



**CITY OF LOS ALTOS
CITY COUNCIL MEETING
October 13, 2015**

STUDY SESSION

Agenda Item # 1

SUBJECT: Review a draft ordinance concerning solid waste, and direct staff accordingly

BACKGROUND

The City's solid waste ordinance, drafted in 1953, has become outdated and is not reflective of State laws concerning mandatory recycling, organic waste processing and diversion of waste from landfills. A new ordinance that conforms to current best management practices for handling, processing and disposing of solid waste generated in the City of Los Altos is necessary to comply with current State regulations.

EXISTING POLICY

Municipal Code, Chapter 6.12 – Garbage Collection and Disposal

PREVIOUS COUNCIL CONSIDERATION

March 25, 2014

DISCUSSION

Disposal of waste has changed substantially since the original ordinance was enacted in 1953; most significantly, enactment of Assembly Bill 939 (AB 939) in 1989 established a 50% landfill diversion requirement applied to all jurisdictions in California compared to the baseline year 1990.

Although the City of Los Altos was marginally attaining the 50% diversion mandate in the three years prior to 2009, the City issued a Request for Proposals in 2009 that was intended to use latest industry methods that would substantially exceed the State-mandated diversion goal by making recycling and yard waste collection more convenient for residents and businesses. Since the Collection Services Agreement with Mission Trail Waste Systems was executed in 2010, diversion has substantially increased and the City is well-positioned to comply with the Global Warming Solutions Act of 2006 (AB 32) that requires reduction of greenhouse gas emissions, and AB 341 that resets the Statewide diversion target to 75% by the year 2020.

The draft ordinance, provided as Attachment 1, is based on a survey of codes established recently in other California cities, and is tailored specifically for Los Altos.

Adoption of the proposed ordinance will result in: reduction of greenhouse gas emissions from aerobic composting of organic waste; reduction of greenhouse gas emissions from recovering traditional recyclable materials; required diversion of special event recyclables; and mandated commercial recycling and organic recycling. Adoption of the ordinance is intended to address rules and regulations to implement the requirements of the Collection Services Agreement and State requirements of AB 939, SB 1016, AB 32, AB 341, AB1826, AB1594 and other State mandates. Many of the requirements of the proposed ordinance are already implemented through the Collection Service Agreement or through best management practices. There is no anticipated change to the cost of service to the rate payers as a result of the changes proposed in the ordinance.

The draft ordinance was discussed with the City's franchise hauler, Mission Trail Waste Systems (MTWS). Mission Trail's primary concern with the existing ordinance is the absence of sufficient penalties for the City to enforce the exclusive rights granted MTWS in the Collection Services Agreement. Specifically, MTWS was provided exclusive rights in that agreement to provide roll-on/roll-off construction debris boxes and quoted program prices accordingly. This issue affects reportable diversion because non-franchised providers of debris boxes do not report generation and disposal data and there is no effective mechanism in place to confirm the ultimate disposition of the debris unless it is collected and processed under the control of MTWS. Language in the draft ordinance is intended to address MTWS's primary concern.

Inclusion of a Construction and Demolition (C&D) Ordinance has been removed from the previous draft considered by Council. Currently, projects in the City are required to comply with the Green Building Code, requiring 50% diversion of C&D waste from landfills. Staff intends to return to the Environmental Commission this fall recommending a new C&D ordinance which would incentivize greater diversion goals. The C&D ordinance will be accompanied by a work plan and proposed budget utilizing Solid Waste Enterprise Funds necessary to establish such a program.

The draft ordinance (Attachment 1) would replace the current code chapter in its entirety. Attachment 2 is the existing code that is proposed to be replaced.

PUBLIC CONTACT

Staff presented reports on the ongoing revisions to the Environmental Commission on April 14, 2014; May 12, 2014; June 9, 2014; July 14, 2014; August 11, 2014; and September 8, 2015.

Posting of the meeting agenda serves as notice to the general public.

FISCAL/RESOURCE IMPACT

None

ENVIRONMENTAL REVIEW

Exempt under CEQA Guideline Section 15308 - Action taken to protect the environment

RECOMMENDATION

Review a draft ordinance concerning solid waste, and direct staff accordingly

ALTERNATIVES

Not applicable

Prepared by: Christopher Lamm, Engineering Services Manager

Reviewed by: Susanna Chan, Public Works Director

Approved by: Marcia Somers, City Manager

ATTACHMENTS:

1. Draft Solid Waste Ordinance
2. Existing Solid Waste Ordinance

Review a draft ordinance concerning solid waste, and direct staff accordingly

ORDINANCE NO. 2015 - ____**AN ORDINANCE OF THE CITY COUNCIL OF CITY OF LOS ALTOS AMENDING THE LOS ALTOS MUNICIPAL CODE, TITLE 6, HEALTH AND SAFETY, ARTICLE 12, ENTITLED “SOLID WASTE COLLECTION, REMOVAL, DISPOSAL, PROCESSING AND RECYCLING”**

WHEREAS, the City Council of the City of Los Altos (“City”) finds that the State of California through its California Waste Management Act of 1989 (AB 939) and Alternative Compliance Act of 2008 (SB 1016) requires each local jurisdiction in the state divert 50% of discarded materials from landfill garbage disposal on a per capita basis; and

WHEREAS, the City Council finds that every city and county in California, including the City, could face fines up to \$10,000 a day for not meeting the above mandated goal; and

WHEREAS, the City Council finds that the State of California through its California Global Warming Solutions Act of 2006 (AB 32) requires commercial generators statewide participate in recycling programs; and

WHEREAS, the City Council finds that the State of California through the 2011 passage of AB 341 adopted a goal that 75% of solid waste generated statewide be diverted from landfill by the year 2020. Furthermore, AB 341 requires that each commercial solid waste generator, including multi-family dwellings of five or more units, provide for recycling programs, and each city or county implement recycling programs for commercial solid waste generators, including multi-family dwellings of five or more units; and

WHEREAS, the City Council finds that the State of California through the 2014 passage of AB 1826 adopted requirements for each commercial solid waste generator, including multi-family dwellings of five or more units, to provide for organics recycling programs, and for each city or county to implement organics recycling programs for commercial solid waste generators, including multi-family dwellings of five or more units by April 1, 2016; and

WHEREAS, the City Council finds that the State of California through the 2014 passage of AB 1594 disallows cities and counties from receiving landfill diversion credit from green waste being used as alternative daily cover effective January 1, 2020; and

WHEREAS, the City continues to make progress in maintaining the disposal reduction requirements of AB 939, but additional efforts, particularly in the recycling of recyclable materials and organic materials generated by businesses and multi-family dwellings, will assist the City in maintaining and exceeding the goal of diverting waste from landfill disposal. The City desires to implement a program to require the diversion of materials from landfill and transformation facilities, to ensure that resources are used to their highest potential, and to reduce upstream waste and reduce the City’s ecological footprint; and

WHEREAS, the City Council finds that organic waste that is buried in the anaerobic conditions of landfills creates methane gas and leachate that may impact air and water quality. Reductions or capture of methane are critical as methane gas from the decomposition of waste is a source of

renewable energy, but if not collected and controlled is at least twenty-one (21) times as potent as carbon dioxide in contributing to climate change; and

WHEREAS, the City Council finds that reductions in greenhouse gas emissions from solid waste management can be realized by recovering recyclable materials and organic materials from the waste stream; and

WHEREAS, the City Council finds that efforts by the City and the private sector to encourage voluntary diversion of commercial and special event recyclable materials have not fully achieved desired levels of diversion; and

WHEREAS, the City Council finds that mandatory commercial recycling and organics programs in other cities and counties in California, similar to the one implemented by this Chapter 6.12, have proven successful; and

WHEREAS, on March 23, 2010, the City of Los Altos entered into an exclusive franchise agreement with Mission Trail Waste Systems Inc., entitled "Collection Service Agreement" for the collection of solid waste and recyclable materials; and

WHEREAS, the services required by this Ordinance are currently provided by Mission Trail Waste Systems and are available to all Los Altos residential and commercial solid waste generators; and

WHEREAS, this Ordinance is intended to promulgate rules and regulations to implement the requirements of the Collection Services Agreement, the State requirements of AB 939, SB 1016, AB 32, AB 341, AB 1826, AB 1594, and other State mandates; and

WHEREAS, the Council finds that adoption of this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) as an action taken by a regulatory agency to protect the environment (CEQA Guidelines Section 15308).

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE.

Los Altos Municipal Code, Title 6, Health and Safety, Chapter 6.12, entitled “Garbage Collection and Disposal” is hereby repealed in its entirety and to be replaced by a new Chapter 6.12 to read as follows:

CHAPTER 6.12 – SOLID WASTE COLLECTION, REMOVAL, DISPOSAL, PROCESSING AND RECYCLING

6.12.010 Definitions.

For the purposes of this Chapter, unless otherwise apparent from the context, certain words and phrases used in this Chapter are defined as follows:

- A. “Alternative daily cover (ADC)” means cover material other than earthen material placed on the surface of the active face of a municipal solid waste landfill at the end of each operating day to control vectors, fires, odors, blowing litter, and scavenging.
 - B. “City Manager” means the City Manager of the City of Los Altos, or his/her designee, including City employees or entities hired by the City to implement the requirements of this Ordinance.
 - C. “City Council” means the City Council of the City of Los Altos.
 - D. “Commercial facility” means all retail, professional, office, wholesale and industrial facilities, and other commercial enterprises offering goods or services to the public and multi-family dwelling units located within the boundaries of the City.
 - E. “Commercial generator” means an owner or responsible party for a commercial facility or business, including non-residential property, which generates garbage, organics or recyclable materials as a result of its business, commercial facility or property activity. Commercial generator also means any multi-family residential property of four (4) or more units and multi-family residential properties under four (4) units that share solid waste collection services. Commercial generator may also include tenants, property managers for facilities with leased space, employees and contractors of commercial generator, as well as a responsible party for special events. Commercial generator also includes the City, its facilities, its non-residential properties and special events, its sponsors or co-sponsors.
 - F. “Construction and demolition debris” means commonly used or discarded materials removed from construction, remodeling, repair, demolition, or renovation operations on any pavement, house, commercial building, or other structure, or from landscaping. Such materials include, but are not limited to, dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastics, roofing material, cardboard, carpeting, cinder blocks, concrete, copper, electrical wire, fiberglass, formica, granite, iron, lead, linoleum, marble, plaster, plant debris, pressboard, porcelain, steel, stucco, tile, vinyl, wood, masonry, rocks, trees, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble resulting from construction, remodeling, renovation, repair and demolition operations on pavement,
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houses, commercial buildings and other structures. Construction and demolition debris does not include exempt waste.

- G. “Container” means any heavy plastic or galvanized metal box, can, cart, barrel, bin or similar type container used for the accumulation of garbage, recyclable materials, organic materials, or construction and demolition debris.
 - H. “Delinquent” means a failure of the recipient of solid waste collection service, or of the property owner, to pay when due all charges owed to the franchised hauler for solid waste collection service rendered or to be rendered.
 - I. “E-Waste” means discarded electronics equipment such as cell phones, personal digital assistant (PDA), computers, monitors, televisions, and other items containing cathode ray tubes (CRTS), LCD, LED or plasma screens and monitors.
 - J. “Exempt waste” means hazardous waste, sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, and those wastes under the control of the Nuclear Regulatory Commission.
 - K. “Franchised hauler” means a hauler holding a franchise, contract, license or permit issued by the City which authorizes the exclusive or non-exclusive right to provide solid waste handling services within all or part of the jurisdictional boundaries of the City.
 - L. “Garbage” means all non-recyclable packaging and putrescible waste attributed to normal activities of a service unit. Garbage must be generated by and at the service unit wherein the garbage is collected. Garbage does not include recyclable materials, organic materials, construction and demolition debris, large items, E-waste, universal waste, hazardous waste, household hazardous waste or exempt waste.
 - M. “Hazardous waste” means any material which is defined as a hazardous waste under California or United States law or any regulations promulgated pursuant to such law, as such as local, state or federal law or regulations may be amended from time to time.
 - N. “Household hazardous waste” means dry cell household batteries, cell phones and PDAs; used motor oil; used oil filters when contained in a sealed plastic bag; cooking oil; compact fluorescent light bulbs contained in a sealed plastic bag; cleaning products, pesticides, herbicides, insecticides, painting supplies, automotive products, solvents, and adhesives, auto batteries; and universal waste.
 - O. “Large Items” means furniture, carpets, mattresses, white and brown goods (household appliances), E-waste, clothing, tires without rims, and green waste attributed to the normal activities of a service unit.
 - P. “Occupied premises” are occupied when a person or persons take or hold possession of the premises for permanent or temporary use. For the purposes of determining whether a premises is occupied during periods when solid waste collection service is made available to such premises, occupancy shall be presumed unless evidence is presented that gas, electric,
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telephone and water utility services were not being provided to the premises during such periods.

- Q. “Organic materials”, “organic materials” and “organics” mean food scraps and trimmings from food preparation, including but not limited to: meat, fish and dairy waste, fruit and vegetable waste, grain waste, stable matter, and acceptable food packaging items such as pizza boxes, paper towels, waxed cardboard, food-contaminated paper products, plant debris, such as palm, yucca and cactus, ivy, grass clippings, leaves, pruning, weeds, branches, brush, and holiday trees.
- R. “Recyclable materials” or “recyclables” mean those materials separated from garbage by the generator which are capable of being recycled and which would otherwise be processed or disposed of as garbage.
- S. “Recycling” means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become garbage and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place. Recycling does not include transformation as defined in Public Resources Code §40201.
- T. “Responsible party” means the individual or entity responsible for the generator’s management of solid waste at the generator’s commercial facility, business, non-residential property, or special event.
- U. “Self-haul” means when a responsible party collects recyclable materials and/or organics materials at their place of business for the purpose of hauling those materials in their own vehicles to a permitted recycling or organics processing facility in compliance with the requirements of this Ordinance.
- V. “Service Unit” means any City facility or City property, any single-family or multi-family dwelling unit, or any retail, professional, office, wholesale or industrial facility located within the incorporated boundaries of the City of Los Altos that utilizes a solid waste cart, bin, compactor, or debris box for the accumulation and set-out of solid waste.
- W. “Sharps” means needles, scalpels, blades, broken medical glass, broken capillary tubes, and ends of dental wires.
- X. “Solid waste” means garbage, recyclable materials, organic materials, construction and demolition debris, large items, E-waste, universal waste or exempt waste.
- Y. “Source separate” means the process of removing recyclable materials from garbage at the place of discard generation, prior to collection, into separate containers that are separately designated from recyclable materials, organic materials, or garbage for the purposes of recycling.
- Z. “Special event” means a community, public, commercial, recreational or social event as further defined in Chapter 9.25 of the Los Altos Municipal Code.
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AA. "Sludge" means the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar disposal appurtenances or any other such waste having similar characteristics or effects.

BB. "Tenant" means any person or persons, other than the owner, occupying or in possession of a premises.

CC. "Universal Waste" means E-Waste, fluorescent lamps, cathode ray tubes, non-empty aerosol cans, instruments and switches that contain mercury, and dry cell batteries containing cadmium copper or mercury.

6.12.20 General Provisions.

A. Subscription Required.

The property owner or tenant of each occupied premises shall subscribe to and pay for at least the minimum level of solid waste collection service made available to that premises by the franchised hauler, as specified in the franchise agreement between the City and the franchised hauler. The charges for solid waste collection service rendered or made available shall be paid for all periods of time during which the premises are occupied, regardless of whether or not the owner or tenant has any solid waste to be collected on any particular collection date during such occupancy. Nothing in this section is intended to prevent an arrangement, or the continuance of an arrangement, under which payments for solid waste collection service are made by a tenant or tenants, or any agent or other person, on behalf of the owner. However, any such arrangement will not affect the property owner's obligation to pay for solid waste collection service as provided herein.

B. Exclusive Provider of Debris Boxes

The franchised hauler is the exclusive provider of debris boxes for the collection of construction and demolition debris, garbage, recycling, organic waste, or other solid waste. This includes any and all debris boxes placed in the public right-of-way, on City property, private property, or elsewhere in the service area for collection and delivery to an appropriate processing facility or disposal facility. Collection utilizing debris boxes may be on a temporary or permanent basis, in accordance with the terms of the franchise agreement between the City and the franchised hauler.

C. Commencement of Solid Waste Collection Service.

The property owner or tenant shall commence solid waste collection service within seven (7) days after occupancy of a premises, or portion thereof. In the event service is not initiated within such period of time, the City Manager may give written notice to the owner or tenant that solid waste collection service is required. If service is not initiated by the property owner or tenant within seven (7) days after the date of mailing the notice, the City Manager shall authorize the franchised hauler to begin and continue providing the minimum level of solid waste collection service to such premises and the service shall be deemed to have been made

available as of the date of such authorization.

D. Charge for Solid Waste Collection Service.

Any and all charges for solid waste collection service shall be set forth in the franchise agreement, contract or the Collection Service Agreement between the City and its franchised hauler.

E. Failure to Pay for Solid Waste Collection Service.

The franchised hauler shall be entitled to payment from the property owner, tenant or any other subscribing person on behalf of the property owner for any services rendered or to be rendered. Upon failure to make such payment, the means of collecting delinquent charges shall be in accordance with the procedures set forth in this Chapter. Solid waste collection service shall not be discontinued by reason of any failure to pay the charges for such service.

F. Notification of Delinquency.

If a bill for solid waste collection service remains delinquent for sixty (60) days, the franchised hauler shall send or deliver notice of any delinquency to the property owner, tenant or any other subscribing person on behalf of the property owner indicating the amount owed for solid waste collection service. The City is not obligated to use its police power to collect delinquent, overdue or unpaid bills for solid waste collection service.

G. Containers Must Be Covered and Kept Clean.

All recyclable materials and organic materials shall be placed for collection in covered containers. No container shall be loaded beyond its capacity. It shall be the responsible parties responsibility to keep the containers used for the storage and collection of recyclable material generated on the premises in a clean and sanitary condition. No material or containers shall be kept or handled in such a manner as to become a nuisance. No recyclable material or organic materials shall be allowed to become odoriferous or a producer of vermin. Lids on containers shall remain closed at all times while stored or placed for collection.

H. City Manager May Restrict Self-Haul.

The City Manager may restrict or prohibit self-hauling if the City Manager determines, after providing notice and an opportunity for a hearing, that the generator's self-hauling activities violate the provisions of this section or any other applicable law or regulation.

I. Organics Prohibited from Use as Alternative Daily Cover

Pursuant to the provisions of Assembly Bill 1594 (AB 1594) the franchised hauler, and any commercial or residential generators who self-haul organics, may not direct their organic waste for use as alternative daily cover (ADC).

6.12.030 Storage.

A. Sufficient Container Capacity and Storage of Containers.

All persons occupying or maintaining any premises within the City where garbage, organic materials and recyclable materials are created, produced or accumulated shall maintain sufficient standard containers for receiving and holding all garbage, organic materials and/or recyclable materials which are produced, created or accumulated on such premises. No containers or roll-off bins shall be allowed to be stored in the public streets, alleys or rights-of way. In commercial areas of the City that have limited space for the placement of containers, upon written request of the property owner or occupant, the City may allow the bins or carts as provided by the franchised hauler to be placed in public parking lots expressively for the purpose of normal weekly collection by the franchised hauler.

B. Design Review.

The design of any new, substantially remodeled or expanded building or other facility shall provide for proper storage of garbage, organic materials and recyclable materials and which will allow for efficient and safe waste removal or collection. The design shall be submitted for approval to the City Manager and shall meet all applicable regulations.

C. Ownership of Recyclable Materials.

All recyclable materials placed in containers designated for recyclable materials provided by any franchised hauler shall be considered owned by and be the responsibility of the franchised hauler. Without permission of the franchised hauler, no person shall remove recyclable materials placed in such containers. All recyclable materials placed in recyclable materials containers provided or owned by the generator, shall be considered owned by and be the responsibility of that generator until the material is placed at a franchised hauler's designated point of collection or in containers described in 6.12.030(A). It shall be unlawful for any person to engage in the business of collecting, removing or transporting, or otherwise organize or direct the collection, removal or transportation of recyclable materials without being a franchised hauler.

6.12.040 Hauling and Transport.

A. Nuisance Prohibited.

No person shall accumulate solid waste in any amount that creates a nuisance. Solid waste shall not be allowed to remain on the premises for more than seven (7) days. If the solid waste creates a nuisance, the City Manager may require a more frequent collection schedule. Furthermore:

1. The occupant of any property may not dispose of solid waste on their property (with the exception of organic materials that are composted on-site via backyard composting).
 2. No person shall throw or deposit, or cause to be thrown or deposited, any solid
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waste upon any premises whatsoever except at a disposal area and in the appropriate container.

3. It is unlawful for any person to burn, or cause to be burned, any solid waste within the City.
4. It is unlawful for any person to dispose of any burning ash or embers in solid waste containers.

B. Solid Waste Loads Must be Covered and Contained.

No person shall transport solid waste, over any public street, alley, right-of-way or parking plaza unless such solid waste is contained in watertight metal tanks, or containers, which in all instances shall be equipped with close-fitting covers, except as otherwise permitted by the City, and such covers shall be affixed to the tanks, containers or other containers in such a manner as to prevent the dropping or spilling of any solid waste upon the public street, alley, right-of-way or parking plaza.

6.12.100 Mandatory Commercial & Multi-Family Recycling and Organic Recycling.

A. Commercial Generators Responsible for Compliance.

Each commercial generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this Chapter.

B. Commercial Recycling and Organics Collection Required.

Each commercial generator shall subscribe to a level of service with the franchised hauler that is sufficient to handle the volume of recyclable materials and organic materials generated or accumulated on the premises, or complete and retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with Section 6.12.100(C) or any other applicable law or regulation. A copy of such form shall be available to the City Manager upon request. Additionally, each commercial generator shall ensure the proper separation of solid waste, as established by the franchised hauler, by placing each type of material in designated receptacles or containers, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site conduct proper separation of solid waste.

C. Commercial Generator Self-Haul.

Nothing in this Chapter shall preclude any responsible party from self-hauling recyclable materials or organic materials generated by that responsible party to a recycling or organics processing facility, provided that those responsible parties:

1. Comply with the requirements in this Chapter by delivering recyclable materials or organics materials to permitted facilities that will process those materials in accordance with the requirements and intent of this Ordinance.
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2. Complete and retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with this Ordinance or any other applicable law or regulation. A copy of such form shall be completed and remitted to annually to the City Manager.
3. Provide proof of compliance with this Chapter, upon request by the City; proof includes, but is not limited to, a receipt from a recycling or organics processing facility that clearly identifies the type and quantity of material delivered.

D. Exemptions to Mandatory Commercial Recycling and Organics.

The following shall be exempt from the requirements of this section. Commercial generators seeking an exemption shall submit their request for exemption in a form specified by the City Manager, if one exists. After reviewing the exemption request, and after an on-site review, if applicable, the City Manager may either approve or deny the exemption request.

1. The State of California, a special district or other local public agency other than the City, as defined, or any employee thereof, when collecting or transporting recyclable materials produced by operation or system of the entities described above.
2. Municipal corporations and governmental agencies other than City using their own vehicles and employees engaged in the collection, transportation or disposal of recyclable materials within the boundaries of the City.
3. Commercial generators that can provide documentation to the satisfaction of the City Manager that no organic materials and recyclable materials are generated by that commercial generator, its employees, customers, tenants, businesses practices, and other persons or processes which occur on the premises of the commercial generator. This exemption may be granted only if the commercial generator is not subject to the requirements of AB 1826 or AB 341.
4. Commercial generators that can provide documentation to the satisfaction of the City Manager that there is inadequate space for the commercial generator to store sufficient containers for recyclable materials and organic materials on site and that it is infeasible for the commercial generator to share recyclable materials or organic materials containers with adjacent commercial facilities or multi-family dwellings. This exemption may be granted only if the commercial generator is not subject to the requirements of AB 1826 or AB 341.
5. Commercial generators that can provide documentation to the satisfaction of the City Manager that compliance with this Chapter will result in violating City zoning or other regulations. This exemption may be granted only if the commercial generator is not subject to the requirements of AB 1826 or AB 341.

E. Implementation.

Each commercial generator shall use containers to collect and store recyclable materials and organic materials, and shall designate areas to collect and/or store these materials. Each commercial generator shall prominently post and maintain one or more signs in maintenance

or work areas or common areas where recyclable materials and organic materials are collected and/or stored that specify the materials to be recycled and how to recycle such material. The City shall notify and instruct commercial generators in writing of applicable recycling and organics requirements. Upon request by commercial generators, the City will also provide outreach and training to commercial generator employees and tenants regarding what materials are required to be recycled and how to recycle such material. Additionally:

1. The City Manager shall annually work with the franchised hauler to identify commercial generators subject to the requirements in this Ordinance.
2. The City Manager shall review franchised hauler data to confirm whether all commercial generators are compliant with the requirements of this Ordinance by reviewing subscription levels of garbage, organics and recycling collection services. Those commercial generators who do not subscribe to the required collection services with the franchised hauler will be notified of the requirement to subscribe or self-haul organics and recyclables. Those commercial generators who do not subscribe to the required services with the franchised hauler but who can produce evidence of legitimate self-haul of organics and recyclables will be deemed compliant with this Ordinance, whereas those who cannot will be deemed non-compliant.
3. The City Manager shall work with the franchised hauler to conduct site visits with select commercial generators each year, covering all commercial generators every five years, in order to document whether commercial generators participate in the required recycling and organics collection programs (not just subscribe) and are therefore in compliance with the requirements of this Chapter.
4. The City Manager shall annually work with any non-compliant commercial generators in order to bring them into compliance with the requirements of this Ordinance by providing outreach, education, and technical assistance to facilitate compliance.
5. Commercial generators shall be responsible for ensuring and demonstrating compliance with the requirements of this Chapter within 30 days of notification of non-compliance. Failure to demonstrate compliance with the requirements of this Ordinance shall be cause for enforcement.

6.12.110 Special Events.

A. Special Event Recycling and Organics Collection Required.

For a special event, in addition to any other conditions the City requires as part of the special event permit, the responsible party shall either arrange for commingled or source separated collection and processing of garbage, recycling and organics with the franchised hauler or shall arrange for and provide recycling and organics containers throughout the event location to make source separation of recyclable materials, organic materials and garbage convenient for the employees, volunteers, contractors, and customers of the food vendors and attendees of the event. This includes arranging for collection and appropriate processing of all garbage, organics and recycling collected during the special event. Requirements for

special events not utilizing commingled or source separated collection services provided by the franchised hauler include:

1. The minimum number of recycling and organic containers shall equal or exceed the number of garbage containers. Containers for garbage, organics and recyclables shall be collocated throughout the event location in order to provide equally convenient access to users.
3. All of the containers must have appropriate signage and be color coded to identify the type of materials to be deposited and meet any additional design criteria established by the City by regulation.
4. Food vendors must have at least one separate container each for recyclable materials, organic materials and garbage for use by customers and visitors. Multiple food vendors that provide disposable food service ware and share a common eating area may share an appropriate number, size, and placement of containers for recyclable materials, organic materials and garbage for convenient use by customers or visitors or have common access to such a container which shall be located within a reasonable proximity of the vendors.
5. The types of recyclable materials suitable for deposit into each container shall include, at a minimum; plastic bottles and jars, paper, cardboard, glass, newspaper, metal containers, and cans. Each recycling container shall be clearly identified as a recycling container and shall display a list of types of recyclable materials which may be deposited into the recycling container.

6.12.120 Enforcement.

A. City Manager Authorization.

The City Manager is authorized to administer and enforce the provisions of this Chapter. The City Manager, or anyone designated by the City Manager to be an enforcement officer, may exercise such enforcement powers. If the City Manager determines that a solid waste customer, commercial generator or special event is in violation of this Chapter or of any rule or regulation adopted pursuant to this Chapter, the City Manager may begin enforcement proceedings. Public nuisance proceedings and/or code enforcement proceedings under the City's code shall apply, in addition to the administrative penalties approved by resolution of the City Council, as modified from time to time. Enforcement proceedings may include issuing notices of violation, requiring changes in subscription service levels or assessing administrative fines.

B. Administrative Citations and Orders.

If the City Manager determines that a solid waste customer, commercial generator or special event is in violation of this Chapter, the City Manager may issue administrative citations or orders pursuant to the Los Altos Municipal Code Chapter 1.30, for violations of this Chapter or of any rule or regulation adopted pursuant to this Chapter, except as otherwise provided in this Chapter. The City's procedures on imposition of administrative fines are

hereby incorporated in its entirety and shall govern the imposition, enforcement, collection and review of administrative citations or orders issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, provided, however, that the City Manager may adopt regulations providing for lesser penalty amounts. The City Manager has the authority to impose administrative penalties for the notices of violations.

C. Additional Remedies

The City Attorney may seek injunctive relief or civil penalties in the superior court in addition to the above remedies and penalties. All administrative civil penalties collected from actions pursuant to this section shall be paid to the City and shall be deposited into a solid waste administrative account that is available to fund activities to implement the applicable provisions of this section. Any remedy provided under this section is cumulative to any other remedy provided in equity or at law. Nothing in this Chapter shall be deemed to limit the right of the City or its authorized collection agent(s) to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the City or its authorized collection agent(s). The fees and penalties imposed under this Chapter shall constitute a civil debt and liability owing to the City from the persons, firms or corporations using or chargeable for such services and shall be collectible in the manner provided by law. Nothing in this Chapter shall be deemed to impose any liability upon the City or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). This Chapter does not do any of the following:

1. Otherwise affect the authority of the City Manager to take any other action authorized by any other provision of law.
2. Restrict the power of a City attorney, district attorney or the attorney general to bring in the name of the people of California, any criminal proceeding otherwise authorized by law.
3. Prevent the City Manager from cooperating with, or participating in, a proceeding specified in 6.12.120.
4. Affect in any way existing contractual arrangements, including franchises, permits or licenses, previously granted or entered into between the franchised hauler and City.

6.12.140 Forms, Regulations and Guidelines.

The City Manager may adopt necessary forms, rules, regulations and guidelines which may be necessary or desirable to aid in the administration or enforcement of the provisions of this Chapter. The City may provide information on its website regarding what materials are accepted as recyclable materials, organic materials, and garbage under this Chapter.

SECTION 2. CONSTITUTIONALITY.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. PUBLICATION.

This Ordinance shall be published as provided in Government Code section 36933.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on _____, 2015 and was thereafter, at a regular meeting held on _____, 2015 passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Janis C. Pepper, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK

Chapter 6.12 - GARBAGE COLLECTION AND DISPOSAL

Sections:

6.12.010 - Littering of streets prohibited.

It shall be unlawful for any person to cause the accumulation or deposit of dirt, mud, sand, rocks, gravel, or debris on the surface of any street of the city by the tracking of motor or horse drawn vehicles or in any other way.

(Prior code § 3-5.01)

6.12.020 - Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Collection station" means any location at which containers of garbage, waste, refuse, or recyclables are placed for collection by the authorized garbage collector.

"Delinquent" means a failure of the recipient of garbage collection service, or of the property owner, to pay when due all charges owed to the garbage collector for garbage collection service rendered or to be rendered.

"Director" means the director of public works and his/her duly authorized agents and representatives.

"Dwelling" means a residence, flat, duplex, apartment, townhouse, condominium or other facility used for housing one or more persons.

"Finance director" means the finance director and his/her duly authorized agents and representatives.

"Garbage" means all classes of putrefactive and decomposable animal or vegetable matter, except as herein otherwise classified.

"Garbage" also means all materials, substances or objects that are discarded, including but not restricted to, materials, substances or objects commonly referred to as "trash," "garbage," "refuse" and "rubbish" that are produced, generated or accumulated by all residential, commercial, industrial, institutional, municipal, agricultural and other inhabitants, premises and activities within the city, the collection of which is regulated through the franchise agreement existing between the city and the authorized garbage collector, provided, however, that "garbage" does not include (A) hazardous waste, (B) biomedical waste, (C) ash, (D) sewage and/or other highly diluted water-carried materials or substances and those in gaseous form, (E) compostible yardwaste recyclables, (F) flammable liquids, and (G) motor fuels and lubricants.

"Garbage collection service" means the collection, transportation and disposal of garbage by an authorized garbage collector.

"Garbage collector" means any person who is authorized by the franchise agreement existing between he/she and the city, in accordance with this chapter, to collect, receive, carry, transport, and dispose of any garbage produced, kept or accumulated within the city.

"Hazardous waste" means any and all toxic, radioactive, biologically infectious, explosives or flammable waste materials, for which a hazardous materials storage permit is required by any governmental agency.

"Multiple-unit dwelling" means any premises, excluding a hotel, motel, or lodginghouse, used for residential purposes containing more than one dwelling unit, irrespective of whether the residency is transient, temporary or permanent.

"Nonresidential premises" means all premises except residential premises, including but not restricted to premises used for industrial, commercial, administrative and professional offices, public and quasi-public buildings, utility and transportation.

Occupancy — Occupied. Premises are "occupied" when a person or persons take or hold possession of the premises for permanent or temporary use. For the purposes of determining whether a premises is occupied during periods when garbage collection service is made available to such premises, occupancy shall be presumed unless evidence is presented that gas, electric, telephone and water utility services were not being provided to the premises during such periods.

"Owner" means the holder or holders of legal title to the real property constituting the premises to which garbage collection service is provided.

"Person" includes any person, firm, association, organization, partnership, business trust, joint venture, corporation, or company, and includes the United States, the state of California, the county of Santa Clara, special purpose districts, and any officer or agency thereof.

"Premises" means any land, building or structure, or portion thereof, within the city where any garbage is produced, kept, deposited, placed or accumulated.

"Recyclable materials" means domestic, commercial, or industrial by-products of some potential economic value, separated, handled, packaged, or offered for collection in a manner different from garbage, waste, or refuse.

"Refuse" means and includes any and all matter and materials which are rejected, abandoned, or discarded by the owner or producer thereof as offensive or useless and which, by their presence or accumulation, may injuriously affect the health, comfort, or safety of the community in any manner whatsoever.

"Residential premises" means any single-unit dwelling or multiple-unit dwelling.

"Single-unit dwelling" means one or more rooms and a single kitchen, designed for occupancy by one family for residential purposes. Each dwelling unit within a condominium project, duplex, townhouse project or apartment, and each second unit located within a single-family residential zoning district, shall constitute a separate single-unit dwelling to which garbage collection service is provided, unless the owner or occupants thereof arrange for garbage collection service to be provided to all dwelling units upon the premises at commercial rates.

"Swill" means and includes all putrefactive or easily decomposable animal or vegetable matter having a property value and attractive to flies and rodents.

"Tenant" means any person or persons, other than the owner, occupying or in possession of a premises.

"Waste matter" means and includes any and all matter and materials which cannot be defined as refuse but which are rejected, abandoned, or discarded by the owner or producer thereof as useless or no longer desired by such owner or producer.

(Prior code § 5-2.01)

6.12.030 - Receptacles.

All garbage, swill, refuse, and waste matter, except as provided in Section 6.12.060 of this chapter, shall be placed by the person upon whose premises the same shall have been produced or accumulated in a watertight galvanized metal container of not less than ten (10) nor more than thirty (30) gallons, net capacity, of a design approved by the health officer or such other person designated by the council. The container shall be kept clean, continuously closed by a tight-fitting galvanized metal cover, except when garbage, swill, refuse, or waste matter is being dumped within or removed therefrom, and proofed against the access of flies and rodents. The contents of the container shall be delivered not less than once each week to the scavenger authorized by the city to collect the contents in accordance with the provisions of this chapter. Swill may be placed in separate containers of the type and size indicated in this section, or as may be approved by the health officer, or such other person designated by the council, to be delivered to swill collectors pursuant to the rules and regulations for the collection of swill as provided in this chapter.

(Prior code § 5-2.02)

6.12.040 - Scavenger defined.

The term "scavenger" shall be construed to mean an agent or employee of the city or any person with whom the city shall have duly contracted as provided in this chapter to collect, receive, carry, and transport garbage, swill, refuse, and waste matter in accordance with the provisions of this chapter.

(Prior code § 5-2.03)

6.12.050 - Collection of garbage.

Collections of garbage, swill, refuse, and waste matter shall be made at least once each week. The contents of all containers shall be transferred by the scavenger into a vehicle provided by the scavenger and approved by the health officer, or other designated official, as being a satisfactory vehicle for such purpose. The scavenger shall avoid spilling any of the contents of containers on stairs, yards, streets, and alleys.

(Prior code § 5-2.04)

6.12.060 - Segregation.

The producer or owner of garbage, swill, refuse, and waste matter may elect to segregate nonputrefactive material from other garbage, swill, refuse, and waste matter, and the same may be placed in a box or barrel located near the galvanized container, but the material so segregated shall be kept in a dry condition and in such a manner as not to be offensive or attractive to flies and rodents and so as not

to create a fire hazard. All cardboard and wooden boxes, except containers of refuse or waste matter under this section, shall be broken up so as to facilitate their collection by the scavenger. The refuse shall be delivered to the scavenger in the same manner as the contents of the galvanized container.

(Prior code § 5-2.05)

6.12.070 - Unlawful deposits—Burning prohibited.

It shall be unlawful to deposit, place, or burn garbage, swill, refuse, or waste matter of any kind upon the public streets or alleys. It shall be unlawful for any person to deposit, place, or burn garbage, swill, refuse, or waste matter upon any public or private lot or park, except as provided in this section, or in any refuse receptacle, except those provided in public places for the deposit of litter, unless such person has permission from the owner or customer of the city's refuse contractor having the use of such receptacle to so deposit, place, or burn. Dry refuse and waste matter may be burned by owners or producers of such refuse or waste matter only with the joint permission of the health officer, and chief or acting chief of the fire department, and the Bay Area Air Quality Management District in compliance with such conditions as they may impose.

(Prior code § 5-2.06)

6.12.080 - Permit to collect and transport.

It shall be unlawful for any person to collect, transport or carry garbage, swill, refuse and waste matter through any streets or public places in the city without a permit from the Health Officer, or other designated official, unless such person is an employee of the city or agent of the city and is acting within the scope of his employment or has been awarded a contract by the city as scavenger, or has been granted a permit to collect swill in the city.

(Prior code § 5-2.07)

6.12.090 - Permit for dump use.

No person, other than employees or agents of the city acting within the scope of their employment, shall carry, transport, deliver or deposit garbage, swill, refuse and waste matter in any garbage dump which the city may hereafter maintain without the express permission of the Health Officer or other designated official. Those depositing such materials at the city dump pursuant to permission must deposit the same in accordance with instructions from the supervisor in charge of the dump or from the Health Officer or other designated official. Dumping of garbage, swill, refuse and waste matter in the dump, contrary to instructions given for the same, and dumping of garbage, swill, refuse and waste matter on the roadways and ramps leading to or from the dump is prohibited.

(Prior code § 5-2.08)

6.12.100 - Supervision.

The council may on motion appoint a person qualified to act as dump supervisor and may receive financial aid from industries using the dump for the payment of a salary for the supervisor and maintaining the dump without obligation, contractual or otherwise, on the part of the city to the industries or persons providing such assistance.

(Prior code § 5-2.09)

6.12.110 - Fee schedule.

The council, by resolution, may fix and adopt a schedule of fees to be charged for using the city dump, which schedule, when adopted, may be changed from time to time as circumstances may warrant.

(Prior code § 5-2.10)

6.12.120 - Establishment of dump.

The council is authorized to acquire and establish a city dump, and to establish, by resolution, rules and regulations for its operation and a schedule of charges for the use of the same.

(Prior code § 5-2.11)

6.12.130 - Rules—Hours.

The health officer, or such other person hereafter designated by the council, is hereby authorized to establish such rules, standards, and hours consistent with the provisions of this chapter as in his discretion may be reasonable and necessary for the maintenance, management and operation of the city dump.

(Prior code § 5-2.12)

6.12.140 - Enforcement.

The health officer, chief of police (or such other officials of the city or county who are acting therefor under authorization by the council) and the chief or acting chief of the Los Altos county fire protection district shall be the enforcement officers under this chapter. They shall have the right to enter upon any and all premises for the purposes of determining the sanitary conditions thereof and ascertaining whether the terms of this chapter are being complied with. Any person denying or obstructing such entry shall be guilty of a misdemeanor.

(Prior code § 5-2.13)

6.12.150 - Award of contract.

The council, by resolution, may award a contract for the collection and disposal of garbage, swill, refuse and waste matter to any person whom the council believes best qualified and equipped to perform the work of scavenger. The contract shall require the scavenger to collect, remove and dispose of garbage, swill, refuse and waste matter in the city in accordance with the provisions of this chapter and in conformance with such regulations as may be prescribed by the health officer, or such other officer as may be hereafter designated, chief of police, and the chief or acting chief of the Los Altos county fire protection district, and shall fix the compensation to be paid the scavenger therefor. The contract shall require the scavenger to furnish a surety bond in the amount of five thousand dollars (\$5,000.00), conditioned upon the faithful performance of his contract, and shall require the scavenger to carry Workman's Compensation insurance and property damage and public liability insurance. The contract shall be subject to renewal by resolution every ten (10) years or oftener if, in the discretion of the council, time, circumstances and conditions warrant such renewal.

(Prior code § 5-12.14)

6.12.160 - Collection of fees.

The scavenger shall have authority to collect such fees as may be determined by the council to be reasonable.

(Prior code § 5-2.15)

6.12.170 - Interference unlawful.

It shall be unlawful for any person to interfere in any manner with the collection or disposal of garbage, swill, refuse and waste matter by any person authorized by license or contract to collect or dispose of the same.

(Prior code § 5-2.16)

6.12.180 - Disputes.

Disputes over charges made or as to the character of the services performed shall be decided by the health officer, and his decision shall be final.

(Prior code § 5-2.17)

6.12.190 - Dump charges.

All fees and charges for the collection and disposal of garbage, swill, refuse and waste matter herein provided shall be paid monthly. Such fees and charges as may be fixed for depositing at the city dump must be paid at the time that the deposit is sought to be made, and the facilities of the dump may be refused for the failure to pay the same. The fees and charges for this purpose are to be collected by the dump supervisor and turned over to the city clerk.

(Prior code § 5-2.18)

6.12.200 - License for hauling swill.

It shall be unlawful for any person to engage in the business of collecting swill in the city or to haul the same through any street or public place of the city unless such person is an agent or employee of the city or is the regular scavenger with whom the city has a contract, or has been duly licensed as in this section provided. The council, by resolution, may fix the fees to be charged for the business of collecting swill and for transporting the same through the streets, alleys or public ways of the city. All such fees shall be paid to the city clerk upon the issuance of the license. Application for said license shall be made to the health officer, or such other official as may be hereafter designated, who shall have authority to issue the same. Vehicles used for the transportation of swill, and the manner in which the same is handled, collected and transported, shall be approved by the health officer, or such other designated official. The license may be revoked by the council after a notice and hearing for failure to collect and transport swill in the manner and with the vehicles approved by the health officer, or such other designated official.

(Prior code § 5-2.19)

6.12.210 - Duplicate scavenger license prohibited.

No license shall be issued other than as provided to the scavenger named in the contract granted by the City while the contract is in effect as to a service provided for thereby.

(Prior code § 5-2.20)

6.12.220 - Individual transporting permitted.

Nothing in this chapter shall prohibit an individual from transporting, without spilling, his own trash or refuse or waste matter, except garbage or swill, in City Streets without obtaining a permit.

(Prior code § 5-2.21)

6.12.230 - Destroying, scattering, or collecting recyclables without the consent of the owner unlawful.

It shall be unlawful for any person to burn, break, destroy, scatter, collect, or take any recyclable material without the consent of the owner of such material. Consent to the collection of such material may be either oral or written or may be manifested by a practice or arrangement between the owner and a donee whereby recyclable materials are placed in a particular place, area, or distinctive container for regular collection by the donee. A violation of this section shall be a misdemeanor, punishable as set forth in Chapter 1.20 of this code.

(Prior code § 5-2.22)

6.12.240 - Garbage collection service—Owner responsibility.

The owner of each occupied residential or nonresidential premises shall subscribe to and pay for at least the minimum level of garbage collection service made available to that premises by the garbage collector, as specified in the franchise agreement between the city and the garbage collector. The charges for garbage collection service rendered or made available shall be paid for all periods of time during which the premises are occupied, regardless of whether or not the owner or tenant has any garbage to be collected on any particular collection date during such occupancy. Nothing in this section is intended to prevent an arrangement, or the continuance of an arrangement, under which payments for garbage collection service are made by a tenant or tenants, or any agent or other person, on behalf of the owner. However, any such arrangement will not affect the owner's obligation to pay for garbage collection service as provided herein.

(Prior code § 5-2.23)

6.12.250 - Commencement of garbage collection service.

The owner or tenant shall commence garbage collection service within ten (10) days after occupancy of a premises, or portion thereof. In the event service is not initiated within such period of time, the director may give written notice to the owner or tenant that garbage collection service is required. If service is not initiated by the owner or tenant within ten (10) days after the date of mailing the notice, the director shall authorize the garbage collector to begin and continue providing the minimum level of garbage collection service to such premises and the service shall be deemed to have been made available as of the date of such authorization.

(Prior code § 5-2.24)

6.12.260 - Frequency of disposal.

No more than one week's accumulation of garbage shall be kept or permitted to remain upon any premises in the city. At least once a week, all garbage produced, kept, deposited, placed or accumulated within any premises in the city shall be disposed of in accordance with this chapter.

(Prior code § 5-2.25)

6.12.270 - Method of garbage disposal.

All garbage shall be disposed of by delivery of each garbage container to an authorized collection station, located as to be readily accessible for the removal and emptying of its contents by the garbage collector.

(Prior code § 5-2.26)

6.12.280 - Garbage containers.

- A. All garbage containers shall be kept in a sanitary condition continuously closed with a tightfitting cover.
- B. Garbage containers for residential premises shall have handle and side rails and shall not exceed thirty-two (32) gallons capacity and shall not have a filled weight in excess of seventy (70) pounds gross weight except for those containers furnished by the garbage collector. Garbage containers for commercial premises shall be provided by or approved by the garbage collector.
- C. Garbage and recyclable containers shall be collected by the garbage collector when the containers are placed outside of the premises; provided, however, that said collection may be made at such other location upon approval by the director.
- D. Garbage and recyclable containers shall be placed at the authorized collection station not more than twenty-four (24) hours preceding the scheduled collection time. Such containers shall be removed from the collection station within twenty-four (24) hours after collection. Containers having a capacity of one cubic yard and larger provided by the garbage collector shall not be moved or removed by any person other than the garbage collector.

(Prior code § 5-2.27)

6.12.290 - Inappropriate containers.

The use of garbage containers which do not meet the standards set forth in this chapter shall be subject to regulations prescribed by the director, including appropriate additional charges to be paid the garbage collector for the collecting and transporting of the inappropriate containers or waste contained therein.

(Prior code § 5-2.28)

6.12.300 - Burning solid waste restrictions.

It is unlawful for any person to burn, or cause to be burned, any refuse or garbage within the city or to burn, or cause to be burned, any waste upon public streets, ways or alleys.

(Prior code § 5-2.29)

6.12.310 - Disposal of explosive or hazardous material restrictions.

No person shall deposit in any garbage container any explosive, inflammable or hazardous material, without having first made special arrangements with the garbage collector.

(Prior code § 5-2.30)

6.12.320 - Disposal on public property prohibited.

It is unlawful for any person in the city to throw or deposit refuse, garbage or waste, or to cause the same to be thrown or deposited, upon any street, alley, gutter, park, or other public place, or to throw or deposit the same in or upon any vacant lot, or back yard, or to store or keep the same otherwise than in containers required by this chapter.

(Prior code § 5-2.31)

6.12.330 - Charges for garbage collection service.

The city council may establish a schedule of rates and charges for all levels of garbage collection service to be rendered by the garbage collector, who shall then have authority to collect such rates and charges. The schedule may be changed from time to time in the manner prescribed by the franchise agreement between the city and the garbage collector.

(Prior code § 5-2.32)

6.12.340 - Failure to pay for garbage collection service.

The garbage collector shall be entitled to payment from either the owner or the recipient of garbage collection service for any services rendered or to be rendered. Upon failure to make such payment, the means of collecting delinquent charges shall be in accordance with the procedures set forth in this chapter. Garbage collection service shall not be discontinued by reason of any failure to pay the charges for such service.

(Prior code § 5-2.33)

6.12.350 - Notification of delinquency.

If a bill for garbage collection service remains delinquent for thirty (30) days, the garbage collector shall be entitled to collect a late charge in such amount as approved by the city council. The garbage collector may, at any time after such thirty (30) day period, send or deliver notice of delinquency to the owner indicating the amount owed for garbage collection service, the amount of late charge thereon, and advising the owner that failure to pay the same will result in the placement of a lien upon the premises. The form of delinquency notice shall be approved by the Finance director.

(Prior code § 5-2.34)

6.12.360 - Assignment of delinquent account.

In the event the bill for garbage collection service, together with any late charge thereon, is not paid within thirty (30) days after the date of mailing the notice of delinquency to the owner, the garbage collector may assign such bill to the city for collection through the initiation of lien and special assessment proceedings in accordance with this chapter. The assignment shall include the name and address of the owner, the assessor's parcel number of the premises, the period of garbage collection service covered by the bill, the amount owed for such service, the amount of any late charge and such other information as requested by the finance director together with a copy of the notice of delinquency mailed or otherwise delivered to the owner.

(Prior code § 5-2.35)

6.12.370 - Lien initiation.

Upon the city's receipt of the assignment from the garbage collector, the director shall prepare a report of delinquency and initiate proceedings to create a lien on the premises to which the garbage collection service was or will be rendered. The director shall fix a time, date and place for an administrative hearing by the director to consider any objections or protests to his/her report.

(Prior code § 5-2.36)

6.12.380 - Notice of hearings on liens.

The director shall send written notice of the administrative hearing to the owner of the premises against which the lien will be imposed at least ten (10) days prior to the hearing date. The notice shall be mailed to each person to whom such premises is assessed in the latest equalized assessment roll available on the date the notice is mailed, at the address shown on said assessment roll or as known to the director. A copy of the notice shall also be mailed to the garbage collector. The notice shall set forth the amount of delinquent garbage collection service charges, the amount of any late charge thereon, and the possible lien and administrative charges as provided in this chapter. The notice shall also inform the owner of the time, date and place of the administrative hearing and the subsequent public hearing to be conducted by the city council, and advise the owner of his right to appear at both the administrative hearing and the public hearing to state his objections to the report or the proposed lien.

(Prior code § 5-2.37)

6.12.390 - Administrative hearing on liens.

At the time and place fixed for the administrative hearing, the director shall hear and consider any objections or protests to his/her report. The director may correct or modify the report as he/she deems appropriate, based upon the evidence presented at the hearing, and shall notify the affected persons of his decision. The director shall thereupon submit a final report to the city council for confirmation and shall furnish a copy of such report to the garbage collector.

(Prior code § 5-2.38)

6.12.400 - Public hearing on liens.

The city council shall conduct a public hearing to consider the director's final report at the time and place set forth in the notice described in this chapter. At such hearing, any interested person shall be afforded the opportunity to appear and present evidence as to why the report, or any portion thereof, should not be confirmed. The city council may adopt, revise, reduce or modify any charge shown on the report or overrule any or all objections as it deems appropriate, based upon the evidence presented at the hearing. If the city council is satisfied with the final report as rendered or modified, the council shall confirm such report by resolution. The decision by the city council on the report and any objections or protests thereto, shall be final and conclusive.

(Prior code § 5-2.39)

6.12.410 - Recording of lien.

Upon confirmation by the city council of the final report, the director shall cause to be recorded in the office of the recorder for Santa Clara County, a lien against each premises described in the report for the amount of delinquent garbage collection service charges and late charges as confirmed by the city council. The lien shall also include such additional administrative charges as established by resolution of the city council. All persons to whom notice was sent pursuant to Section 6.12.380 of this chapter shall be notified by the director that the service charges, charges and administrative charges are due and payable to the city and that said lien has been recorded.

(Prior code § 5-2.40)

6.12.420 - Collection of delinquent charges as special assessment.

The director shall initiate proceedings to levy as a special assessment against the premises described in the lien recorded pursuant to this chapter, the sum of delinquent garbage collection service charges, late charges and administrative charges, plus an assessment charge as established by resolution of the city council.

(Prior code § 5-2.41)

6.12.430 - Report of delinquent charges for special assessment.

A report of delinquent charges shall be prepared by the director and submitted to the city council for confirmation. The report shall indicate all charges for which a lien has been recorded pursuant to this chapter, which remain unpaid as of the date of the report.

(Prior code § 5-2.42)

6.12.440 - Levy of special assessments.

Upon confirmation by the city council of the director's report as rendered or modified, the delinquent charges contained therein shall constitute a special assessment levied upon the premises against which such charges have been imposed. The director shall file a copy of the report, together with a certified copy of the resolution of the city council confirming the same, with the Tax Collector for Santa Clara County with instructions to enter the delinquent charges as special assessments against the respective premises described in the director's report. The tax collector shall include such special assessment on the next regular bill for secured property taxes sent to the owner.

(Prior code § 5-2.43)

6.12.450 - Collection of special assessment.

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

(Prior code § 5-2.44)

6.12.460 - Unauthorized garbage collection.

No person shall collect any garbage or recyclables produced, kept or accumulated within the city, unless such person is an agent or employee of the city acting within the court and scope of his employment, or has been awarded a franchise by the city to act as garbage collector.

(Prior code § 5-2.45)

6.12.470 - Containers stored in trash enclosures.

Any person owning, controlling or maintaining any premises within the city which is required to have and maintain trash enclosures as a condition of development or use shall keep all garbage, refuse and waste containers within the confines of the trash enclosures at all times except when the containers are being emptied by the disposal service operator.

(Prior code § 5-2.46)

6.12.480 - Interfering with garbage collection service.

No person shall, in any manner, interfere with the performance of garbage collection services being rendered by an agent or employee of the city acting within the course and scope of his employment, or being rendered by the authorized garbage collector.

(Prior code § 5-2.47)

6.12.490 - Unauthorized use of garbage collection service.

No person shall deposit, place or accumulate, or allow the deposit, placement or accumulation upon a premises for pick up by the garbage collector, any garbage produced from another premises where such action results in the avoidance or reduction of any garbage collection service charges that would otherwise be payable for collection of such garbage from the premises at which it was produced.

(Prior code § 5-2.48)

6.12.500 - Rules and regulations adopted.

- A. The director shall adopt such rules and regulations as may be necessary for the proper administration and enforcement of this chapter, and any franchise, contract or license issued or executed thereunder, including regulations relating to the required frequency of collection from various types of places and premises, and the types of special containers required for certain classes of places and premises.
- B. The director shall resolve all disputes concerning the administration or enforcement of this chapter and any franchise, contract, or license issued or executed thereunder. Any affected person who is dissatisfied with the determination of the director may, within ten (10) days after such decision appeal the same to the city manager. Such appeal must be in writing, filed with the city Clerk and must set forth the reasons for such appeal. No violation of this chapter shall be permitted, or be continued, during the time any such appeal is pending.

(Prior code § 5-2.49)