

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: The Honorable City Council

FROM: Jennifer Mellon, Senior Management Analyst 

DATE: October 15, 2010 (CC meeting of November 3, 2010)

SUBJECT: Consider an Ordinance Amending and Restating, in its Entirety, Chapter 8.36, Solid Waste, of Title 8, Health and Safety, of the Moorpark Municipal Code

BACKGROUND

Moorpark Municipal Code (MMC) Chapter 8.36 addresses Solid Waste accumulations, containers, collection, franchises and disposal. This Chapter of the code was last revised, in part, in 1996 and staff is proposing a full restatement of the Chapter to update and enhance language within the current code as necessary, and add Sections to more thoroughly address recycling, green waste, and diversion; as well as reorganize the Chapter into Articles adding new Articles that address unlawful and prohibited acts; large event and large venue waste management; construction and demolition materials management; self-haul; and enforcement.

DISCUSSION

City of Moorpark staff reviewed the current MMC, as well as Municipal Codes from other jurisdictions relating to Solid Waste and Recycling, and determined that with the franchise agreement negotiations, diversion goals, and sustainability items being forefront priorities, that the Solid Waste Chapter should be revised and restated. Updated language includes items that specifically relate to diversion as well as more clearly define unauthorized actions, remediation, and enforcement. Below is an outline of the major changes and additions being proposed in the attached draft of Chapter 8.36, Solid Waste, of the MMC.

Staff has added language regarding green waste collection and enhanced the language regarding cleanup of solid waste spills, unlawful collection and scavenging as well as added language regarding enforcement and violation of the Chapter.

A new Article on Large Event and Large Venue Waste Management has been added with the purpose of reducing waste generated at large events and large venues by requiring a waste management plan which will include diversion reporting and a solid waste fee to be

charged as part of the venue permitting process for applicants who wish to use parks for large events or sports tournaments. A large event is defined as any event that charges an admission price or an event with more than 2,000 attendees.

A new Article on Construction and Demolition (C&D) Material Management has been added with the purpose of requiring covered projects to divert 65% of generated waste, by material type, from the landfill. All covered projects must submit a Construction and Demolition Materials Management Plan (C&DMMP) to the City for review and approval, along with a diversion security deposit. Upon completion of the covered project, and compliance with the C&DMMP diversion requirements the security deposit will be refunded.

Finally, a self-haul Article has been added to address the self-haul permit application process and diversion requirements of self-haulers; specifically stating reporting requirements and disposal sites that are authorized by the City if an applicant wishes to self-haul.

The City Attorney has reviewed and approved the attached draft Ordinance.

FISCAL IMPACT

There is some fiscal impact with regards to proposed fees for unauthorized container removal, and self-haul exemptions, and Construction and Demolition Materials Management. There is no expense to the City associated with these Ordinance changes other than staff time required to implement the new Articles and review waste plans and documentation from potential applicants.

STAFF RECOMMENDATION

Introduce Ordinance No. _____ for the first reading, waive full reading, and schedule second reading and adoption for November 17, 2010.

Attachment 1: Draft Ordinance

**DRAFT
SUBJECT TO REVISION**

ORDINANCE NO. 2010-____

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MOORPARK, CALIFORNIA AMENDING
AND RESTATING IN ITS ENTIRETY CHAPTER 8.36
OF TITLE 8 OF THE MOORPARK MUNICIPAL CODE
RELATIVE TO SOLID WASTE**

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

Chapter 8.36

SOLID WASTE

Sections:

ARTICLE I. GENERAL REGULATIONS.....	4
8.36.000 Purpose.....	4
8.36.010 Definitions.....	4
8.36.020 Origin, storage, and ownership of solid waste.....	10
8.36.030 Provisions of service.....	11
8.36.035 Persons authorized to collect and transport solid waste.....	12
8.36.040 Collection arrangements required.....	13
8.36.045 Exemption from collection requirements.....	13
8.36.050 Final determination of service levels and pickup locations by City.....	13
8.36.060 Containers.....	14
8.36.070 Placement of containers and bulky items.....	14
8.36.075 Recyclable materials and recyclable solid waste collection.....	14
8.36.080 Green waste collection.....	15
8.36.085 Composting.....	15
ARTICLE II. UNAUTHORIZED CONTAINERS.....	15
8.36.220 Placement of unauthorized containers – prohibited.....	15
8.36.230 Removal of unauthorized containers.....	16
ARTICLE III: SOLID WASTE FRANCHISES, FEES, EQUIPMENT, COLLECTION, AND COLLECTION ACTIVITIES.....	18
8.36.320 Solid waste franchise requirements.....	18
8.36.325 Contents of franchise.....	18
8.36.330 Fees.....	19
8.36.340 Revocation, suspension, or termination of solid waste franchises.....	20
8.36.345 Restrictions on transfer of solid waste franchises.....	22
8.36.350 Collection rates.....	22
8.36.355 Liability for collection charges and fees.....	23
8.36.360 Collection equipment.....	23

8.36.365	Clean up of solid waste spills.	24
8.36.370	Frequency and hours of collection.....	25
8.36.380	Special collection.....	26
8.36.385	Franchisee remedies.....	26
8.36.390	City right of provision modification.....	26
ARTICLE IV: UNLAWFUL AND PROHIBITED ACTS		26
8.36.420	Unlawful collection.....	26
8.36.425	Use of containers required.	27
8.36.430	Removal of solid waste containers.....	27
8.36.435	Collection of solid waste - disposal.....	27
8.36.440	Use of container of another.	27
8.36.445	Use of civic solid waste containers.....	28
8.36.450	Burning of solid waste.	28
8.36.460	Dumping of solid waste prohibited.....	28
8.36.470	Commingling of green waste with other forms of waste prohibited.....	28
8.36.480	Scavenging.....	28
8.36.490	Public nuisance.....	28
ARTICLE V. LARGE EVENT AND LARGE VENUE WASTE MANAGEMENT		29
8.36.500	Purpose.....	29
8.36.510	Application of section to large events and large venues.....	29
8.36.520	Waste management plan requirements.....	29
8.36.530	Review of waste management plan.....	30
8.36.540	Waste management compliance reporting.....	30
8.36.550	Actions by the city.....	31
8.36.560	Penalties.....	31
ARTICLE VI. CONSTRUCTION AND DEMOLITION MATERIAL MANAGEMENT		31
8.36.600	Purpose.....	31
8.36.620	Covered projects.....	31
8.36.625	Exempt projects.....	32
8.36.630	City sponsored projects.....	32
8.36.635	Compliance as a condition of approval.....	32
8.36.640	Construction and demolition materials management plan (C&DMMP).....	32
8.36.645	Calculating volume and weight of material.	33
8.36.650	Deconstruction.....	33
8.36.655	C&DMMP diversion security deposits.....	33
8.36.660	C&DMMP review approval.	33
8.36.665	C&DMMP review denial.....	34
8.36.670	Application for refund and return of diversion security deposits.	34
8.36.675	Documentation of construction and demolition material diversion.....	35
8.36.680	Determination of compliance and release of diversion security deposit. .	35
8.36.685	C&DMMP exemptions.	36
8.36.690	Appeals.	37
8.36.695	Enforcement.....	37
ARTICLE VII: SELF-HAULERS.....		37
8.36.720	Self-haul exemption.....	37
8.36.730	Self-haul disposal at authorized sites.....	38
8.36.740	Self-haul reporting requirements.	38

8.36.750 Licensed contractors 39
ARTICLE VIII: ENFORCEMENT 39
8.36.820 Enforcement 39
8.36.830 Enforcement by designees 39
8.36.850 Violations punishable 39

DRAFT

ARTICLE I. GENERAL REGULATIONS

8.36.000 Purpose.

The purpose of this Chapter is to provide a uniform procedure, regulation and control for the Collection and transportation of Solid Waste, discards, and recyclable commodities to a City designated Disposal site, and to provide for the regulation and control of the Collection and Diversion of Solid Waste from Disposal at landfills through Recycling, Composting, or Transformation of Recyclables, and related provisions, in order to protect the public peace, health, safety, and general welfare of the people of the City. The City has determined that storage, accumulation, Collection and Disposal of Solid Waste, as well as Recyclable Material, is a matter of public concern and that improper control of such matters creates a public nuisance, which may lead to air pollution, fire hazards, illegal dumping, vector breeding and infestation, and other problems affecting the health, safety and general welfare, of the residents of the City. Chapter 8.36 "Solid Waste" is enacted in order to protect public health, safety and well-being, to control the spread of vectors and to limit sources of air pollution, noise, and traffic within the City, and pursuant to the authority of Article XI, § 7 of the California Constitution, and the Public Resources Code, Title VIII, as they may be amended from time to time.

8.36.010 Definitions

For the purposes of this Chapter the following words and phrases shall have the meanings respectively defined as follows, unless it is apparent from the context that a different meaning is intended. Words and phrases not defined by this section shall have the meaning defined in Division 30, Part 1, Chapter 2 of the Public Resources Code, §§ 40000 *et seq.*, and the regulations of the State of California, if defined therein, and if not to the definitions found in the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901, *et seq.* and the regulations implementing RCRA, as they may be amended from time to time. If the word is not defined within this Chapter, the word shall be as defined elsewhere in the Moorpark Municipal Code; if the word is not defined in the Moorpark Municipal Code the word shall be used as defined in Webster's Unabridged Dictionary, latest edition, most appropriate context.

"AB 939" or "Act" means the California Integrated Waste Management Act of 1989, (sometimes referred to as "AB 939"), codified in part at Public Resources Code, §§ 40000 *et seq.* as it may be amended from time to time.

"Adequate Service" means the combination of the number of Collections, number of Containers, and the size of Containers necessary so as not to cause the accumulation of Solid Waste to a level that exceeds the lowest top edge of the Container and disallows the Container lid to completely shut or causes the accumulation of Solid Waste outside of Collection Containers.

"Administrative Authority" means the City Manager or person designated by the City Manager to administer the provisions of this Chapter.

“Agreement” means the Franchise agreement between the City and Franchisee for the Collection, Recycling, processing and Disposal of Solid Waste and Construction and Demolition Material from Residential and Commercial Premises in the City.

“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 a permit, as defined in this Chapter, and who is, therefore, responsible for meeting the requirements of this Chapter.

“Basic Level of Service” means, with respect to residential Collection service, one Collection of each residential Solid Waste Container per week or that level of Collection and Disposal service necessary to provide for the Collection of Solid Waste generated weekly by each single family residence as specified in the Franchise agreement. Basic Level of Service means, with respect to commercial Collection service, that level of Collection and Disposal service necessary to provide Adequate Service.

“Bulky Waste” or “Bulky Goods” means Solid Waste that cannot and/or would not typically be accommodated within a residential Solid Waste Container including, but not limited to, large and small household appliances, furniture, carpets, mattresses, White Goods, tires, oversized Yard Waste such as tree trunks and large branches if no larger than two feet (2’) in diameter and four feet (4’) in length, and that the Bulky Goods do not exceed size or weight that can be moved by two persons and are discarded from Residential Premises in the City which a Solid Waste Collector has agreed to Collect.

“C&D” means Construction and Demolition.

“C&D Materials Management Plan” (C&DMMP) means a completed construction and demolition materials management plan form, approved by the City for the purpose of compliance with this Chapter, submitted by the applicant for any Covered Project.

“Charges” means the monetary amount permitted to be collected for Solid Waste Collection, related services, and equipment rental and Temporary Bin service by a Franchisee under a residential franchise or commercial franchise under this Chapter.

“City” means the City of Moorpark, California, a municipal corporation.

“City Manager” means a person having that title in the employ of the City.

“City-sponsored Project” means a project constructed by the City or a project receiving fifty percent or more of its financing from the City.

“Civic Solid Waste Containers” means City-owned receptacles located in public areas for Disposal of Solid Waste generated by the public.

“Code” means the City of Moorpark Municipal Code.

“Collection” means the act of Collecting Solid Waste at or near the place of generation or accumulation, by a Solid Waste Collector which has made arrangements with the person in charge of day-to-day operations of the premises for the Collection of Solid Waste.

“Collector” means, depending upon the context in which used, either the City, another local agency, or an authorized franchisee, Permittee or licensee who Collects Solid Waste.

“Commercial Bin” means a bin provided by a Franchisee, between one and one half (1.5) and forty (40) cubic yards in capacity, designed for the ongoing accumulation and Collection of Solid Waste, and placed by a Franchisee at a Commercial Premises.

“Commercial Premises” means all lots or portions of a lot in any zone of the City, other than Residential Premises (as identified in this Chapter). The term “Commercial Premises” is a reference to location, zoning and use, and not to ownership.

“Commercial Solid Waste” means all types of Solid Waste, including Green Waste and Recyclable Solid Waste, generated or accumulated at Commercial Premises and placed in Commercial Bins.

“Composting” means the controlled and monitored process of converting organic waste into compost by decomposition.

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

“Construction and Demolition Material (C&D Material)” means the excess or discarded materials, which is removed from a site during or after the construction, renovation, remodeling, repair, deconstruction or demolition of any premise, structure, fence, wall, or paving project or from landscaping.

“Construction and Demolition Diversion Security Deposit” or “Diversion Security Deposit” means cash or a letter of credit in a form acceptable to the City Manager, submitted to the City pursuant to Section 8.36.655 of this Chapter.

“Construction and Demolition Facility” means any City authorized Solid Waste Disposal facility with the specific ability to accept and Recycle or divert C&D Material.

“Container” means all Collection Containers provided by or accepted by the Franchisee and approved by the City Manager for Collection of Solid Waste, Recyclable Solid Waste, Green Waste, and C&D Material from Residential Premises and Commercial Premises.

“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 C&D Material, approved by the State.

“Covered Project” means any project for which a City building permit is required that consists of demolition work regardless of cost, or any new construction project valued over \$500,000 or any renovation/tenant improvement project valued over \$100,000, and all City sponsored demolition, construction, or renovation projects regardless of cost.

“Deconstruction” means the careful disassembling of facilities, buildings or structures, whether in part or in whole, whether interior or exterior, in order to Salvage as much material as possible.

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

“Disposal” means the management of Refuse through landfill deposit or Transformation at Solid Waste facilities permitted under applicable law.

“Diversion Requirement” means the diversion of at least sixty-five percent (65%) of the total Construction and Demolition Material generated by a Covered Project, including Inert Waste and that that Construction and Demolition Material is removed from the Solid Waste stream and not disposed of in a Solid Waste landfill, unless the applicant has been granted an exemption pursuant to Section 8.36.685, in which case the Diversion Requirement shall be the maximum feasible diversion rate established by the Administrative Authority in relation to the project.

“Divert” or “Diversion” means activities which reduce or eliminate the amount of Solid Waste Material disposed of in a landfill or Transformation facility. See Public Resources Code Section 40124 as it may be amended from time to time.

“Electronic Waste” see Universal Waste.

“Franchise” means the right and privilege granted by the City (1) to make arrangements for the Collection of and to collect Solid Waste, (2) to transport Solid Waste to landfills, Transformation facilities, compostable materials facilities, Green Waste facilities, as defined in 14 California Code of Regulations Section 17852, as may be amended from time to time or other licensed Solid Waste management facilities and/or (3) to process and recycle Solid Waste Collected within the City.

“Franchise, Commercial” means a Franchise issued under this Chapter that grants to a Franchisee the exclusive right to Collect and transport on a regular, recurring basis Solid Waste from Commercial Premises.

“Franchise Fee” means the fee or assessment imposed by the City on a solid waste enterprise which holds a Solid Waste Franchise.

“Franchise, Residential” means a Franchise issued under this Chapter which grants to Franchisee the exclusive right to Collect and transport Solid Waste from Residential Premises.

“Franchisee” means a Solid Waste Collector designated as a Franchisee pursuant to a Commercial Franchise or Residential Franchise by the City Council authorizing the Solid Waste Collector to provide Solid Waste services within the City.

“Generator” means any person or other entity which produces Solid Waste.

“Green Waste” (sometimes referred to as yard waste or yard trimmings) means a form of Solid Waste composed of leaves, grass clippings, brush, branches and other forms of organic matter generated from landscapes and gardens, separated from other forms of Solid Waste, and scrap lumber. “Green Waste” also includes holiday trees including, but not limited to, un-flocked, bare holiday trees and bushes. “Green Waste” does not include stumps or branches exceeding four inches (4”) in diameter or four feet (4’) in length or scrap lumber which does not fit into a Green Waste Container, nor does it include highly invasive plant material such as yucca, cactus, bamboo; palm fronds; succulents; treated or painted lumber; and other materials that are not suitable for Composting.

"Hazardous Waste" means any waste materials or mixture of wastes defined as a "hazardous substance" or "hazardous waste" pursuant to the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601 *et seq.*, or the Carpenter-Presley-Tanner Hazardous Substance Account Act, ("HSAA"), California Health and Safety Code §§ 25300, *et seq.*, as they may be amended from time to time, or as defined by the State. If there is conflict in the definitions employed by two or more agencies having jurisdiction over Hazardous Waste or Solid Waste, the term "Hazardous Waste" will be construed to have the broader, more encompassing definition.

"Industrial Waste" means solid, semi-solid, liquid, or gaseous, unwanted or residual materials, not including hazardous or biodegradable waste, from an industrial operation including wastes produced in large quantities from factories, industrial plants, and mining operations.

"Impound" or "Impoundment" means the removal and storage of a Container, bin, drop-off box or any other receptacle.

"Inert Waste" shall have the meaning ascribed by Public Resources Code Section 41821.3(a)(1), as it may be amended from time to time.

"Integrated Waste Management Services" means managing waste by multiple techniques to achieve Solid Waste and resource conservation goals. The techniques may include, but are not limited to, waste reduction, Reuse, Recycling, Composting, Transformation, Disposal to landfills, and other means.

"Large Event" means any event that charges an admission price, or is operated by a local agency, or for which an applicant seeks temporary or periodic use or occupancy on or on a public street, publicly owned site or facility or public park within the City for a civic, commercial, recreational or social event attended by more than two thousand (2,000) persons, including workers, per day of operation.

"Large Venue" means a facility that annually seats or serves an average of more than two thousand (2,000) individuals per day of operation, including workers, such as, but not limited to, convention centers, community centers, golf clubs, amusement parks, recreational parks, theaters and concert halls located within the City and any other facility or place that is a "venue facility" for purposes of Public Resources Code Section 42648, as it may be amended from time to time. For purposes of this Chapter, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site is a single Large Venue.

"Liquid Waste" means liquid material, including but not limited to, oil, harmful solvents, antifreeze, and paints, as well as liquid that may reside in Solid Waste or Green Waste and seep from said material.

"Medical Waste" means waste capable of producing an infection or pertaining or characterized by the presence of pathogens, includes but is not limited to syringes, needles, lancets, vials, soiled medical clothing or sheets.

"NPDES" means National Pollutant Discharge Elimination Permit currently active and in effect in City.

“Permittee” means a person or an entity that is issued a self-haul exemption permit under this Chapter.

“Post-consumer Material” as defined in Public Contract Code Section 12200(b), as it may be amended from time to time, means a finished material which would have been disposed of as a Solid Waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes. Post-consumer Material is generally any product that was bought by the consumer, used, and then Recycled into another product.

“Processing” means the reduction, separation, recovery, conversion or recycling of Solid Waste.

“Project” means any activity for which a building, demolition, grading or other similar permit is required. See also **“Covered Project”**, above.

“Recyclable Material” means an item, or items, that has commercial value and that is sold for compensation or donated to an entity other than a Solid Waste collector. Recyclable Materials are commodities and therefore not part of the waste stream. Recyclable Materials lose their character as Recyclable Materials upon being disposed of in the waste stream, thereby becoming Solid Waste subject to this Chapter.

“Recyclable Solid Waste” means a form of Solid Waste designated as a Recyclable Solid Waste by the City, the State, or any other agency with jurisdiction and which has been separated by a Solid Waste service recipient from non-recyclable Solid Waste.

“Recycling” means the process of collecting, sorting, cleansing, treating and reconstituting or otherwise processing materials that would otherwise be disposed of as Solid Waste, and returning them to 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.

“Refuse” see Solid Waste.

“Renovation” means any change, addition or modification in an existing structure that requires a building permit or demolition permit but does not include a project limited to interior plumbing work, electrical work, or mechanical work.

“Residential Premises” means all lots or parcels in the City designed or zoned for residential purposes, excluding premises with multi-family structures of five (5) or more units.

“Residential Solid Waste” means all types of Solid Waste, including Green Waste and Recyclable Materials, generated or accumulated at Residential Premises and placed in residential Containers for accumulation and Collection.

“Reuse” means further or repeated use of C&D Materials, Inert Waste, or other Solid Waste therefore diverting the material from Disposal in a landfill. Reuse includes the use, in the same or similar form as it was produced, of a material that might otherwise be discarded.

“Salvage” means the controlled removal of C&D Material from a permitted construction or demolition site for the purposes of Recycling, Reuse, or temporary storage for later Recycling or Reuse.

“Solid Waste” means all putrescible and non-putrescible solid, and semisolid wastes, including but not limited to garbage, trash, Refuse, paper, rubbish, ash, C&D Material, discarded home and industrial appliances, manure, vegetable or animal solid or semi-solid wastes, and other discarded solid or semi-solid wastes, and has the meaning ascribed to it by the California Public Resources Code §§ 40000, *et seq.*, as it may be amended from time to time. Recyclable Material is considered Solid Waste for purposes of this Chapter if it is disposed of in the Solid Waste stream and not separated out as Recyclable Material. The term “Refuse” shall be synonymous with the term “Solid Waste” in this Chapter.

“Special Waste” means, but is not limited to flammable waste; containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.); waste transported in a bulk tanker; Liquid Waste; sewage sludge; waste from a pollution control process; residue and debris from the cleanup of a spill or release of chemical substances, or commercial products; contaminated soil, waste, residue, debris, and articles from the cleanup of a site or facility formerly used for generation, storage, treatment, Recycling or reclamation; dead animals; wastewater; explosive substances; radioactive materials; materials which have been exposed to highly infectious or contagious diseases; hazardous materials; and Hazardous Waste.

“State” means State of California.

“Temporary Bin” means a Collection Container of no less than one and one-half (1.5) cubic yards in capacity and no greater than forty (40) cubic yards in capacity provided by or accepted by a Franchise licensee or Permittee and approved by the City for temporary collection of Solid Waste, Recyclable Solid Waste, Green Waste, and C&D Material from Residential Premises and Commercial Premises.

“Transformation” means incineration, pyrolysis, distillation, gasification, or biological conversion other than Composting.

“Universal Waste” means universal waste electronic devices (UWEDs), cathode ray tubes (CRTs) and other Universal Wastes as defined by the California Department of Toxic Substances Control or a successor agency, including but not limited to non-empty aerosol cans, fluorescent tubes, high intensity discharge lamps, sodium vapor lamps, and any other lamp exhibiting a characteristic of a hazardous waste, batteries, mercury thermometers, and mercury containing switches.

“Waste Management Plan” means a plan for reducing and managing waste for a Large Event or Large Venue, submitted to the Administrative Authority for review in compliance with this Chapter.

“White Goods” means discarded household appliances that have been historically, but may or may not be, enameled, such as refrigerators, freezers, stoves, washer/dryers, dishwashers, water heaters, and other similar items.

8.36.020 Origin, storage, and ownership of solid waste.

A. No person may store, accumulate, or maintain any Solid Waste on any Commercial or Residential Premises, unless such Solid Waste was generated by a lawful use located on such premises. The storage and

accumulation of Solid Waste on any premises permitted under this code may be temporary only, and only at such locations as are permitted by this code. Except as expressly provided in this Chapter, Solid Waste must be stored in a Container in accordance with this Chapter, must be kept free of all Hazardous Materials and Special Wastes, and must be placed for Collection at the next regularly scheduled Collection date for the premises, following the generation and accumulation of such Solid Waste or otherwise removed lawfully from the premises prior to the next regularly scheduled Collection date for the premises.

B. No person may place, or cause to be placed, Solid Waste in any Container located on any sidewalk, street, roadway, alley or driveway or upon any Commercial or Residential Premises, whether public or private other than real property owned or leased by such person nor set out or cause to be set out for Collection any Solid Waste other than Solid Waste originating on their Commercial or Residential Premises.

C. No person shall accumulate, keep or deposit any Solid Waste in such a manner that a public nuisance is created, including, but not limited to, allowing flies, mosquitoes, rodents, or any other vectors to breed or inhabit therein.

D. Upon placement of Solid Waste on a Residential Premises at a designated Collection location, or placement of Solid Waste from a Commercial Premises in a Container provided by an authorized Franchise or Solid Waste Collector for Collection of Solid Waste, the Solid Waste becomes the property of the Solid Waste Collector.

8.36.030 Provisions of service.

In order to protect public health, safety and well-being, to control the spread of vectors, and to limit sources of air pollution, noise and traffic within the City and Pursuant to California Public Resource Code 40059, as it may be amended from time to time, or any successor provision or provisions thereto, the City shall have, and hereby retains, the authority to issue permits or licenses or enter into agreements, including exclusive permits and agreements, for Solid Waste Collection services as provided by this Chapter and with the terms and conditions imposed by the City Council. The City Council may grant one or more exclusive Solid Waste franchises to one or more solid waste enterprises to make arrangements with the persons in charge of day-to-day operations at Commercial and Residential Premises in the City for the Collection, transfer, Recycling, Composting and Disposal of Solid Waste within and throughout the City.

A. Manner, time and frequency of Collection. A solid waste enterprise which arranges for the Collection of Solid Wastes shall make arrangements with its customers specifying the manner in which Integrated Waste Management Services are to be provided, subject to the terms of its Solid Waste Franchise, as well as to the City's exercise of its police powers to protect public health, safety and well-being and to limit the spread of vectors and limit sources of noise and air pollution within the City by prohibiting the Collection of Solid Waste between certain hours and on certain holidays.

B. Categories. In order to carry out its duties to plan for the management of vehicular traffic and mitigate adverse air quality effects, the City Council may determine Solid Waste management Collection categories, including but not limited to, e.g., residential, multifamily residential, commercial, industrial, C&D, Temporary Bin and roll-off box, special event, Large Event, Electronic Waste, Universal Waste, Medical Waste, and household hazardous waste, Recyclable Material, Green Waste, and others and may make or impose Solid Waste Franchise, license, contract or permit requirements which vary for such categories.

C. The City shall have the ability to provide for or furnish Integrated Waste Management Services relating to Collection, transfer, processing and Disposal of Solid Waste including but not limited to Discards, C&D Material, Recyclable Material, Green Waste and Hazardous Waste within and throughout the City. Such services may be furnished by any one or any combination of the following (1) City officers and employees, (2) contractors franchised, permitted or licensed by the City, or (3) agreement with another local agency.

8.36.035 Persons authorized to collect and transport solid waste.

A. Except as expressly provided in subsection B of this section, no person(s) may Collect or transport Solid Waste, Recyclable Material or Green Waste from any location within the City unless such person(s) is an authorized, franchised, licensed or permitted Solid Waste Collector or has a self-haul exemption permit from the City. It is unlawful for any person(s) to permit or enter into any agreement for the Collection or transportation of Solid Waste or Green Waste with any person who is not a franchised, licensed, or permitted Solid Waste Collector.

B. The Collection and transportation of the following types of Solid Waste under the circumstances indicated are exempt from the provisions of subsection A of this section.

1. C&D Material removed from the premises by a licensed contractor with a valid Moorpark Business Registration and any necessary permits, using their own employees and proper equipment as an incidental part of a total service provided by said contractor and abiding by Article VII of the Moorpark Municipal Code.

2. Green Waste generated by an agricultural use on a lot where such use is permitted pursuant to applicable provisions of the Moorpark Municipal Code.

3. Hazardous Waste or Medical Waste.

4. Recyclable Materials generated on a Commercial or Residential Premises that are separated or caused to be separated from Solid Waste by the responsible person for such premise, and sold or donated by said person.

5. Solid Waste removed by a City officer, employee, or agent in the course of official duty.

6. Waste that is the by-product of sewage treatment.

7. Green Waste removed from the premises by gardening, landscaping, or tree trimming licensed enterprise with a valid Moorpark Business

Registration and any necessary permits performing work within the scope of performed work permitted by their license.

C. All Solid Waste Collected in the City under subsection B of this section must be transported to a materials handling, recovery, transfer, or Disposal facility, or other site permitted by the State in accordance with all applicable laws and regulations or reused.

8.36.040 Collection arrangements required.

In order to protect the public health, safety, and well-being and to prevent the spread of vectors, the person responsible for the day-to-day operation of each Residential Premises and each Commercial Premises within the City at which Solid Waste is generated or accumulated shall either make arrangements with a solid waste enterprise for the Collection of Solid Waste, as set forth in this Chapter, or obtain an exemption or self-haul permit from the Administrative Authority, as provided for in Section 8.36.045, below, and then to implement measures to reach the Diversion and other goals mandated by the California Integrated Waste Management Act of 1989, as it may be amended from time to time. If the Administrative Authority determines that the person in charge of day-to-day activities at any Residential or Commercial Premises has failed to subscribe for Collection service as required in this Chapter, a written notice may be sent informing the violation and requirements of this Chapter. If the person responsible for day-to-day operations does not subscribe to service within seventy-two (72) hours of the notice, or obtain an exemption per Section 8.36.045, the person is in violation of this Chapter.

8.36.045 Exemption from collection requirements.

The person responsible for day-to-day operations and activities at each premise may apply to the City for an exemption from subscribing to Solid Waste collection service pursuant to this Chapter. This person would be required to obtain a Solid Waste self-haul permit per Article VII, and if approved for an exemption, is required to submit reports to the Administrative Authority identifying the disposition of all generated Solid Waste, by amount and location, demonstrating that a minimum of fifty percent (50%) of the Solid Waste generated was Diverted from landfill Disposal, and demonstrating that all material was handled in accordance with applicable law.

8.36.050 Final determination of service levels and pickup locations by City.

The Administrative Authority may make the final determination as to where Containers shall be located for Collection and storage, and the proper service level, including number and size of Containers and frequency of Solid Waste Collection. Prior to, or absent alternative direction from the Administrative Authority, customers and solid waste enterprises may select service levels and Container locations.

8.36.060 Containers.

A. Each Collector must provide and maintain Containers for the temporary storage and Disposal of Solid Waste for both Commercial and Residential customers of the Collector pursuant to the terms this Chapter and any Franchise.

B. Containers must be constructed of metal, plastic, or other material approved by the City Manager and residential Containers must possess a fire resistant lid, which shall be utilized at all times. All bins must be rented or purchased by the person responsible for day-to-day activity or operations at each Commercial and Residential Premise from Collector.

C. Containers must be capable of holding without spilling, leaking or emitting excessive odors, all Solid Waste which would ordinarily accumulate on the premise between successive Collections. The size of Containers must be consistent with City regulations or the provisions of the applicable Franchise agreement.

D. The person responsible for day-to-day activity or operations for each Commercial and Residential Premise must maintain Solid Waste Containers in a clean, safe and sanitary condition.

8.36.070 Placement of containers and bulky items.

A. No person may place or cause to be placed for Collection Solid Waste or any Container containing Solid Waste or any Bulky Item, at any place or in any manner other than specified in this Chapter or Franchise agreement.

B. Any Container or Bulky Item permitted to be placed for Collection adjacent to a street must be placed behind but as close to the curblineline or the street right-of-way line as practicable. Any such Container or Solid Waste permitted to be placed for Collection adjacent to an alley must be placed on the premise as close to the property line as practicable.

C. No person may place a Container or Bulky Item adjacent to a street, alley, or public right-of-way before five thirty (5:30) p.m. on the day before the collection day set by the Collector. All Containers and Bulky Items permitted to be placed for Collection must be placed in a proper Collection location before seven (7:00) a.m. on the day of Collection.

D. After the Collection of Solid Waste, each Container must be promptly removed no later than ten (10:00) p.m. on the day of Collection and returned to a location on the premise where the Container cannot be viewed from the street and that is screened from public view. No Container shall be stored on a premise side yard that abuts any public street or in any premise front yard.

E. No Container shall be placed on any public right-of-way other than on Collection days without an encroachment permit having been obtained from the City pursuant to the Code.

8.36.075 Recyclable materials and recyclable solid waste collection.

A. Upon placement of Recyclable Materials and/or Recyclable Solid Waste from a Residential Premises at a designated Collection location, or placement of Recyclable Materials and/or Recyclable Solid Waste in a Container

provided by a Solid Waste Collector for Collection of Recyclable Materials and/or Solid Waste at a Commercial Premises, the Recyclable Materials become the property of the Solid Waste Collector by operation of State law. See Public Resources Code Section 41950(c) as it may be amended from time to time.

B. The Recycling or Disposal of any Recyclable Material which has become part of the Solid Waste stream by having been discarded shall be in accordance with the provisions of this Chapter.

C. Except as provided below, nothing in this Chapter shall limit the right of any person responsible for the day-to-day activity or operations at all premises, to sell Recyclable Material owned by that person, or to donate Recyclable Material to a charity or any other entity other than a Collector.

D. If the seller or donor of Recyclable Material pays the buyer or the donee any consideration for Collecting, processing, Recycling, transporting, or Disposing of the Recyclable Material, the transaction shall not be regarded as a sale or donation of Recyclable Material, but as an arrangement for the disposal of Solid Waste and shall be subject to this Chapter.

8.36.080 Green waste collection.

Green Waste shall be cut into pieces not to exceed four (4) feet in length and six (6) inches in diameter before being placed out for Collection in a Container. Green Waste shall be placed in Containers designated for the Collection of Green Waste. Green Waste shall not be contaminated with other forms of Solid Waste or Hazardous Waste. No person shall mix Green Waste with other forms of Solid Waste, nor contaminate Green Waste with any other substance, unless specifically permitted by the City or a Solid Waste Franchisee.

8.36.085 Composting.

The provisions of this Chapter do not prohibit an individual or entity from Composting Green Waste material as long as the compost pile, compost bin, or compost container is not visible from the street and conforms to applicable zoning and state regulations.

ARTICLE III UNAUTHORIZED CONTAINERS

8.36.220 Placement of unauthorized containers – prohibited.

No person other than an authorized Solid Waste Collector shall place an unauthorized container for the accumulation of Solid Waste on any public right-of-way or at any premises within the City or Collect any Solid Waste from any premises or permit or suffer a Solid Waste container to remain in any place within the City that has not been placed by an authorized Solid Waste Collector. Each day any person other than an authorized Solid Waste Collector shall Collect any Solid Waste from any premises or place an unauthorized container for the accumulation of Solid Waste at any premises within the City, or permit or suffer a Solid Waste container that is unauthorized to remain in any place within the City shall constitute a separate offense and shall be a nuisance and shall be subject to

removal pursuant to the process identified below and enforcement as stipulated in the Code.

8.36.230 Removal of unauthorized containers.

A. The Administrative Authority may cause the posting of a notice to remove, as described below, to be affixed in a conspicuous place on any unauthorized container placed on any public right-of-way or public or private property within the City, and on private property upon receiving permission from the person in charge of day-to-day activities or operations of the premises or the property owner, in violation of this Chapter in accordance with any applicable law. The notice to remove posted pursuant to this subsection shall specify the nature of the violation and shall state that the unauthorized container must be removed within twenty-four (24) hours or by a specific date and time as determined by the Administrative Authority on a case by case basis or it may be impounded and held by the City Franchisee Solid Waste Collector responsible for the public or private property location where the container was caused to be placed, and the contents Disposed of, at the expense of the owner thereof. The posting of a notice to remove shall constitute constructive notice to the owner and user of the requirement to remove the unauthorized container.

B. If the unauthorized container is not removed within twenty-four (24) hours after the notice to remove is posted or by the date and time specified on the notice, the Administrative Authority may direct the impoundment and storage of the unauthorized container and its contents if they contain Solid Waste. The Administrative Authority may direct the lawful Disposal of an unauthorized container's contents by the City Franchisee, or any other qualified party as directed by the Administrative Authority, if the contents consist of putrescible matter, Medical Waste, or Hazardous Waste. The contents shall be deemed to consist of Solid Waste whether or not one or all of the contents are potentially Recyclable. In all cases where the owner of the unauthorized container, whether acting alone or in concert with others, including any affiliate, agent, broker or subcontractor, has solicited, accepted or arranged for, directly or indirectly, the payment of a fee or other consideration in any form or amount from the customer in exchange for rendering all or any aspect of the service for which the container was supplied, the owner of the container shall reimburse the City Franchisee for the actual cost of Impoundment, storage and Disposal of the contents of the container. All amounts due to the City Franchisee for the cost of Impoundment and Disposal must be paid before the container may be returned to the owner. Such amounts shall constitute a civil debt owed by the owner to the City Franchisee, and the owner shall be liable to the City Franchisee in an action brought by the City Franchisee for the recovery of such amounts. If the identity of the owner of the container is known or can be ascertained by an inspection of the container, the Administrative Authority shall provide a written notice to the owner at the last known address of the owner based upon a review of public record advising the owner that the container has been Impounded and the location where the container will be stored, If the identity of the owner of the container is not known and cannot be ascertained by an inspection of the container, the

Administrative Authority shall provide a written notice to the person responsible for day-to-day activities and operations at the premise where the container is located. If it cannot be determined that the container is associated with a premise, the container itself shall be posted with a notice.

C. The owner of the container may contest the Administrative Authority's claim that the container was illegally placed or left standing by giving written notice to the Administrative Authority within ten (10) calendar days of receipt of written notification from the City that the container was Impounded. Where the owner asserts that the placement or use of the container was for a permitted salvage activity not otherwise proscribed by this Chapter, the owner shall provide the Administrative Authority with information to substantiate that assertion. Said information shall be submitted with the notice from the owner and shall include, at a minimum, the following:

1. Description of the materials of value deposited in the container and an estimate of their value.

2. Address, telephone number and contact person of the facility or facilities with whom the owner has arranged for the contents to be processed or recycled, and proof of that arrangement.

3. Evidence that the facility or facilities where the contents are destined to be processed or recycled carries all requisite approvals, permits, or other forms of authorization required by any governmental agency having jurisdiction, to conduct processing or recycling activities.

4. A declaration from the customer receiving service, signed under penalty of perjury, that the customer was charged no fee from the service provider in exchange for service, and that the contents of the container were either donated or sold by the customer to the service provider/owner.

5. The Administrative Authority shall have the right to request such additional information within thirty (30) days of receipt of items 1-4 above as may be necessary or useful in determining the validity of the owner's contest.

6. If the Administrative Authority determines, in the exercise of reasonable discretion, that the owner has supplied evidence sufficient to support it obtained all licenses, permits, and other required City approval and that it can support its contention that it was engaged in a permitted salvage activity involving solid materials, the container shall be returned to the owner without any charge for removal or storage of same.

D. If a container that has been Impounded pursuant to this section is not claimed within thirty (30) days after removal and notice to the owner, the container and its contents shall be deemed abandoned property and may be disposed of accordingly. Where the contents present imminent threat to public health and safety or consist of putrescible matter, Medical Waste or Hazardous Waste, as determined by the Administrative Authority, the waste may be processed or Disposed of without awaiting the expiration of the thirty (30) day claim period.

E. After an unauthorized container has once been removed by the City pursuant to this Article, the owner thereof shall be deemed to have actual notice of the provisions of this Article, including the prohibition against the placement of

unauthorized containers. In the event of a subsequent placement of a container owned by the same owner, or an affiliate of the owner, that is in violation of this Chapter, the Administrative Authority may immediately, without the posting of a notice to remove pursuant to subsection (A) of this section, direct the impoundment of the unauthorized container and shall, in such case, give notice to the owner to claim the container pursuant to subsection (B) of this section. In such event, the owner shall, subject to the provisions of subsection (C) of this section, be responsible to reimburse the City and City Franchisee for the actual cost of such removal, storage and Disposal, and administrative costs which shall be paid by the owner before the container may be returned to the owner. If the container is unclaimed after notice is mailed to the owner and the expiration of the period set forth in subsection (D) of this section, the container and its contents shall be deemed abandoned property and may be disposed of accordingly.

F. The fees required by this section shall be established by Resolution of the City Council.

ARTICLE III: SOLID WASTE FRANCHISES, FEES, EQUIPMENT, COLLECTION, AND COLLECTION ACTIVITIES

8.36.320 Solid waste franchise requirements.

The City Council may award exclusive, partially exclusive, or nonexclusive Solid Waste Franchises per Section 8.36.330. Any such Solid Waste Franchises shall be in the form of a written agreement granted by the City Council by at least three (3) affirmative votes. Where a Franchise agreement is silent on an issue, the provisions of this Chapter shall govern. Where a Franchise agreement predates the effective date of the ordinance contained in this Chapter, the provisions of the Franchise agreement shall govern over any inconsistent provisions contained in this Chapter.

8.36.325 Contents of franchise.

A. A Solid Waste Franchise may be granted on such terms and conditions as the City Council in its sole discretion shall establish as matters of local concern. At a minimum, a Solid Waste Franchise shall name the solid waste enterprise and shall provide:

1. The Franchisee shall comply with the provisions of this Chapter.

2. The Franchisee shall be required to protect, defend, indemnify, and hold the City harmless from liability, including but not limited to liability under the Resource Conservation and Recovery Act of 1983 ("RCRA"), 42 U.S.C. Section 6901 et seq., AB 939, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., or the Carpenter-Presley-Tanner Hazardous Substance Account Act ("HSA"), California Health and Safety Code Section 25300 et seq., and all future amendments to any of them, as they may be amended from time to time, and all

regulations implementing these acts and all applicable laws governing Universal Wastes. The City may require that such obligation be secured by a guarantee.

3. The Franchisee shall be required to cooperate with the City in Solid Waste disposal characterization studies or other waste stream audits and to submit other information required by the City to meet the reporting requirements of AB 939, or any other law or regulation, and to implement measures consistent with the City's reduction and Recycling objectives in order for the City to reach the Diversion and other goals mandated by the State, including but not limited to the Act and Public Resources Code Section 41780(a)(2) as they may be amended from time to time.

4. The City Council may set maximum and/or minimum rates for Solid Waste services including but not limited to maximum rates by category such as single-family residential, multi-family, and commercial.

5. The Franchisee shall be required to collect all fees and charges billed or collected by each Franchisee for its franchised services must not exceed the maximum schedule of fees and charges approved by the City Council;

6. The City shall have the right to provide for substitute Collection services upon the default of a Franchisee under a franchise agreement at the cost of the Franchisee, including a liquidated damages provision.

7. The Franchisee shall restrict assignment except as approved by the City Council.

8. The City shall have the right to mandate commercial recycling and the Franchisee shall be required to facilitate its implementation.

B. Each Franchisee, at all times during the term of its Franchise, must maintain liability insurance with companies and in such specified and reasonable amounts and coverage's as required by the Franchise agreement. In addition, each such Franchisee must maintain during the term of its Franchise, workers' compensation insurance coverage as required by law, or have in place a legally approved self-insurance plan for such workers' compensation coverage, and any other insurance requirements and endorsement forms as specified by City and required by the Franchise agreement.

Each Franchisee must, at all times during the term of its Franchise, maintain on file with the City Clerk proof of insurance evidencing the existence of all required insurance coverage in such reasonable form as approved by the City Attorney.

D. In deciding whether to grant a Franchise, the City Council may consider, among other factors, those listed in Section 8.36.325 and a solid waste enterprises past adherence to City codes, ordinances, Franchise agreements, etc. Any applicant who previously had a Franchise revoked shall be debarred from applying for another Franchise for a period of three (3) years.

8.36.330 Fees.

A. Pursuant to Division 30, Part 3, Chapter 8 of the Public Resources Code, Section 41900 *et seq.*, the City may levy fees upon solid waste enterprises and solid waste service recipients for planning, developing and administering (1) any program regarding Solid Waste, household hazardous waste, Recyclable Solid

Wastes and/or Green Waste, including related Collection, transfer, Disposal, processing, auditing, and planning activities; and (2) any program for responding to releases and spills of Solid Wastes which have the characteristics of hazardous substances. Such fees may include charges for the use of Disposal facilities and may include costs of preparing and implementing source reduction and Recycling elements, household hazardous waste elements and integrated waste management plans. The City may collect such fees by such means as the City Council may elect.

B. The City Council, by Resolution, may waive fees for Recyclable Solid Waste haulers and for Collectors of Green Wastes who transport such Green Waste to a compostable materials handling facility or a Green Waste composting facility, as defined in 14 CCR Section 17852, as it may be amended from time to time, or other site permitted (or exempt from permitting) by the State in accordance with all governing laws and regulations, and who report all such deliveries to the City.

8.36.340 Revocation, suspension, or termination of solid waste franchises.

A. Any Solid Waste Franchise issued or recognized under this Chapter is subject to revocation, suspension, or termination for cause if engaging in any act or conduct which falls in any one (1) or more of the following categories:

1. Operating the solid waste enterprise in a manner contrary to the public health, safety, well-being, peace, welfare, morals, or which are found to constitute a public nuisance.

2. Violating any regulation of the State, the California Department of Toxic Substances Control, the California Air Resources Board, or any of their respective successor agencies, a local enforcement agency, the Moorpark Municipal Code, or any material condition of a Franchise affecting public health and safety in the City.

3. Violating any federal or State law in which the Franchisee or any of its officers, directors, or employees are found guilty of any crime related to the performance of the franchise agreement, of any crime related to anti-trust activities, illegal transport or Disposal of hazardous or toxic materials, or bribery of public officials.

4. Engaging in fraud or deceit upon the City, made or makes or uses any false, fictitious or fraudulent statements or representations, or practiced any fraud or deceit or made any false, fictitious statements or representations in connection with the issuance or renewal of the Franchise.

5. Becoming insolvent, unable or unwilling to pay its debts, including payment of fees due to the City, or having a receiver or trustee appointed to take over and conduct the business of the Franchisee whether in a receivership, reorganization, or bankruptcy proceeding.

6. Failing to provide or maintain in full force and effect the workers compensation, liability, and indemnification coverage or cash bond or other guarantee as required.

7. Violating any order or ruling of any regulatory body with respect to Solid Waste handled or Collected within the City, except that such order or ruling may be contested by appropriate proceedings conducted in good faith, in which case no violation shall be deemed to have occurred until a final decision adverse to the solid waste enterprise is entered.

B. Investigation. If the Administrative Authority determines that (1) the continuing performance of a Franchise in the City may not be in conformity with reasonable industry standards applicable in Ventura County or provided under the "Act", including, but not limited to, requirements for implementing Diversion, source reduction and Recycling, or any other applicable federal, State or local law or regulation, including but not limited to the laws governing transfer, storage, or Disposal of Solid Waste and Hazardous Waste, Universal Wastes, and diversion rates required of the City by Public Resources Code Section 41780(a)(2), or this Chapter; or (2) a Franchisee is in default of the terms of its Franchise, the Administrative Authority shall advise the Franchisee in writing of such suspected deficiencies. In any written notification of deficiencies, the Administrative Authority shall set a reasonable time within which the Franchisee is to correct the deficiencies and respond. Unless otherwise specified in the Franchise, a reasonable time for response and correction of deficiencies shall be thirty (30) days from the receipt of such written notice by the Franchisee.

C. Response. At the expiration of the time set for response from the Franchisee, the Administrative Authority shall review the record, including any written response from the Franchisee to the notice of deficiencies, and take either of the following actions: (1) resolve the matter in favor of the Franchisee; or (2) order remedial action to cure any breach. In either event, the Administrative Authority shall inform the Franchisee in writing of the decision. A decision or order of the Administrative Authority shall be final and conclusive unless the Franchisee files a notice of appeal to the City Council with the City Clerk (with a copy to the City Manager and the City Attorney) within ten (10) days of mailing of the decision. The notice of appeal to the City Council shall state the legal basis and all legal and factual contentions of the Franchisee and shall include all evidence including, but not limited to, affidavits, documents, photographs, CDs, and DVDs. A notice to appeal to the City Council shall not be accepted by the City Clerk for filing unless accompanied by a notice of appeal filing fee in an amount to be set by City Council Resolution.

D. Public Hearing. Within sixty (60) business days of receipt by the City Clerk of a notice to appeal to the City Council, the City Council shall set the matter for a public hearing. The City Clerk shall give written notice of the time and place of the hearing, as well as publish such notice as required for public hearings. At the hearing, the City Council shall consider the administrative record, including the notice of deficiency, the Franchisee's response, the Administrative Authority's written decision, and the Franchisee's notice of appeal to the City Council. The City Council shall also give the Franchisee, or its representatives and any other interested person a reasonable opportunity to be heard. The proceedings before the Council shall be an informal administrative

hearing and the rules of evidence, as generally applied in judicial proceedings, shall not be applicable.

E. Determination. Based on the administrative record, the City Council shall determine by Resolution whether the Administrative Authority's decision should be upheld. A tie vote of the City Council shall be regarded as upholding the Administrative Authority's Decision. If, based upon the record, the City Council determines that the Franchisee is in breach of any material provision of the Franchise, or other cause for termination of the Franchise, or decides to order the Franchisee to cease operations in the City, the City Council in the exercise of its sole discretion, may order remedial actions to cure the breach, or terminate forthwith the Franchise or order operations in the City to cease. The decision of the City Council shall be final and conclusive.

8.36.345 Restrictions on transfer of solid waste franchises.

A Solid Waste Franchise of the City will not be transferable, except as follows.

A. A Franchise may not be transferred, sold, sublet or assigned, nor shall any of the rights or privileges therein be leased, assigned, sold or transferred either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any person, either by act of the Franchisee or by operation of law without the prior written consent of the City Council and as set forth in the franchise agreement.

B. An application for a transfer of a franchise must be made in a manner prescribed by the Administrative Authority. The application must include a franchise transfer application fee in an amount to be established by Resolution of the City Council to cover the anticipated cost of all reasonable and customary direct and indirect administrative expenses including, but not limited to, consultants and attorney fees and costs, necessary to analyze the application and to reimburse the City for direct and indirect expenses. In addition, the Franchisee must reimburse the City for all reasonable consultants, attorneys' and staff costs not covered by the franchise transfer application fee, whether or not the City approves the application for transfer. The City's demand for reimbursement shall be supported by evidence of the expenses and costs incurred. The Franchisee and the applicant for transfer will be jointly and severally liable for the payment of any reasonable consultants', attorneys' and staff costs not covered by the franchise transfer application fee.

C. The applicant for a transfer of a Franchise will have the burden of demonstrating that it has the operational and financial ability to meet all obligations of the Franchise.

D. The City may withhold its consent to a transfer of the Franchise and may require amendment of any Franchise as a condition of approval of the transfer of any Franchise.

8.36.350 Collection rates.

A. The maximum rates to be charged to customers for Collection of Solid Waste from Residential and Commercial Premises shall be as prescribed

and set forth in the rate schedule to be established by Resolution of the City Council.

B. At a noticed public hearing, the City Council may establish, by Resolution, a ceiling on the amounts of charges a Franchisee may charge for Solid Waste Collection in addition to any required fees. Except as provided in subsection (D), or as otherwise provided in a Franchise agreement the City Council will consider adjustments to the maximum permitted charges once per calendar year. The maximum rates may not be increased without prior written approval of the City Council by Resolution.

C. At the conclusion of the public hearing, the City Council shall have the power to approve, deny or modify in any respect or particular instance the schedule of rates for the Collection of Solid Waste from Commercial or Residential Premises in the City, based upon the fairness of the rate increase to the Franchisee and whether or not said increase will be detrimental or injurious to the affected customers, and shall thereafter by Resolution adopt a rate schedule for Collection of Solid Waste.

D. The Franchisee may petition the City Council for an increase in the maximum rate to offset unusual changes in the Franchisee's costs of doing business, such as revised federal, State or county laws, ordinances or regulations, significant changes in disposal charges, or change of Disposal sites or processing facilities.

8.36.355 Liability for collection charges and fees.

A. The person in charge of day-to-day activities and operations of any Residential and Commercial Premises required by this Chapter to have Solid Waste Collection service or a self-haul exemption permit and shall be liable for all applicable fees and charges pertaining to such collection, and/or is subject to self-haul requirements in accordance with Article VII of this Chapter.

B. To protect public health, safety, and well-being and to control the spread of vectors, the person responsible for day-to-day activities and operations of each Residential and Commercial Premises in the City at which Solid Waste is generated or accumulated shall make arrangements for Collection, Recycling, and Disposal of that waste generated or accumulated on those premises in accordance with the requirements of this Chapter, or shall obtain a self-haul permit in accordance with Article VII of this Chapter. The fees and charges, plus any interest or penalties, shall be due and payable on the date stated on the bill. The person responsible for day-to-day activities and operations of each premise in the City at which Solid Waste subject to this Chapter is generated or accumulated, and which is not self-hauled, shall be liable for payment of all charges for Solid Waste services, including any interest or penalties, or any Recycling charges.

8.36.360 Collection equipment.

A. Any truck or vehicle used for Collection and/or transportation of Solid Waste, Hazardous Waste, or Medical Waste under the provisions of this Chapter

shall be required to adhere to the standards set forth below and, if applicable, detailed further within the Franchise agreement:

1. Be completely enclosed with a non-absorbent, close-fitting cover while transporting such waste in or through the City. "Completely enclosed with a non-absorbent, close-fitting cover" means that the waste will not be visible from the street, shall contain offensive odors, and shall prevent any waste from spilling, dropping, leaking, or blowing off of or out of any solid waste truck or vehicle and become deposited along the public right-of-way during Collection or transportation.

2. At all times have in the cab thereof the registration of the truck or vehicle, a copy of the permit issued by the City, if applicable, a certificate of insurance, and an identification card with the name of a person to telephone in case of an accident or emergency. Each truck shall also be equipped with a minimum five (5) pound fire extinguisher certified by the California State Fire Marshal and recharged as needed, but not less than once annually.

3. Be identified with the Franchisee's name and have a unique vehicle number displayed in a prominent location.

4. Be made available for inspection at the discretion of the Administrative Authority at any point of operation and be properly maintained, kept clean, and in good repair at all times.

5. To protect public health, safety, and quiet enjoyment of the City's residents, the noise level for collection vehicles during the stationary compaction process shall not exceed seven (75) A-weighted decibels (dBA) at a distance of twenty-five (25) feet from the collection vehicle and at an elevation of five (5) feet from the horizontal base of such vehicles.

B. Any Collection Container provided by the Franchisee or Collector to any residential or commercial customer for the Collection of Solid Waste within the City must:

1. Be labeled clearly with the name of the Franchisee or Collector, the telephone number of the Franchisee or Collector, and a unique identifier.

2. Be marked or posted with information stating the Container is not to be used for Disposal of Hazardous Waste. Commercial Bins shall have conspicuous notices on each side of the Commercial Bin that states the bin is not to be used for disposal of Hazardous Waste.

3. Be maintained in a manner that protects public health and safety and prevents the spread of vectors.

4. Be maintained free from any exterior paint or markings, commonly referred to as "graffiti" or "tagging" and upon notification by the Administrative Authority of any such markings on a container identified by address or unique identifier, such markings must be removed or painted over within twenty-four (24) hours from notification.

8.36.365 Clean up of solid waste spills.

A. Any person or entity handling and transporting Solid Waste, including Recyclable Solid Waste and Green Waste, within the City must clean up

immediately, or arrange for the immediate clean up, of any Solid Waste or Liquid Waste released, spilled or dumped into the environment during collection, handling, or transport within the City by such person or any vehicle fluid spill from Collector's vehicles.

B. Until Solid Waste has been picked up by a Franchisee or Collector, or is self-hauled, the person in charge of the day-to-day activities or operations of each Residential and Commercial Premises in the City shall be responsible for the cleanup of any and all Solid Waste generated, deposited, released, spilled, leaked, pumped, poured, emitted emptied, discharged, injected, dumped, or disposed into the environment, or which has come to be located outside an authorized container on, at, or in the premises of which the person is in charge. This cleanup responsibility includes the cleanup of Solid Waste including Recyclable Solid Waste and Green Waste which has come to be located outside an authorized Container for the Collection of such Solid Waste notwithstanding human or animal interference with a Container, wind, or other natural forces and whether during storage, Collection, removal, or transfer. For purposes of this section, the term "disposed into the environment" shall include, but not be limited to, the abandonment of or discarding of barrels, containers, and other closed receptacles of Solid Waste or Liquid Waste of any kind whatsoever.

C. Each Franchisee or Collector shall clean up any Solid Waste spilled or otherwise released or discharged into the environment during its Collection, removal, or transfer immediately upon the occurrence of the spill, release or discharge in a manner approved by the Administrative Authority and is to inform the City verbally of the occurrence immediately and with a written report within two (2) hours of the incident. Each Franchisee or Collector shall clean up any leaks or spills from their vehicles and equipment for the NPDES permit currently in effect in City. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with.

8.36.370 Frequency and hours of collection.

A. All Solid Waste Collection from Residential Premises and Commercial Premises adjacent to Residential Premises shall be made between the hours of seven (7:00) a.m. and six (6:00) p.m., Monday through Friday, and on Saturdays as specified in subsection D of this section.

B. All Solid Waste Collection from Commercial Premises not adjacent to Residential Premises shall be made between the hours of six (6:00) a.m. and six (6:00) p.m., Monday through Friday and between the hours of eight (8:00) a.m. and three (3:00) p.m. on Saturdays. At no time is collection allowed on Sundays except as specified in subsection D of this section.

C. No residential or commercial Solid Waste Collector shall Collect or transport Solid Waste within two hundred (200) feet of a public or private elementary, middle or high school during the one-half ($\frac{1}{2}$) hour before the commencement of the regular school day and one-half ($\frac{1}{2}$) hour following the conclusion of the regular school day. It shall be the responsibility of the Collector or drop box transporter to ascertain the various starting and ending times for schools within the City.

D. Whenever a holiday recognized by the City or any approved disposal site falls upon a regularly scheduled collection day, the Solid Waste scheduled for Collection that day, and for the remainder of the week, may be picked up one day later than scheduled following specified guidelines in subsections A through C of this section. Commercial collection scheduled for Saturdays may be picked up on Sunday between the hours of ten (10:00) a.m. and three (3:00) p.m.

8.36.380 Special collection.

The person responsible for the day-to-day activities or operations at each Residential and Commercial Premise in the City may order special Collections of such things as Bulky Waste, C&D Material, and Temporary Bin services through a City Franchisee or authorized Collector only.

8.36.385 Franchisee remedies.

Nothing in this Chapter shall be deemed to limit the right of a Franchisee or the City to bring a civil action against any person who violates this Chapter, nor shall a conviction for such violation exempt any person from a civil action brought by a Franchisee or the City.

8.36.390 City right of provision modification.

In addition to the requirements of this Chapter and the provisions of a franchise agreement, the City specifically retains the right to repeal, amend, add to, or modify each and every provision of this Chapter and the City, City Council, or City Manager may issue written regulations and policies to implement the provisions of this Chapter.

ARTICLE V. UNLAWFUL AND PROHIBITED ACTS

8.36.400 Unlawful collection.

A. To protect public health, safety, and well-being, no person except a City employee or a Franchisee or authorized Collector or self-haul Permittee recognized by the City, or entity authorized under Article VII of this Chapter shall collect or remove any Solid Waste or Green Waste from any premises within the City.

B. No person except a City employee or a Franchisee or authorized Collector or self-haul permittee recognized by the City, or entity authorized under Article VII of this Chapter, shall place a Container owned by the Franchisee, Collector, or contractor for the accumulation of Solid Waste at any premises within the City or collect any Solid Waste from any premises or permit or suffer a Solid Waste Container to remain in any place within the City that has not been placed by an authorized Solid Waste Collector. Each day any person other than a Franchisee, Collector or entity as described above shall collect any Solid Waste from any premises or place a Container for the accumulation of Solid Waste at any premises within the City, or permit or suffer a Solid Waste Container to remain in

any place within the City shall constitute a separate offense and shall be a nuisance.

8.36.425 Use of containers required.

To protect public health, safety, and well-being and to control the spread of vectors, no person other than a self-haul Permittee pursuant to this Chapter, or a contractor performing work within the scope of that contractor's license according with Section 8.36.750 of this Chapter, shall keep Solid Waste, including Green Waste, in any Container other than a Container approved by a Franchisee or the City; nor shall any person place Solid Waste in any Container provided by a non-franchised solid waste hauler (except pursuant to Articles VI or VII of this chapter); nor shall any person accumulate Solid Waste for more than fourteen (14) consecutive days; nor shall any person keep upon any premises in the City, Solid Waste which is offensive, obnoxious, or unsanitary. All of the foregoing is unlawful, constitutes a public nuisance and may be abated in the manner now or hereafter provided by law for the abatement of nuisances.

8.36.430 Removal of solid waste containers.

No person, other than the person responsible for day-to-day activities or operations at any Commercial or Residential Premises or a Solid Waste Collector, may remove or move any Container from the location where the Container was placed for storage or Collection without the prior written approval of the responsible person.

8.36.435 Collection of solid waste disposal.

No person responsible for day-to-day activities or operations at any Commercial or Residential Premises shall Collect, enter into an agreement to Collect, or provide for the Collection, transportation or Disposal of Solid Waste, unless such person or persons is authorized by the City to operate within the City by means of a license, Franchise, contract, permit, operations agreement or otherwise. All Solid Waste created, produced or accumulated in or about Residential or Commercial Premises in the City shall be Collected at least once per week. No person who is the occupant or responsible party of any Residential or Commercial Premises shall fail or neglect to provide for the Collection of Solid Waste at least as often as prescribed in this Chapter. Unless otherwise permitted by this Chapter, the party responsible for day-to-day operations or activities of any Residential or Commercial Premises shall subscribe to or arrange for Collection of Solid Waste from such premises by the Franchisee. The Franchisee shall Dispose of Solid Waste Collected pursuant to this Chapter and the agreement in a manner satisfactory to the City and in accordance with all federal, State and local laws and regulations.

8.36.440 Use of container of another.

To protect public health, safety, and well-being and to prevent the contamination of Solid Waste, including Recyclable Solid Waste and Green Waste, no person shall place Solid Waste in, or otherwise use the Solid Waste Container,

including a Recyclable Solid Waste, Green Waste, or other waste container, of another, without the prior written permission of such other person.

8.36.445 Use of civic solid waste containers.

To protect public health, safety, and well being, no person shall place or deposit Residential or Commercial Solid Waste, Industrial Waste, Special Waste, Medical Waste, Electronic Waste, Universal Waste or other Hazardous Waste in any Civic Solid Waste Container.

8.36.450 Burning of solid waste.

No person may cause or permit the burning of any Solid Waste within the City, except in an approved incinerator, Transformation facility, conversion technology facility or other device for which a permit has been issued and which complies with all applicable permit and other regulations of air pollution control authorities and provided any such act of burning in all respects complies with all other laws, rules, and regulations.

8.36.460 Dumping of solid waste prohibited.

No person shall dump, deposit, release, spill, leak, pump, pour, emit, empty, discharge, inject, bury, or dispose into the environment any Solid or Liquid Waste upon any premises within the City, or to cause, suffer, or permit any Solid or Liquid Waste to come to be located upon any premises in the City, except in an authorized or permitted Solid Waste Container or at an authorized or permitted Solid Waste facility approved for that type of waste.

8.36.470 Commingling of green waste with other forms of waste prohibited.

No person may place or cause to be placed for Collection any accepted Green Waste in any Container designated for the Collection of any other form of Solid Waste or Recyclable Material.

8.36.480 Scavenging.

It is unlawful for anyone other than the owner of the Recyclable Materials, or Recyclable Solid Waste, to remove Recyclable Materials or Recyclable Solid Wastes placed for Collection in their containers labeled for use in connection with a recycling program sponsored by the City or authorized Franchise or Collector.

8.36.490 Public nuisance.

To protect public health, safety, and well-being and to prevent the spread of vectors, it is unlawful and a public nuisance for any person or entity to violate any term of this Chapter. For these same reasons, it is a public nuisance for any person or entity to occupy, inhabit, maintain, or to be in day-to-day control of any premises within the City which generates Solid Waste for which arrangements have not been made with a Franchisee or authorized Collector, or without obtaining a self-haul permit from the City; for regular Collection and removal of Solid Waste, including Recyclable Solid Wastes and Green Waste.

ARTICLE V. LARGE EVENT AND LARGE VENUE WASTE MANAGEMENT

8.36.500 Purpose.

The purpose of this Article is to Reduce Solid Waste from Large Events and Large Venues by requiring those who hold Large Events and operate Large Venues to develop and implement waste management plans to Reduce Solid Waste placed in landfills and to report Diversion and Recycling to the City.

8.36.510 Application of section to large events and large venues.

A. Large Events and Large Venues shall meet the requirements of and shall comply with all provisions of this Chapter.

B. The following Large Events and Large Venues are subject to the requirements of this Chapter:

1. All events charging an admission price or for which an applicant seeks temporary or periodic use or occupancy of a public street, publicly owned site or facility or public park within the City for a civic, commercial, recreational or social event attended by or anticipated to be attended by an average of more than two thousand (2,000) individuals per day of operation.

2. All venues that annually seat or serve an average of more than two thousand (2,000) individuals per day of operation, including but not limited to convention centers, community centers, golf clubs, amusement parks, recreational parks, theaters and concert halls located within the City.

C. The City may charge and collect a fee from an operator of a Large Event or Large Venue in an amount to be established by Resolution of the City Council to recover the City's estimated costs incurred in complying with this Article.

8.36.520 Waste management plan requirements.

A. All Large Event applicants shall develop and submit to the Administrative Authority a waste management plan for reducing and Recycling Solid Waste as part of the application for a permit. The waste management plan shall include the following information:

1. An estimate of the anticipated amount and type of Solid Waste generated and material Disposed and diverted from the event.

2. Proposed actions to reduce, reuse, and Recycle the amount of Solid Waste generated from the event.

3. Arrangements for separation, Collection and Diversion from landfills of reusable and Recyclable Materials.

B. All Large Venues shall develop and submit to the Administrative Authority a waste management plan on an annual basis on or before January 1 of each year. The waste management plan shall include the following:

1. An estimate of the amount and type of waste generated and material Disposed and Diverted from the venue.

2. The existing Solid Waste reduction, reuse and Recycling programs that the operator of the Large Venue utilizes.

C. All Large Event applicants and Large Event operators shall agree to use City contracted Franchisees or Collectors for removal of Solid Waste, which may exclude recyclables per prior written approval by the Administrative Authority, from the events and venues. Applicants must identify the following information on their waste management plan, including but not limited to, their plans to remove Recyclables using their own staff or volunteers, type of material being removed, amount of material being removed, and where the material will be taken. Recycle weight tickets or receipts must be submitted to the Administrative Authority and the plan must be followed before the Permittee shall be refunded their event security deposit, in part or in full by the City.

D. All Large Event applicants and Large Venue operators shall agree to the following: On or before October 1, 2011, and on or before October 1, annually thereafter, the operator of a large venue shall meet with the Administrative Authority, Franchisees and Collectors of the Large Venue to determine the appropriate waste reduction programs to meet the requirements of this Chapter.

8.36.530 Review of waste management plan.

A. Time for Review. A waste management plan shall be approved or rejected no later than thirty (30) business days after a complete application for a permit is made for a Large Event and/or a waste management plan is submitted for a Large Venue.

B. Approval. The Administrative Authority may approve the plan subject to conditions reasonably necessary to meet the standards of this Chapter and may consult with the City Franchisee or Collectors concerning the viability of the waste management plan and compliance by Large Events and Large Venues with diversion requirements. Waste audits may be performed by the City or Franchisee to verify compliance with the approved waste plan. Notwithstanding any other provision of this Chapter, no permit shall be issued for any Large Event or Large Venue unless and until the waste management plan has been approved, based upon the following findings by the Administrative Authority:

1. All of the information required by Section 8.36.520 has been provided.

2. The plan establishes a mechanism to ensure that the diversion requirement will be met.

C. Rejection. If the Administrative Authority rejects the waste management plan, the grounds for rejection shall be clearly stated in writing.

8.36.540 Waste management compliance reporting.

A. Within thirty (30) days of the date(s) of the event(s) or monthly for Large Venues, the Large Event or Large Venue operator shall provide a written report to the Administrative Authority containing the following documentation:

1. A listing of waste reduction, reuse, recycling and diversion programs implemented for the event or venue.
2. The type and weight of materials diverted and disposed at the event or venue with appropriate supporting documentation.

8.36.550 Actions by the city.

When issuing a permit to an operator of a Large Event or Large Venue, the Administrative Authority shall provide information to the operator that can be implemented to reduce, Reuse and Recycle Solid Waste materials generated at the event or venue and provide contact information about where Solid Waste materials may be donated, Recycled or Composted. This information may include, but is not limited to, providing information listing the operator of the Large Event or Large Venue to the State web site or any other appropriate web site for information.

8.36.560 Penalties.

Any Large Event or Large Venue identified under this Chapter as a Large Event or Large Venue not complying with the waste management plan approved by the Administrative Authority may be subject to non-refund of all or a portion of the security deposit submitted with their permit application. Based on non-compliance the City may also require additional processing of Solid Waste generated by the event or venue at an additional cost to the operator to meet the Diversion goals of the City.

ARTICLE VI. CONSTRUCTION AND DEMOLITION MATERIAL MANAGEMENT

8.36.600 Purpose.

The purpose of this Article is to establish regulations to reduce landfill bound waste from C&D projects by requiring applicants for every Covered Project, as defined herein, to Divert or Recycle, a minimum of 65 percent (65%), of material type by weight, of the C&D Material resulting from that project, including Inert Waste, in compliance with State and local statutory goals and policies, and to create a mechanism to ensure compliance with said Diversion Requirements. Fees for the C&DMMP review process and for the C&DMMP exemption process shall be established by Resolution of the City Council.

8.36.620 Covered projects.

Except as otherwise provided in this Code, each applicant for a permit required by this Code for a Covered Project shall also complete and submit a Construction and Demolition Materials Management Plan (C&DMMP) to the Administrative Authority unless the project is an exempt project, as defined in Section 8.36.625.

No permit for a Covered Project shall be issued by the Division of Building and Safety unless the applicant for the permit has submitted a C&DMMP that has been reviewed and approved by the Administrative Authority, or the project is an

exempt project as defined in Section 8.36.625. Review of applications for permits for Covered Projects by the Division of Building and Safety may be concurrent with the review of the C&DMMP by the Administrative Authority but the permit shall not be issued until the C&DMMP has been approved.

8.36.625 Exempt projects.

No C&DMMP or Diversion Security Deposit shall be required for any of the following:

- A. Work for which a building permit, demolition permit, and/or grading permit is not required.
- B. Any new residential or nonresidential construction project valued at less than five hundred thousand dollars (\$500,000) by the City's Building Official;
- C. Residential or nonresidential alterations valued at less than one hundred thousand dollars (\$100,000) by the City's Building Official.
- D. Projects for which only a plumbing permit, electrical permit, or mechanical permit, or any combination thereof, is required.
- E. Seismic tie-down projects.
- G. Installation of swimming pools or spas.
- H. Demolition or construction required to protect public health or safety in an emergency, as defined in Public Resources Code Section 21060.3, as it may be amended from time to time.
- I. Other work the Administrative Authority determines will not produce a significant amount of C&D Material.

8.36.630 City sponsored projects.

All of the City's construction, demolition, and renovation projects, except as provided below and regardless of cost, shall be considered "Covered Projects" for the purposes of this Chapter and shall be subject to all applicable provisions of this Chapter. Prior to the start of any City construction or demolition activity, a C&DMMP shall be prepared by the City designated project manager for approval by the Administrative Authority. The City is not required to submit a Diversion Security Deposit for City sponsored Covered Projects. City projects limited to interior plumbing work, electrical work, or mechanical work are not Covered Projects. City demolition or construction projects required to protect public health or safety in an emergency, as defined in Public Resources Code Section 21060.3, as it may be amended from time to time, are not a covered project.

8.36.635 Compliance as a condition of approval.

Compliance with this Chapter shall be included as a condition of approval of any permit issued for a Covered Project.

8.36.640 Construction and demolition materials management plan (C&DMMP).

Each applicant applying for a permit for any Covered Project shall complete and submit to the Administrative Authority a C&DMMP, on a C&DMMP form

approved by the City Manager for this purpose. The completed C&DMMP, at a minimum, must indicate all the following:

A. The estimated weight of total project C&D Materials, by material type, that will be generated.

B. The maximum weight of all C&D Materials, by material type, that are feasible to Divert, considering cost, energy consumption and delays, via Reuse or Recycling efforts.

C. The vendor or facility that the applicant proposes to use to Collect, Divert, market, Reuse, or receive the C&D Materials, by type of material.

D. The estimated weight or residual C&D Materials that would be transported for Disposal in a landfill or at a Transformation facility.

E. The estimated weight of Inert Waste, by waste type, to be removed from the waste stream and not disposed of in a solid waste landfill.

Each applicant will be provided information concerning a salvage audit and encouraged to have a salvage audit conducted prior to commencing any deconstruction project.

The C&DMMP must receive approval by the Administrative Authority prior to issuance of any Building and Safety permit for the Covered Project.

8.36.645 Calculating volume and weight of material.

In estimating the volume or weight of materials identified in the C&DMMP, the applicant shall use the conversion rates approved by the City for this purpose.

8.36.650 Deconstruction.

In preparing the C&DMMP, applicants for demolition permits involving the removal of all or part of an existing structure shall consider Deconstruction to the maximum extent possible, and shall make the materials generated thereby available for salvage prior to being transported for Disposal in a landfill or Transformation facility. Deconstruction can be used to meet the Diversion Requirement provided it is accounted for in the C&DMMP.

8.36.655 C&DMMP diversion security deposits.

Each applicant for a permit for a Covered Project, except the City, shall submit a Construction and Demolition Diversion Security Deposit along with the C&DMMP. The amount of the diversion security deposit shall be established by Resolution of the City Council. The Administrative Authority may waive the Diversion Security Deposit if the Diversion Security Deposit required pursuant to this section would be fifty dollars (\$50.00) or less.

8.36.660 C&DMMP review approval.

Notwithstanding any other provisions of this Code, no building or demolition permit shall be issued for any Covered Project unless and until the Administrative Authority has approved the C&DMMP. The Administrative

Authority shall only approve a C&DMMP if it is determined that all of the following conditions have been met:

- A. The C&DMMP provides all of the information required in Section 8.36.640.
- B. The C&DMMP indicates that the Diversion Requirement will be met.
- C. The applicant has submitted an appropriate Diversion Security Deposit in compliance with Section 8.36.655.

If the Administrative Authority determines that these three conditions have been met, the Administrative Authority shall mark the C&DMMP "Approved", return a copy of the C&DMMP to the applicant, and notify the Division of Building and Safety that the C&DMMP has been approved.

8.36.665 C&DMMP review denial.

If the Administrative Authority determines that the C&DMMP fails to meet the conditions specified in Section 8.36.640, then the Administrative Authority shall either:

- A. Return the C&DMMP to the applicant marked "Denied" including a statement of reasons, and so notify the Division of Building and Safety, which shall then hold the project's permit.
- B. Return the C&DMMP to the applicant marked "Further Explanation Required", including a statement of reasons, and so notify the Division of Building and Safety, which shall then hold the project's permit.

If the Applicant determines during the course of the project that the estimated tonnage of C&D material to be generated and/or recovered or Disposed of from the project is substantially different from the C&DMMP, applicant shall submit an addendum to the original C&DMMP.

8.36.670 Application for refund and return of diversion security deposits.

Within ninety (90) days after the final project permit sign-off of any Covered Project, the applicant shall submit to the Administrative Authority documentation that the applicant has met the Diversion Requirement for the approved project and apply for a refund of the Diversion Security Deposit. If documentation is not received by the Administrative Authority as required by Applicant, then Applicant forfeits the Diversion Security Deposit. Applicant shall provide the following documentation:

- A. The dates on which grading, building, paving, demolition, and/or construction actually commenced and were completed.
- B. Receipts and/or gate tickets from the vendor(s) or facility(ies) which collected or received each type of C&D Material showing the actual weight of each type of material, or in the case of commingled C&D Materials the aggregate weight of the materials and the amount that was disposed, or in the case of Inert

Waste, documentation proving removal from the solid waste stream and non-disposal in a solid waste landfill.

C. Documentation proving material salvaged or Reused in current project.

D. A copy of the previously approved C&DMMP for the project adding the actual volume or weight of each material diverted and not disposed of in a solid waste landfill.

E. Any additional information the applicant believes is relevant to determining its efforts to comply in good faith with this Article.

8.36.675 Documentation of construction and demolition material diversion.

Applicants shall make reasonable efforts to ensure that all C&D Material Diverted or delivered to disposal facilities for Disposal, are measured and recorded using the most accurate method of measurement available. To the extent practical, all C&D Materials, and Inert Waste to be removed from the waste stream and not disposed of in a solid waste landfill, shall be weighed on scales. Such scales shall be in compliance with all State and County regulatory requirements for accuracy and maintenance. For C&D Material for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the applicant shall use the standardized conversion rates approved by the City for this purpose. Documentation of the foregoing shall consist of photocopies of receipts, weight tickets, gate tickets, and other records from recycling facilities, deconstruction contractors, solid waste enterprises and disposal facilities.

8.36.680 Determination of compliance and release of diversion security deposit

The Administrative Authority shall review the information submitted under Section 8.36.670 to determine whether the applicant has complied with the C&DMMP as follows:

A. Full Compliance. If the Administrative Authority determines that the applicant has fully complied with the C&DMMP requirements applicable to the project, the Administrative Authority shall cause the full Diversion Security Deposit to be released to the applicant.

B. Good Faith Effort to Comply. If the Administrative Authority determines that the C&DMMP has not been complied with, the Administrative Authority may determine whether the applicant made a good faith effort to comply with this Article. In making this determination, the Administrative Authority shall consider the availability of markets for the C&D Materials transported for Disposal in a landfill or Transformation facility, the size of the project, and documented efforts of the applicant to Divert C&D Materials and remove Inert Waste from the waste stream. If the Administrative Authority determines that the Applicant has made a good faith effort to comply with this Chapter, the Administrative Authority shall approve the release of the Diversion

Security Deposit, or a portion thereof, to the Applicant. Any portion of the Diversion Security Deposit not released to the Applicant shall be forfeited to the City.

C. Failure to Comply. If the Administrative Authority determines that the Applicant has not made a good faith effort to comply with this Article, or if the Applicant failed to submit the documentation required in Section 8.36.670, within the required time period, then the Diversion Security Deposit shall be retained by the City for purposes of promoting Recycling within the City.

D. Partial Refund. The Administrative Authority may authorize a partial refund of the Diversion Security Deposit when the Diversion Requirement has not been met. Any partial refund shall be made in the same ratio as the demonstrated amount of diverted C&D Material and Inert Waste, respectively, waste bears to sixty-five percent (65%) by weight. The remaining Diversion Security Deposit non-refunded shall be forfeited to the City.

E. Withdrawal of Permit Application. The Administrative Authority may authorize the refund of any Diversion Security Deposit of the permit application for a Covered Project is withdrawn or cancelled prior to work commencing.

F. Diversion Security Deposits retained by the City may be used only for payment of Diversion Security Deposit bonds; costs to administer the program established by this Article; and cost of programs to achieve Diversion of C&D Materials from Disposal at disposal facilities.

8.36.685 C&DMMP exemptions

A. Application. If an Applicant for a Covered Project experiences or anticipates unique circumstances that the Applicant believes make it non feasible to comply with the Diversion Requirement, the Applicant may apply for an exemption at the time that the Applicant submits the C&DMMP required under this Chapter. The Applicant shall indicate on the C&DMMP the maximum rate of Diversion the Applicant believes is feasible for each material, by weighted percentage, and the specific circumstances that the Applicant believes make it non feasible to comply with the Diversion Requirement. A review fee for the C&DMMP exemption process shall be established by Resolution of the City Council.

B. Meeting with the Administrative Authority. The Administrative Authority shall review the information supplied by the Applicant and may meet with the Applicant to discuss possible ways of meeting the Diversion Requirement. Based on the information supplied by the Applicant, the Administrative Authority shall determine whether it is possible for the Applicant to meet the Diversion Requirement.

C. Granting of Exemption. If the Administrative Authority determines that it is not feasible for the Applicant to meet the Diversion Requirement, the Administrative Authority shall determine the maximum feasible Diversion rate for each material and shall indicate this rate on the C&DMMP submitted by the Applicant. The Administrative Authority shall return a copy of the C&DMMP to the Applicant marked "Approved for Partial Exemption" and shall notify the Division of Building and Safety that the C&DMMP has been approved.

D. Denial of Exemption. If the Administrative Authority determines that it is possible for the Applicant to meet the Diversion Requirement, The Administrative Authority shall deny the application for exemption and inform the Applicant in writing of the denial and reasons for the denial. The Applicant shall have thirty days after the receipt of notification to resubmit a C&DMMP form in full compliance with this Article. If the Applicant fails to resubmit the C&DMMP, or if the resubmitted C&DMMP does not comply with this Article, the Administrative Authority shall deny the C&DMMP and the division of Building and Safety shall not issue a permit for that project.

8.36.690 Appeals.

A. A decision or order of the Administrative Authority shall be final and conclusive unless the Applicant files a notice of appeal to the City Council with the City Clerk (with a copy to the City Manager and the City Attorney) within ten (10) days of mailing of the decision. The notice of appeal to the City Council shall state the legal basis and all legal and factual contentions of the Franchisee and shall include all evidence, including, but not limited to, affidavits, documents, photographs, CDs, and DVDs. A notice to appeal to the City Council shall not be accepted by the City Clerk for filing unless accompanied by a notice of appeal filing fee in an amount to be established by Resolution of the City Council.

B. The written appeal shall be considered by the City Council no more than sixty (60) business days from the date of the filing.

C. The final ruling made by the City Council, shall be in writing, stating the legal and factual basis for the decision. The decision shall be final and conclusive.

8.36.695 Enforcement

A. Inspection. The Administrative Authority may inspect project sites for compliance with this Article.

B. Civil Action. Violation of any provision of this Article may be enforced by any means available to the City, including, but not limited to, an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorney's fees and costs from a person who is determined by a court of competent jurisdiction to have violated this Article.

ARTICLE VII: SELF-HAULERS

8.36.720 Self-haul exemption.

A. To enable the City to comply with required Diversion requirements, any person responsible for day-to-day activities or operations of any Residential or Commercial Premises Disposing of Solid Waste, or Green Waste, which they have generated ("self-haulers") must obtain a self-haul exemption permit from the City authorizing that person to transport that Solid Waste to a licensed materials recovery facility, transfer station or disposal facility.

B. Before collecting or transporting Solid Waste, including Green Waste, each person responsible for day-to-day activities or operations of any Residential or Commercial Premises requesting to self-haul shall obtain a self-haul exemption permit from the City. The self-haul exemption permit must be renewed on an annual basis and all applicants must pay an exemption fee to offset the expense to the City for processing, handling, and performing the required work associated with the solid waste self-haul exemption permit process. The exemption fee shall be established by Resolution of the City Council.

C. An application for a self-haul exemption permit must be made on the form provided by the City and submitted to the Administrative Authority for review and determination as to eligibility.

D. Persons issued a Solid Waste self-haul permit may not: (1) dispose of the Solid Waste generated on their premises in the containers of another premises or in any public street or park Container, or (2) otherwise dispose of their Solid Waste in violation of this Chapter.

E. An exemption from Solid Waste service by self-haul permit or any extension of such an exemption permit shall remain valid for one (1) calendar year or the partial calendar year from January to December. Renewals of Solid Waste exemption permits must be resubmitted annually by December 1 for the next calendar year.

F. If the Administrative Authority determines that the holder of a Solid Waste self-haul permit is not complying with the conditions of the exemption permit or requirements of this Chapter or Code, written notice will be given to the Permittee to correct the violations. If the Permittee fails to comply within thirty (30) days, City may revoke the self-haul permit, issue a citation to the person in charge of day-to-day activities or operations for violation of this section and require the arrangement for the provision of Solid Waste service at the premises and arrange for billing to the person in charge of day-to-day activities or operations.

8.36.730 Self-haul disposal at authorized sites.

To enable the City to comply with Diversion rates required by AB 939, persons disposing of Solid Waste, including Green Waste, which they, or occupants of a premises of which they are in charge of day-to-day activities or operations, have generated ("self-haulers") may obtain a self-haul exemption permit from the City authorizing that person to transport that Solid Waste to a licensed materials recovery facility, transfer station, or Disposal facility within the County of Ventura.

8.36.740 Self-haul reporting requirements.

Each person with a valid self-haul exemption permit shall submit reports to the City, in a format and at a frequency determined by the Administrative Authority. Required report information shall include, but is not limited to, the type, quantity, volume, weight, and disposal facility destination of the Solid Waste collected in the City, and gate tickets or receipts to substantiate its Disposal and Recycling reports. Reports are due within ten (10) business days of month-end, in a format prescribed by the City Manager. Failure to submit required self-haul permit reports to the City

within the required frequency shall be a basis for revocation of a self-haul exemption permit.

8.36.750 Licensed contractors.

Licensed contractors, with a Valid City of Moorpark Business Registration, performing work within the scope of their licenses, to which the removal of C&D Material is incidental, within the City may remove and recycle or otherwise dispose of C&D Material that is generated without obtaining a self-haul exemption permit, provided that the C&D Material is transported in contractor-owned containers and vehicles, and vehicles capable of transporting said material, by contractor's employee(s). Contractor must abide by Article VI if the permitted project falls within a Covered Project. If contractor does not own the containers and vehicles, or if the C&D Material is to be transported by a person other than the contractor's employees, the self-haul option is not applicable.

ARTICLE VIII: ENFORCEMENT

8.36.820 Enforcement.

Pursuant to California Penal Code Section 836.5, the City Manager or the City Manager's designee(s) is authorized to enforce the provisions of this Chapter as well as those of California Penal Code Sections 374, 374a, 374.2, 374.3, 374.4, 374d, and 375; California Government Code Sections 60855 *et seq.*; and the California Vehicle Code Sections 2311 and 23112, as they may be amended from time to time. This authority shall be in addition to the authority granted to law enforcement personnel pursuant to this municipal code, including, but not limited to, the authority to seize bins as evidence of criminal violations, when appropriate.

8.36.830 Enforcement by designees.

Wherever in this Chapter enforcement authority is given to any City employee or officer, such authority may be exercised by designees of those employees and officers.

8.36.850 Violations punishable.

Except as otherwise provided by this Chapter, violations of this Chapter are punishable as set forth in Chapters 1.10 through 1.16 of the Code.