the Diversion Requirement shall be the maximum feasible diversion rate established by the WMP Compliance Official for the Project. This documentation shall include all of the following: (1) Receipts from the vendor or facility which collected or received each material showing the actual weight or volume of that material; (2) A copy of the previously approved WMP for the Project adding the actual volume or weight of each material diverted and landfilled; (3) Any additional information the Applicant believes is relevant to determining its efforts to comply in good faith with this Chapter.

b. Weighing of Wastes: Applicants shall make reasonable efforts to ensure that all C&D debris diverted or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all C&D debris shall be weighed by measurement on scales. Such scales shall be in compliance 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, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the Applicant shall use the standardized Conversion Rates approved by the City for this purpose.

c. Determination of Compliance and Release of Performance Security: The WMP Compliance Official shall review the information submitted under subsection (a) of this Section and determine whether the Applicant has complied with the Diversion Requirement, as follows:

(1) Full Compliance: If the WMP Compliance Official determines that the Applicant has fully complied with the Diversion Requirement applicable to the Project, he or she shall cause the full Performance Security to be released to the Applicant.

(2) Good Faith Effort to Comply: If the WMP Compliance Official determines that the Diversion Requirement has not been achieved, he or she shall determine on a case-by-case basis whether the Applicant has made a good faith effort to comply with this Chapter. In making this determination, the WMP Compliance Official shall consider the availability of markets for the C&D debris

landfill, the size of the Project, and the documented efforts of the Applicant to divert C&D debris. If the WMP Compliance Official determines that the Applicant has made a good faith effort to comply with this chapter, he or she shall release the Performance Security, or a portion thereof, to the Applicant. Any portion of the Performance Security not released to the Applicant shall be forfeited to the City, and shall be used for the purposes of promoting recycling within the City.

(3) Noncompliance: If the WMP Compliance Official determines that the Applicant has not made a good faith effort to comply with this Chapter, or if the Applicant fails to submit the documentation required by subsection (a) of this Section within the required time period, then the Performance Security shall be forfeited to the City. All forfeited Performance Securities shall be used for the purposes of promoting recycling within the City.

15.75.090 INFEASIBILITY EXEMPTION

a. Application: If an Applicant for a Covered Project experiences unique circumstances that the Applicant believes make it infeasible to comply with the Diversion Requirement, the Applicant may apply for an exemption at the time that he or she submits the Waste Management Plan (WMP) required under Section 15.75.050 of this Chapter. The Applicant shall indicate on the WMP the maximum rate of diversion he or she believes is feasible for each material and the specific circumstances that he or she believes make it infeasible to comply with the Diversion Requirement.

b. Meeting with WMP Compliance Official: The WMP Compliance Official shall review the information supplied by the Applicant and may meet with the Applicant to discuss possible ways of meeting the Diversion Requirement. Upon request of the jurisdiction, the WMP Compliance Official may request that staff from the Alameda County Waste Management Authority attend this meeting or may require the Applicant to request a separate meeting with Alameda County Waste Management Authority staff. Based on the information supplied by the Applicant and, if applicable, Alameda County Waste Management Authority staff, the WMP Compliance Official shall determine whether it is possible for the Applicant to meet the Diversion Requirement.

c. Granting of Exemption: If the WMP Compliance Official determines that it is infeasible for the Applicant to meet the Diversion Requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate this rate on the WMP submitted by the Applicant. The WMP Compliance Official shall return a copy of the WMP to the Applicant marked "Approved for Infeasible Exemption" and shall notify the Community Development Department that the WMP has been approved.

d. Denial of Exemption: If the WMP Compliance Official determines that it is possible for the Applicant to meet the Diversion Requirement, he or she shall so inform the Applicant in writing. The Applicant shall have 30 days to resubmit a WMP form in full compliance with Section 15.75.050 of this Chapter. If the Applicant fails to resubmit the WMP, or if the resubmitted

WMP does not comply with Section 15.75.070 of this Chapter, the WMP Compliance Official shall deny the WMP in accordance with Section 15.75.070 of this Chapter.

15.75.100 APPEAL

Any person aggrieved by any decision of the Waste Management Plan Compliance may appeal to the City Council by filing a notice of appeal with the Clerk of the City Council within ten days of the notice of the decision by the compliance official. Such appeal shall be heard by the Council which may affirm, amend or reverse the order, or take other action deemed appropriate. The City Clerk shall give written notice of the time and place of the hearing to the applicant. (Ord. 154-76 § 1 (part), 1976)

15.75.110 ENFORCEMENT

a. Violation of any provision of this Chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this Chapter.

b. Violation of any provision of this Chapter shall constitute an infraction punishable by a fine not to exceed \$100 for the first violation, a fine not to exceed \$200 for the second violation within one year, and a fine not to exceed \$500 for each additional violation within one year. There shall be a separate infraction for each day on which a violation occurs. Where the violation is the failure to achieve the Diversion Requirement applicable to the Project and the C & D materials from the Project have already been landfilled, the violation shall be deemed to have ceased after a period of ten days. The City shall recover costs and attorneys' fees incurred in connection with enforcement of this Chapter.

c. Enforcement pursuant to this section shall be undertaken by the City through its Community Development Director and the City Attorney.

Chapter 7.04

SOLID WASTE MANAGEMENT

Article I. Introduction and Definitions

7.04.010 Legislative policy.

The City Council does find and determine that the storage, accumulation, collection and disposal of solid waste is a matter of great public concern, in that improper control of such matters creates a public nuisance, can lead to air pollution, fire hazards, illegal dumping, insect breeding and rodent infestation and other problems affecting the health, welfare and safety of the residents of this and surrounding cities.

The City Council also finds that a residential curbside recycling program, a multifamily residential recycling program, a commercial and industrial recycling program, residential yard waste program, and a construction and demolition debris diversion program are necessary for the city to achieve the diversion goals mandated by the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq.) and that failure to comply with this mandate exposes the City and its residents to substantial fines and additional costs. (Ord. 433-94 § 3 (part), 1994)

7.04.020 Definitions.

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

1. "Americans with Disabilities Act (ADA)" means Public Law 101-336, 104 Stat. 327, 42 U.S.C. 12101-12213 and 27 U.S.C. 225 and 611, and all federal rules and regulations relating thereto.
2. "Animal waste(s)" means any carcass, manure, fertilizer, or any form of solid excrement produced by any and all forms of domestic or commercial livestock such as cattle or horses, but not including household pets.
3. "Bulky waste" means discarded, large household appliances, furniture, tires, carpets, mattresses, and similar large items which require special handling due to their size, but can be collected without the assistance of special loading equipment (such as forklifts and cranes) and without violating vehicle load limits. It does not include abandoned vehicles.
4. "City" means the City of Union City, a municipal corporation, and all the territory lying within the municipal boundaries of the City as presently existing or as such boundaries may be modified.
5. "City Council" means the Mayor and City Council of the City of Union City.
6. "City Manager" means the City Manager of the City of Union City or City Manager's designee.
7. "Collection" means the Collection of solid waste and its transportation to a disposal site; yard waste and its transportation to a processing facility; ~~and~~, recyclable material

and its transportation to a materials recovery facility; and construction and demolition debris and its transportation to a materials recovery facility or other facility.

8. "Commercial and industrial premises" means 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 premises which are permitted under applicable zoning regulations and are not the primary use of the property.

9. "Construction and demolition debris" means used or discarded construction materials removed from a premises during the construction or renovation of a structure resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings, and other structures. Construction and demolition debris is not required to be offered for collection by the solid waste franchisee if it is legally collected by some alternate means. Such alternate means shall include, without limitation, collection by a person operating pursuant to a permit for the collection and processing of construction and demolition debris issued by the City pursuant to Article IV of this chapter.

10. "Container" means an approved container used for the disposal and storage of solid waste, yard waste and recyclable material.

11. "Designated waste" means nonhazardous solid waste which may pose special disposal problems because of its potential to contaminate the environment and which may be disposed of in a Class II disposal site, or Class III disposal site pursuant to a variance issued by the Department of Health Services. Designated waste consists of those substances classified as designated waste by the State of California, in 23 California Code of Regulations Section 2522.

12. "Disposal" means the final disposition of solid waste at a landfill or other facility approved by the City.

13. "Disposal agreement" means the agreement between Oakland Scavenger Company and the City for disposal of solid waste.

14. "Disposal site" means the solid waste facility or facilities approved by the City for the ultimate disposal of solid waste.

15. "Hazardous waste" means an substances defined as hazardous waste, acutely hazardous waste or extremely hazardous waste by the State of California in Health and Safety Code Sections 25110.02, 25114, and 25117 or in future amendments to or recodifications of such statutes, or identified and listed as hazardous waste by the U.S. Environmental Protection Agency, pursuant to the Federal Resource Conservation and Recover Act (42 USC Section 6901 et seq.), and an future amendments thereto.

16. "Infectious waste" means wearing apparel, bedding or biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities, residential premises and other places where highly infectious or contagious diseases have been present, and other premises which are identified in Health and Safety Code Section 25117.5

17. "Litter" means any quantity of uncontainerized paper, metal, plastic, glass or miscellaneous solid waste which may be characterized as trash, debris, rubbish, refuse, garbage or junk.

18. "Materials recovery facility (MRF)" means a permitted solid waste facility where solid wastes or recyclable material are sorted or separated, by hand or by use of machinery, for the purposes of recycling.

19. "Multifamily residential premises" means a complex of dwelling units consisting of five units or more used for residential purposes regardless of whether the resident therein is transient, temporary or permanent.
20. "Nonputrescible waste" means solid waste which is not organic and subject to decomposition by micro-organisms.
21. "Occupant" means and includes every owner of, ~~and every tenant or person who is in possession of, is the inhabitant of, or has the care and control of, an inhabited residence or a place of business.~~ a premises, tenant of a premises, and person who has possession of, inhabits, or exercises care and control over a premises.
22. "Permittee" means any ~~recyclable material~~ collector authorized by City of Union City permit to collect recyclable material and/or construction and demolition debris.
23. "Person" means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of Alameda and special purpose districts.
24. "Premises" means any land or building where solid waste is generated or accumulated.
25. "Private property" means and includes, but is not limited to the following owned by private individuals, firms, corporations, institutions or organizations: yards, grounds, driveways, parking areas, passageways, working areas, storage areas, vacant lots and structures.
26. "Processing facility" means a facility to which residential yard waste is brought to be processed into compost, mulch or another soil amendment.
27. "Public property" means and includes, but is not limited to, the following: streets, street medians, catch-basins, sidewalks, lanes, alleys, public rights-of-way, public parking lots, school grounds, parks, and other publicly-owned grounds.
28. "Putrescible waste" means solid waste which is organic and subject to decomposition by micro-organisms.
29. "Recyclable material" means domestic, commercial or industrial by-products of some potential economic value when separated, set aside, handled, packaged or offered for collection by the waste generator in a manner different from solid waste.
30. "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting recyclable material which would otherwise be disposed of in a landfill and returning them to the economy in the form of raw materials for new, reused or reconstituted products.
31. "Recycling franchisee" means that company that has been awarded the nonexclusive recyclable material collection agreement by the City Council.
32. "Refuse" means putrescible and nonputrescible solid waste or debris, except sewage, whether combustible or noncombustible. For the purposes of this chapter, refuse does not include recyclable material or yard waste.
33. "Residential premises" means property used for residential purposes, irrespective of whether such dwelling units are rental units or owner occupied. No place used primarily for business purposes shall be considered as a residential unit.
34. "Residential solid waste" means solid waste originating from single-family or multiple-family dwellings.
35. "Single-family dwelling unit" means a residential premises consisting of not more than five units.

36. "Solid waste" means all putrescible and nonputrescible residential refuse, commercial solid waste, yard waste and as otherwise defined in Public Resources Code §40191. Any material that a generator pays to be hauled away shall be defined to be solid waste and not a recyclable material. Solid waste which is not required to be offered for collection includes:

a. Hazardous waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with Section 25800) of Division 20 of the Health and Safety Code;

b. Medical waste which is regulated pursuant to the Medical Waste Management Act (Chapter 6.1 (commencing with Section 25015) of Division 20 of the Health and Safety Code), provided that the medical waste, whether treated or untreated, is not disposed of at a solid waste facility. Medical waste which has been treated and which is deemed to be solid waste shall be regulated pursuant to this division;

c. Construction or demolition debris or yard trimmings which are not offered by the individual or contractor performing the work and which may be legally collected and disposed of by some alternate means;

d. Salvageable materials as may be accumulated for collection by youth, civic and charitable entities and salvageable materials purchased by junk collectors who do not collect such materials for purposes of disposal or recycling.

37. "Solid waste franchisee" means that company that has been awarded the solid waste collection and the yard waste collection franchise by the City Council.

38. "Source separated" means the segregation, by the waste generator, of materials designated for separate collection for some form of materials recovery or special handling.

39. "Transfer facility" means that facility used to receive solid wastes, temporarily store, separate, convert, or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport.

40. "Tri-Cities Recycling and Disposal Facility" means the landfill located at 7010 Auto Mall Parkway, Fremont, currently permitted as a Class III landfill (previously named the Durham Road Sanitary Landfill).

41. "Waste generator" means any person, as defined by Section 40170 of the Public Resources Code, whose act or process produces solid waste as defined in Resources Code Section 40191, or whose act first causes solid waste to become subject to regulation.

42. "Yard waste" means tree trimmings, grass cuttings, dead plants, leaves, branches and dead trees (not more than six inches in diameter) including Christmas trees and similar materials separated, set aside, handled, packaged or offered for collection by the waste generator. (Old. 433-94 § 3 (pan), 1994)

Article II. General Regulations

7.04.030 Solid waste collection and disposal and recyclable material collection and processing.

A Collection and Disposal of Solid Waste. All solid waste created, produced or accumulated in or about a dwelling, house or residential premises in the City shall be collected from the premises and disposed of at least once each week. All solid waste created, produced or accumulated at hotels, restaurants, boardinghouses or other commercial and industrial premises

situated in the City shall be removed from the premises at least once a week. The Alameda County Health Department may require a greater number of collections per week. While the City has entered into an exclusive franchise agreement for the collection and disposal of solid waste, there are certain exceptions to that exclusiveness which are described in Article VIII and Section 7.04.130 of this chapter. It is declared to be unlawful and an infraction, for the occupant of any of the above-described premises to fail or neglect to provide for the collection and disposal of solid waste. Each day's violation of this section shall be ~~treated and considered as a separate~~ and distinct offense.

B. **Illegal Disposal of Solid Waste.** It is unlawful for any person in the City to deposit solid waste container(s) upon any street, alley, gutter, parkway, or upon any lot or vacant area or other public place or way unless such solid waste is placed for collection subject to this chapter.

C. **Collection of Recyclable Material.** All recyclable materials placed for collection by an occupant of residential premises in the City shall be collected from the premises at least once each week. The City may enter into a nonexclusive franchise agreement for the collection and processing of recyclable material subject to the provisions of Article IV of this chapter. Nothing in this chapter shall prohibit owner of recyclable material from separating such materials from their solid waste and placing them for collection by a recycler permitted by the City who shall compensate owner for the recyclable material. (Ord. 433-94 § 3 (part), 1994)

7.04.040 Containers.

A. Residential Solid Waste Containers.

1. Prior to January 1, 1995, it shall be the duty of every occupant of residential premises to provide and maintain containers in a clean and sanitary condition as herein specified for the accumulation and disposal of solid waste. All container or containers used for the reception, removal and disposal of solid waste should be water tight, constructed of a material of suitable strength and durability and shall be tight sealed. Paper bags not supplied by the solid waste franchisee and cardboard containers shall not be used as containers for the disposal of solid waste. The combined weight of the container and contents shall not exceed seventy-five (75) pounds.

2. On and subsequent to January 1, 1995, each residential premises shall use a container of a standard size that is supplied by the solid waste franchisee. The combined weight of the container and contents shall not exceed the weight limit specified in the City approved program.

3. All ashes, when placed for collection, shall be cold and free from any fire, live coals, or other substances which might ignite.

B. **Commercial and Industrial Solid Waste Containers.** Occupants of commercial and industrial premises shall place waste in bins and debris boxes provided by the solid waste franchisee that shall be:

1. Metal lined, leak proof, and provided with a lid;
2. Constructed of noncombustible materials and provided with a noncombustible lid;
3. Approved by the City as providing adequate protection against fire hazard;
4. Located within enclosures designed for this purpose.

C. **Yard Waste Containers.** Effective January 1, 1995, occupants of residential premises that receive service from the solid waste franchisee shall separate and place yard waste

in containers that comply with the City approved program.

D. Recycling Containers. Occupants of residential premises that receive service from the recycling franchisee shall separate and place recyclable material in containers that comply with the City approved program.

E. Filling of Containers. No occupant shall so fill any container with solid waste, yard waste, or recyclable material above the top of the container to such an extent as to permit the contents of any container to be blown or otherwise strewn about. (Ord. 433-94 § 3 (part), 1994)

7.04.050 Placement of containers for collection.

It shall be the duty of occupants of residential premises to place containers for collection of solid waste, yard waste and recyclable material, by the solid waste and recycling franchisees as follows:

A. Proper Placement of Containers. Any container used for the purpose of reception and removal of solid waste, yard waste or recyclable material shall be placed at the curb in front of the premises occupied by the person depositing the same, to be collected by the solid waste and recycling franchisees unless the occupant is authorized by the City Manager to place containers in the backyard or side yard.

B. Improper Placement of Containers. In all cases of disputes or complaints concerning the place where solid waste, yard waste and recyclable material containers shall be placed while waiting for the removal of their contents, the City Manager shall designate the proper place.

C. Timing of Placement and Removal of Containers. Occupants of residential and commercial and industrial premises shall not place at the curb, solid waste, yard waste or recyclable material containers for collection by the solid waste and recycling franchisees at any time earlier than sunset of the day preceding the day designated for collection by the solid waste and recycling franchisees for the collection of such solid waste, recyclable material or yard waste. All solid waste, yard waste and recyclable material containers shall be moved from the place of collection prior to midnight of the day the containers have been emptied unless the solid waste or recycling franchisee fails to collect the solid waste, yard waste or recyclable material as scheduled and alternative collection arrangements are made.

D. Supervision of Containers. Each occupant of residential, commercial and industrial premises shall maintain supervision and surveillance over the solid waste, yard waste and recyclable material containers on the premises and shall maintain the same in a sanitary condition. If the container or containers should not be emptied and the contents removed on the date and time scheduled by the solid waste and recycling franchisees, occupant should immediately notify the solid waste or recycling franchisees or the City and it shall be the duty of the solid waste or recycling franchisees to forthwith arrange for the collection of the solid waste, yard waste and recyclable material.

E. Unauthorized Tampering with Containers. No person other than the waste generator or any employee thereof, franchisee or permittee of the city shall move, remove, or interfere with any container or the contents thereof. (Ord. 433-94 § 3 (part), 1994)

7.04.060 Franchisee's collection.

A. Residential Solid Waste Collection Services. The solid waste franchisee shall

collect and dispose of all solid waste generated at residential premises within the City and placed for its collection, not less than once each week, as scheduled. Solid waste containers shall be returned by franchisee to the collection point upright with lids properly secured. The franchisee shall make special arrangements with occupants of residential premises for the collection of excess material or bulky waste. The franchisee shall make special arrangements for the provision of solid waste containers (bins or debris boxes) to occupants of residential premises on a rental basis.

B. Residential Yard Waste Collection Services. Effective January 1, 1995, the solid waste franchisee shall collect yard waste placed for collection from residential premises not less than every other week, as scheduled. Yard waste containers shall be returned by the solid waste franchisee to the collection point upright, with lids properly secured. The franchisee shall also collect Christmas trees placed for its collection from residential premises between December 26th and January 13th. All such yard waste shall be processed for use as compost, mulch or soil amendment and none shall be deposited for disposal. The solid waste franchisee must ensure that the City receive the maximum diversion credit possible towards its AB 939 diversion goals.

C. Residential Recycling Collection Services. The recycling franchisee or permittee shall collect recyclable material placed for collection from residential premises not less than once per week, as scheduled or as directed by the City Manager. All such recyclable material shall be recycled or reused and none shall be deposited for disposal. The recycling franchisee must ensure that the City receive the maximum diversion credit possible towards its AB 939 goals.

D. Commercial and Industrial Solid Waste Collection Services. The solid waste franchisee shall collect and dispose of all solid waste generated at commercial and industrial premises within the City and delivered to a can or bin for its collection from one to five times per week unless special arrangement is made with each occupant. The solid waste franchisee shall collect and dispose of all solid waste generated at commercial and industrial premises within the City and delivered for its collection to a debris box as scheduled with each occupant. The solid waste franchisee shall also collect and dispose of all solid waste generated at construction and demolition sites and delivered for its collection to a debris box or bin, as scheduled with each waste generator of construction and demolition debris. All concrete, asphalt and dirt shall be diverted by the solid waste franchisee to available facilities whenever possible.

E. Clean-Up Events. Twice annually, the solid waste franchisee shall collect nonputrescible solid waste from single-family dwelling units and shall divert from disposal as much material as possible and shall properly dispose of residual material.

F. Collection/Spillage. The solid waste and recycling franchisees shall exercise all reasonable care and diligence in collecting solid waste, yard waste and recyclable material so as to prevent spilling, scattering or dropping such waste and materials and shall immediately, at the time of occurrence, clean up any spillage. (Ord. 433-94 § 3 (part), 1994)

7.04.070 Duration of storage.

It is unlawful for any person to store or accumulate any solid waste in any container or at any location other than as set forth in this chapter, or for any length of time other than as follows:

A. Putrescible Waste. Except as describe in subsection C of this section, putrescible solid waste shall not be accumulated or stored for a period of time in excess of:

1. Commercial and industrial zone areas: one week, unless instructed by the

City to decrease the period of accumulation;

2. All other areas: one week.

B. Nonputrescible Waste. Nonputrescible solid waste shall not be stored or accumulated for a period of time in excess of one week.

C. Yard Waste. Yard waste shall not be stored or accumulated for a period of time in excess of two weeks.

D. Holidays. The above periods of time which end in any week in which the holidays described in the franchise or recycling agreement occur is extended one additional day.

E. Storage Prohibited - Private Property. Other than as herein set forth, it is unlawful for any person to dump, bury, or otherwise dispose of or store or accumulate any solid waste on any private or public property within the City, provided, however, that leaves, grass clippings, and the like may be permitted for the purpose of backyard composting or mulching. (Ord. 433-94 § 3 (part), 1994)

7.04.080 Processing and Transfer.

A. Yard Waste Processing. Effective January 1, 1995, the solid waste franchisee shall process, or shall deliver to a permitted yard waste processing facility, collected yard waste in a manner satisfactory to the City and in accordance with all federal, State and local laws and regulations.

B. Other Processing. City reserves the option, upon ninety days notice, prior to disposal, to direct the franchisee to deliver solid waste collected under this chapter to a MRF under contract with City for separation and recycling of any recyclable material contained therein. The solid waste franchisee shall assist City in routing its collection activities and identifying loads suitable for processing in the MRF in order to maximize diversion of waste from disposal sites. Said option shall only be exercised in writing authorized by City Council resolution.

C. Recyclable Material Processing. The recycling franchisee shall process, broker, or shall deliver to a permitted processing facility collected recyclable material in a manner satisfactory to the City and in accordance with all federal, State and local laws and regulations.

D. Transfer. The transfer of solid waste within the City limits from vehicles used in the collection of solid waste to vehicles used for the transport or disposal of solid waste shall be performed in accordance with all federal or State law or regulation or any County or City ordinance or regulation. Should the City operate or contract with the operator of a transfer facility, users shall follow the rules set down for the Facility by the City Manager. (Ord. 433-94 § 3 (part), 1994)

7.04.090 Disposal.

A. Compliance with Laws. Solid waste franchisee, persons operating pursuant to permits issued by the City pursuant to Article IV of this chapter, and waste generators disposing of their own solid waste shall dispose of solid wastes at a disposal site, transfer facility or processing facility in a manner satisfactory to the City and in accordance with all federal, State and local laws and regulations.

B. Disposal Agreement. Beginning on September 1, 1994, the solid waste franchisee must dispose of solid waste at the Tri-Cities Recycling and Disposal Facility or the Altamont Landfill, in accordance with the disposal agreement.

C. Special Collection and Disposal Provisions.

1. The removal of wearing apparel, bedding or other infectious waste from homes, hospitals or other places where highly infectious or contagious diseases have prevailed, shall be performed under the supervision and direction of the Health Officer and such infectious waste shall neither be placed in containers nor left for regular collection and disposal.

2. Highly flammable, explosive/radioactive, or other hazardous waste shall not be placed in container or containers for regular collection and disposal, but shall be removed by separate agreement, at occupant's expense, in accordance with all federal, State and local laws and regulations with a company properly licensed and permitted for the collection and disposal of inflammable, explosive/radioactive or other hazardous waste. If the solid waste or recycling franchisee determines that waste placed in any container for collection or delivered to any facility is hazardous waste, designated waste, or other waste that may not legally be disposed of at the disposal site or presents a hazard to franchisee's employees, the franchisee shall have the right to refuse to accept such waste.

3. Solid waste containing water or other liquids shall be drained before being placed in a container or containers for collection and disposal.

4. Animal waste(s), as herein defined, shall not be placed in containers, or containers for regular collection and disposal, but shall be removed by separate agreement, at the occupant's expense, in accordance with all federal, State and local laws and regulations.

5. The solid waste franchisee shall not be required to collect and dispose of solid waste or any other material from any place where highly infections or contagious disease has prevailed. Franchisee shall, nevertheless keep a record listing the address of the waste identified in this subsection(s) which shall be given to the City Manager on the date collection is refused. When any solid waste or yard waste is not collected by the solid waste franchisee, solid waste franchisee shall leave a tag on which the reason for refusal to collect and dispose of the solid waste or yard waste is indicated, giving references to the City ordinance codified in this chapter or to the section of rules and regulations, or contract, which has been violated and which gives grounds for refusal. This information, shall be either in writing or by means of a check system. The tag shall be securely fastened to the container or the article refused.

6. The recycling franchisee shall not be required to collect and dispose of recyclable material that is contaminated with solid waste or other material to such a degree that if commingled with other recyclable material, would require all or part of the total commingled recyclable material to be disposed of. The recycling franchisee should notify occupants of violations as described in the recycling agreement with the City.

D. Burning, Dumping or Burying Solid Waste Prohibited. No person, shall burn, dump, place or bury within the city any solid waste, or any other deleterious or offensive substance; provided, however, that this section shall not apply to any land approved by the City for a disposal site or to any privately-owned parcel wherein a specific waiver of this section is granted by the City Manager due to unusual or extraordinary conditions. (Ord. 433-94 § 3 (part), 1994)

Article III. Solid Waste Franchise System

7.04.100 Authorization.

The City Council, pursuant to Section 40059 of the California Public Resources Code does determine that solid waste and yard waste collection and disposal shall be provided within

the city through the issuance of an exclusive franchise in accordance with the terms of this chapter. (Ord. 433-94 § 3 (part), 1994)

7.04.110 City Council to issue franchise.

The City Council shall from time to time, issue a franchise to that person or those persons meeting such standards as may be established by the City Council regarding the collection of solid waste and yard waste from residential, commercial and industrial premises. Such standards shall not be less than those established for permittees as described in Article IV of this chapter. (Ord. 433-94 § 3 (part), 1994)

7.04.120 Collection by franchisee.

So long as any such franchise remains in force, collection and removal from any residential, commercial and industrial premises in the City of solid waste and yard waste provided for in this chapter shall be made by the solid waste franchisee in accordance with the terms and conditions of this chapter and the solid waste franchise agreement between the City and the solid waste franchisee. (Ord. 433-94 § 3 (part), 1994)

7.04.130 Unlawful collection.

A. Except as expressly provided in this section, it is unlawful and a misdemeanor for any person, firm or entity to collect or transport solid waste or yard waste within the City unless such person is the solid waste or recycling franchisee as herein defined or the solid waste collected is exempted as outlined in Article VIII and subsections (A)(1) – (9) of this section; and it is unlawful for any person to permit, allow or enter into any agreement whatsoever, for the collection or transportation of solid waste with any person who is not the solid waste franchisee or the recycling franchisee as herein defined except as the solid waste collected is permitted in Article VIII and subsections (A)(1) – (9) of this section.

1. Yard waste removed from a premises by a gardening, landscaping or tree trimming contractor as an incidental part of a total service offered by that contractor rather than as a transportation service;

2. Tree trimmings, clippings, and all similar materials generated at parks, and other City-maintained premises, which may be collected and transported by the City to the disposal site or processing facility;

3. Hazardous or dangerous materials, liquid and dry caustics, acids, bio-hazardous, flammable, explosive materials, insecticides, and similar substances;

4. Infectious medical waste (as defined in California Health and Safety Code Section 25117.5);

5. Recyclable material, those materials such as, but not limited to, aluminum, newspaper, glass, plastic (DDPE/PET), metal cans, other paper and cardboard collected for recycling by not-for-profit organizations (such as the Boy Scouts of America);

6. Source separated recyclable material delivered for recycling by the occupant of a residential, commercial or industrial premises;

7. Construction and demolition debris removed from a premises by a licensed contractor as an incidental part of a total service offered by that contractor rather than as a transportation service;

8. Construction and demolition debris removed from a premises by a person

operating under a permit for the collection and processing of construction and demolition debris issued by the City pursuant to Article IV of this chapter;

9. By-products of sewage treatment, including sludge, grit and screenings;

10. Containers delivered for recycling under the California Beverage Container Recycling Litter Reduction Act, Section 14500, et seq., California Public Resources Code. (Ord. 433-94 § 3 (part), 1994)

7.04.140 Charges for service.

Service Charges Established. From time to time, the City Council shall establish by resolution rates to be paid for the service of collection, processing and disposal of solid waste, yard waste and recyclable material. (Ord. 433-94 § 3 (part), 1994)

Article IV. Recyclable Material Permit and Nonexclusive Franchise System

7.04.150 Authorization.

A. The City Council pursuant to Section 40059 of the California Public Resources Code does determine that collection and processing of recyclable material shall be provided within the City through issuance of permits and a nonexclusive franchise, in accordance with the terms of this chapter. The City Council pursuant to Section 40059 of the California Public Resources Code does determine that collection and processing of construction and demolition debris shall be provided within the City through issuance of permits in accordance with the terms of this chapter.

B. No person may collect or process recyclable material within the City unless the person has either entered into an agreement with the City, has been issued a permit pursuant to this article, or is exempt from this article pursuant to Section 7.04.250. (Ord. 433-94 § 3 (part), 1994) No person other than the City's solid waste franchisee may collect or process construction and demolition debris within the City unless the person has been issued a permit pursuant to this article, or is exempt from this article pursuant to Section 7.04.250.

7.04.160 City Manager authority.

The City Manager shall have the authority and the duty to issue permits for the collection and processing of recyclable material as provided for in this Article IV. (Ord. 433-94 § 3 (part), 1994) The City Manager shall also have the authority and the duty to issue permits for the collection and processing of construction and demolition debris as provided for in this Article IV.

7.04.170 Permit issuance and term.

The City Manager shall issue permits pursuant to this chapter only to persons meeting the criteria of this Article IV. Each permit shall terminate without further notice not later than one year from date of issuance. (Ord. 433-94 § 3 (part), 1994)

7.04.180 Permit – Prerequisites.

A. Required Information. The applicant shall provide the City Manager the following information:

1. Name and description of the applicant;
2. Permanent home and business address and full address of the applicant;

3. Trade and firm name;
4. If a joint venture, a partnership or limited partnership, the names of all partners, and the names of the officers, and their percentage of participation and their permanent addresses;
5. If a corporation, the names and permanent addresses of shareholders who own greater than a ten percent ownership in the corporation and their percentage ownership and all officers;

6. The name and location of the disposal site where the applicant intends to legally dispose of residue;

7. The name and location of the MRF;

8. ~~Facts showing that the applicant is qualified to render recyclable material~~For persons applying for a permit for the collection and processing of recyclables, facts showing that the applicant is qualified to render recyclable material collection service, and for persons applying for a permit for the collection and processing of construction and demolition debris, facts showing that the applicant is qualified to render construction and demolition debris collection service;

9. That the applicant owns or has under control in good mechanical condition, sufficient equipment to conduct ~~the business of recyclable material collection~~adequately the business of recyclable material collection or construction and demolition debris collection, as appropriate, and that the applicant owns or has access to suitable facilities for maintaining the equipment in a clean and sanitary condition;

10. That the vehicles and equipment conform to all applicable provisions of this chapter, State and local laws and regulations; and

11. Such other facts or information as the City Manager may require.

B. Indemnification by Permittee. As a condition of the permit, permittee shall appear and defend all actions against the City arising out of the exercise of said permit and shall indemnify and save the City, its officers, employees and agents harmless of and from all claims, demands, actions or causes of actions of every kind and description resulting directly or indirectly, arising out of, or in any way connected with the exercise of the permit, including, but not by way of limitation, any act or omission of any officer, employee or agent of permittee and further specifically including any and all liability of the City arising from permittee's arranging for or disposing of any and all solid waste in any disposal site whether to the U.S. Government, State of California, or any other public or private person, firm, or agency.

C. Liability and Workers' Compensation Insurance. The permittee must furnish the City with proof of comprehensive general liability insurance with limits not less than one million dollars combined each occurrence and aggregate; and workers' compensation insurance covering all employees of the permittee. Copies of such policies, or certificates evidencing such policies, shall be filed with the City Manager. The policy shall name the City of Union City, by endorsement, as an additional insured on all such policies. All policies shall contain a provision requiring a thirty-day notice to be given to the City prior to cancellation, modification or reduction of limits. The amounts of public liability insurance for bodily injury and property damage shall be subject to review and adjustment by the Council. The amounts of workers' compensation insurance shall comply with the limits required by the State of California.

D. Compliance With Motor Vehicle Code. The permittee's trucks must comply with the regulations as set forth in the California Motor Vehicle Code, all other applicable California codes, and this chapter.

E. Compliance With Local, State and Federal Laws and Regulations. The permittee agrees by acceptance of a permit to perform the terms of the permit in such a manner so as to comply with all valid and applicable local, State and federal laws and regulations pertaining to the collection, storage, transportation, processing and disposal of recyclable material and construction and demolition debris, as appropriate. The permittee shall also comply with all other ordinances and regulations of the City and applicable laws and regulations of the County of Alameda and State of California, and shall obtain and keep in force all required permits and business licenses.

F. Additional Prerequisites. The Council may require certain additional prerequisites to the issuance of a permit and such terms and conditions, regulating the activities of the permittee, as the Council may deem necessary or proper and may, from time to time, amend this chapter which amendments shall be binding upon any permittee as of the effective date of such amendment. (Ord. 433-94 § 3 (part), 1994)

7.04.190 Approval or denial of permit.

The City Manager shall investigate the information required by Section 7.04.180 of this chapter and verify that the permittee is capable of complying with the provisions of this chapter and the rules and regulations of the City. The City Manager shall notify the City Council of the findings prior to approval or denial of the permit (Ord. 433-94 § 3 (part), 1994).

7.04.200 Assignment or transfer of permit.

A. The permittee shall not assign its rights or delegate or otherwise transfer its obligations pursuant to this Article IV in whole or in part to any other person without the prior written consent of the City. Any such assignment made without the consent of the City shall be void and the attempted assignment shall result in the revocation of the permittee's permit.

For purposes of this section, "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 to a third party; (2) a sale, exchange or other transfer of ten percent or more of the outstanding common stock 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 shareholders is a party which results in a change of ownership or control of ten percent (10%) or more of the vote or voting rights in the stock 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. For purposes of this section the term "proposed assignee" shall refer to the proposed transferee(s) or other successor(s) in interest pursuant to the assignment.

B. If permittee requests City's consideration of and consent to an assignment, City may deny or approve such request in its complete discretion. No request by permittee for consent to an assignment need be considered by City unless and until permittee has met the following requirements:

1. Permittee shall undertake to pay City its reasonable expenses for attorney's fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment; and

2. Permittee shall furnish City with satisfactory proof: (a) that the proposed

assignee has a sufficient number of years of recycling experience on a scale equal to or exceeding the scale of operations conducted by permittee under this Article IV; (b) that in the last five years, the proposed assignee has not suffered any citations or other censure from any federal, State or local agency having jurisdiction over its operations due to any significant failure to comply with federal, State or local waste management laws and that the assignee has provided the City with a complete list of such citations and censures; (c) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (d) that the proposed assignee conducts its activities in accordance with sound waste management practices in full compliance with all federal, State and local laws regulating the collection and disposal of solid waste including hazardous waste as identified in Title 22 of the California Code of Regulations; and (e) of any other information required by City to ensure the proposed assignee can fulfill the terms of this chapter in a timely, safe and effective manner.

Under no circumstances shall any proposed assignment be considered by City if permittee is in default at any time during the period of consideration. (Ord. 433-94 § 3 (part), 1994)

7.04.210 Permit renewal.

Permittee shall submit to the City an annual statement of operation in a form prescribed by the City and before the end of each year, its request for a permit renewal. Such annual statement shall, at a minimum, include the permittee statement of the amount or recyclable material and construction and demolition debris collected in the City by type, customers serviced and amounts paid to customers. (Ord. 433-94 § 3 (part), 1994)

7.04.220 Permit fee.

Prior to issuance or renewal of the permit, permittee shall pay to City such fees as shall be set by resolution of the City Council. (Ord. 433-94 § 3 (part), 1994)

7.04.230 Prohibitions.

A. Collection of Solid Waste, Yard Waste or Mixed Waste Prohibited. ~~Permittee~~ Permittees operating under a permit for the collection and processing of recyclables shall not collect solid waste, yard waste, or mixed waste containing solid waste and/or yard waste and/or recyclable material materials. Permittee shall only collect those ~~Permittees operating under a permit for the collection and processing of recyclables shall only collect recyclable materials from such occupants of residential, commercial or industrial premises that it has an agreement with and which occupant separates the recyclable material from its whom it has an agreement, who separate the recyclable materials from solid waste and places place such recyclable material materials at a designated location for collection by the permittee, and permittee compensates~~ Permittees operating under a permit for the collection and processing of recyclables shall only collect those recyclable materials for which it has compensated the waste generator, for such recyclable material

B. Charges for Services. ~~Permittee~~ Permittees operating under a permit for the collection and processing of recyclables shall not charge, nor shall permittee receive, value from the waste generator for the permittee's services. (Ord. 433-94 § 3 (part), 1994)

C. Construction and Demolition Debris Permittee Collection of Solid Waste, Yard Waste or Mixed Waste Prohibited. Permittees operating under a permit for the collection and processing of construction and demolition debris shall not collect other solid waste, yard waste, recyclables, or mixed waste containing solid waste and/or yard waste and/or recyclable materials.

Permittees operating under a permit for the collection and processing of construction and demolition debris shall only collect construction and demolition debris that has been separated from other solid waste and placed at a designated location for collection. Permittees operating under a permit for the collection and processing of construction and demolition debris shall only collect from a premises such construction and demolition debris as the permittee has by agreement with the occupant or the occupant's contractor or other designee received authorization to collect.

D. Construction and Demolition Debris Permittee Charges for Services. Permittees operating under a permit for the collection and processing of construction and demolition debris may charge and receive value from the waste generators for their services.

7.04.240 Revocation.

A. Conditions for Revocation. A permit may be revoked, at the option of the Council, in the event there is a change of ownership or management control of any kind or nature of the operating company, unless approval therefor has been obtained in writing from the Council; or it is determined by the City Manager, after reasonable notice to the permittee, that the permittee has not complied with either the provisions of this chapter or all other applicable statutes, ordinances, rules and regulations.

The City Manager shall notify the permittee in writing of noncompliance and shall order compliance within (30) days.

B. Hearing for Noncompliance. If noncompliance is not corrected within said thirty-day period, the Council, after a hearing, shall be empowered to cancel the permit or take such other action as the Council shall determine. (Ord. 433-94 § 3 (part), 1994)

7.94.250 Exemptions.

A. The following persons are exempted from the provisions of this article:

1. The City;
2. A nonprofit organization if it collects recyclable material, other than those set out for collection;
3. Commercial business owners, if they deliver for recycling, source separated recyclable material;
4. A person who has entered into a franchise agreement with the City for collection of recyclable material, not contaminated by solid waste, for recycling. If this is the case, all regulations in Article II of this chapter shall apply in addition to any requirements contained in the franchise agreement; and
5. A person who is delivering recyclable material for recycling under the California Container Recycling Litter Reduction Act (Public Resource Code Section 14500 et seq.). (Ord. 433-94 § 3 (part), 1994)

Article V. Franchisee's and Permittee's Obligations

7.04.260 Properties, facilities and equipment.

A. General.

1. Each franchisee and permittee shall maintain all of its properties, facilities and equipment used in providing service under this chapter in a safe, neat, clean and operable condition at all times.

2. All collection operations shall be conducted as quietly as possible and shall conform to applicable federal, State, County and City noise level regulations.

B. Hours for Collection. The collection of solid waste, yard waste and recyclable material from residential premises and commercial and industrial premises up to one hundred feet from residential premises shall not occur before five-thirty a.m. or after six p.m. The collection of solid waste, yard waste and recyclable material from commercial and industrial premises greater than one hundred feet from residential premises shall not occur before four-thirty a.m. or after six p.m. unless prior written authorization is granted by the City.

C. Specifications and Restriction on Collection Vehicles. All vehicles used for solid waste, yard waste or recyclable material collection within the City shall be required:

1. To be completely enclosed with a rigid, nonabsorbent cover while transporting solid waste, yard waste or recyclable material in or through the City. Completely enclosed with a rigid, nonabsorbent cover means that solid waste, yard waste or recyclable material shall not be visible from the street nor shall any of the substance be permitted to leak, spill or become deposited along the public streets.

2. All trucks or vehicles used in the course of solid waste, yard waste or recyclable material collection shall be painted the colors as approved by the City Manager and identified by franchisee or permittee's name, telephone number and unique vehicle identification number displayed in a prominent location. The equipment used shall be kept clean and in good repair at all times. (Ord. 433-94 § 3 (part), 1994)

7.04.270 Franchisee and permittee's employees.

The franchisee and each permittee shall employ only competent, qualified, sober and drug-free personnel who serve the public in a courteous, helpful and impartial manner.

A. Nondiscrimination. The franchisee shall hire employees without regard to race, religion, color, national origin, sex, political affiliation, or any other nonmerit factor.

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

C. Training. The franchisee and each permittee shall provide suitable operational and safety training for all of its employees who utilize or operate vehicles or equipment. The franchisee and each permittee shall train its employees involved in solid waste, yard waste or recyclable material collection to identify, and not to collect, hazardous waste or infectious waste.

D. Supervision. The franchisee and each permittee shall designate one qualified employee as supervisor of field operations within the City. The field supervisor will devote his or her time in the field checking on collection operations, including responding to complaints. (Ord. 433-94 § 3 (part), 1994)

7.04.280 Inquiries and complaints.

A. Office Location. The franchisee and each permittee shall provide an office in such a reasonable location as the City approves.

B. Telephone Service. The franchisee and each permittee shall maintain a toll-free

telephone service from the entire City. Telephones shall be attended by competent personnel from eight a.m. to five p.m. on regular workdays.

C. Prompt Response. The franchisee and each permittee shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all customer complaints. The franchisee and each permittee shall respond to all complaints from customers within twenty-four hours, weekends and holidays excluded. (Ord. 433-94 § 3 (part), 1994)

7.04.290 Maintenance and inspection of records.

A. The solid waste and recycling franchisees and each permittee shall keep and preserve during the term of its franchise or permit, full, complete and accurate records of its operations as listed below that shall be subject to review and reproduction by the City Manager:

1. Customer accounts in a manner that clearly identifies the number of customers by customer classification within the City;
2. Statistical records as shall be prescribed by City;
3. To assist the City in its planning to meet the requirements of the California Integrated Waste Management Act of 1989, franchisees and permittees shall at a minimum record on a daily basis the quantities of solid waste, yard waste and recyclable material collected. The permittee shall file with the City Manager a written report by the tenth working day of each month giving the previous calendar month's volumes or weights of solid waste, yard waste and recyclable material collected. The franchisees and each permittee shall cooperate with the City in the performance of waste composition studies;

4. The franchisee and each permittee shall make available to the City for examination the records maintained pursuant to this section as may be necessary to assist the City in meeting its obligations under AB 939;

5. The City shall have the right to inspect or review the specific documents or records required pursuant to this chapter, or any other similar records or reports of the franchisee and each permittee that it shall deem, at its sole discretion, necessary to evaluate annual reports, and the permittee's performance provided for in this chapter. (Ord. 433-94 § 3 (part), 1994)

Article VII. Litter

7.04.390 Building construction and demolition litter.

It shall be the duty of the owner, agent or contractor in charge of any construction or demolition site to have on the site adequate containers for the disposal of litter, and to make appropriate arrangements for the collection or transport to an authorized facility for final disposition, (Ord. 433-94 § 3 (part), 1994)

ORDINANCE NO. 576-01

The Foregoing Ordinance was introduced and read before the City Council of the City of Union City by Councilmember Valle at the regular meeting of the Council of the City of Union City on December 11, 2001. This Ordinance was read at the regular meeting of the City Council held on January 08, 2002, by Councilmember Fernandez who moved that it be adopted and passed, which motion was duly seconded and said Ordinance was passed and adopted and ordered published within fifteen (15) days of the date of adoption in THE ARGUS, a newspaper of general circulation, published, printed in the County of Alameda and circulated in the City of Union City, by the following vote:

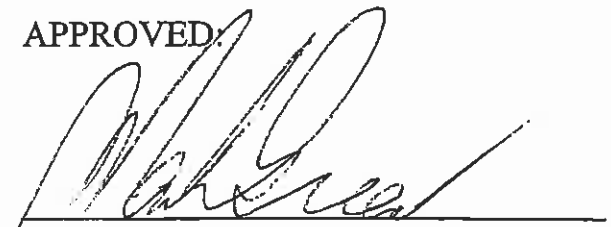
AYES: Councilmembers Fernandez, Valle, Vice Mayor Dutra-Vernaci,
Mayor Green

NOES: None


ABSENT: Councilmember Elias

SECONDED: Councilmember Valle

APPROVED:


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


INTERIM CITY ATTORNEY

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UNION CITY CA 94587-4497

PROOF OF PUBLICATION

FILE NO. 576-01

In the matter of

ORDINANCE ADDING CHAPTER 15.75

The undersigned deposes that he/she is the Public Notice Advertising Clerk of the ARGUS, a newspaper of general circulation as defined by Government Code Section 6000, adjudicated as such by the Superior Court of the State of California, County of Alameda (Order No. 314854), which is published and circulated daily in said county and state.

The PUBLIC NOTICE

was published in every issue of the ARGUS on the following date(s):

2/9/02

certify (or declare) under the penalty of perjury that the foregoing is true and correct.


Public Notice Advertising Clerk

Legal No. 0000055329

ORDINANCE NO. 576-01

AN ORDINANCE OF THE CITY OF UNION CITY ADDING CHAPTER 15.75 TO THE UNION CITY MUNICIPAL CODE AND AMENDING CHAPTER 7.04 OF THE UNION CITY MUNICIPAL CODE TO REQUIRE RECYCLING OF WASTE FROM CONSTRUCTION SITES (CONSTRUCTION AND DEMOLITION ORDINANCE)

THE CITY COUNCIL OF THE CITY OF UNION CITY DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 15.75 is hereby added to the Union City Municipal Code, as shown on Exhibit A attached hereto and made a part hereof as if fully set forth.

SECTION 2. The amendments to Chapter 7.04 are hereby created as shown in Exhibit B attached hereto and made a part hereof as if fully set forth.

SECTION 3. This Ordinance shall take effect immediately upon the effective date of a Service Agreement for Solid Waste Collection, Disposal and Recycling Services, or January 1, 2003, whichever is sooner. Before the expiration of fifteen (15) days after its passage, this Ordinance shall be published once on THE ARGUS, a newspaper of general circulation, printed and published in the County of Alameda and circulated in the City of Union City.

The foregoing Ordinance was introduced and read before the City Council of the City of Union City by Councilmember Fernandez at the regular meeting of the Council of the City of Union City on December 11, 2001. This Ordinance was read at the regular meeting of the City Council held on January 8, 2002, by Councilmember Elias who moved that it be adopted and passed, which motion was duly seconded and said Ordinance was passed and adopted and ordered published within fifteen (15) days of the date of adoption in THE ARGUS, a newspaper of general circulation, published, printed in the County of Alameda and circulated in the City of Union City, by the following vote:

AYES: Councilmembers
Fernandez, Valle, Vice Mayor
or Dutra-Vernaci, Mayor
Green
NOES: None
ABSENT: Councilmember Elias
SECONDED: Councilmember Valle

APPROVED:
/S/ MARK GREEN
MAYOR

ATTEST:
/S/ LINDA WEST
CITY CLERK

APPROVED AS TO FORM:
/S/ MICHAEL S. RIBACK
INTERIM CITY ATTORNEY

The Argus, #55329
February 8, 2002



c/o ANG Newspapers
39737 Paseo Padre Parkway
Fremont, CA 94538
Local Advertising
(510) 293-2601

CITY OF UNION CITY
34009 ALVARADO NILES RD, ATTN: Mark Evanoff,
UNION CITY CA 94587-4497

PROOF OF PUBLICATION

FILE NO. 576-01

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Fernandez, Valle, Vice Mayor
Dutra-Vernaci, Mayor
Green
NOES: None
ABSENT: Councilmember Elias
SECONDED: Councilmember Valle

APPROVED:
/S/ MARK GREEN
MAYOR

ATTEST:
/S/ LINDA WEST
CITY CLERK

APPROVED AS TO FORM:
/S/ MICHAEL S. RIBACK
INTERIM CITY ATTORNEY

The Argus, #55329
February 9, 2002

