

Attachment 1

**Bill No. 787-C.S.
(Ordinance Amendment)**

AN ORDINANCE OF THE CITY OF EUREKA
PERTAINING TO SOLID WASTE AND MANDATORY GARBAGE AND RECYCLING COLLECTION
REPEALING SECTIONS 51.01 TO 51.13 AND ADDING SECTIONS 51.14 TO 51.37
OF CHAPTER 51 (SOLID WASTE), TITLE 5 (PUBLIC WORKS) OF THE EUREKA MUNICIPAL CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

SECTION 1.

Title 5 (*Public Works*), Chapter 51 (*Solid Waste*), Sections §51.01 through §51.13 are hereby repealed in its entirety.

SECTION 2.

Title 5 (*Public Works*), Chapter 51 (*Solid Waste*), Sections §51.14 through §51.37 are hereby added as follows:

§ 51.14. OBJECTIVES.

The objectives of this chapter are to:

- (A) Reduce litter and other illegal solid waste disposal practices.
- (B) Maintain a healthy, safe, economical, coordinated, and orderly regulation of collecting, transporting, and/or disposing of solid waste kept, accumulated or produced within the City of Eureka.
- (C) Encourage environmentally acceptable programs of source separation, recycling, composting and salvaging, and the reduction of the total solid waste generated on a city-wide and per capita basis.
- (D) Provide for the storage, collection, transportation, diversion and recovery of marketable and recyclable materials in compliance with Assembly Bill 939 (Integrated Waste Management Act) and the waste reduction and recycling goals set forth therein.
- (E) Divert waste out of landfills so as to extend landfill life and reduce the need to expand or build new landfills.
- (F) Prevent nuisances and hazards to public health caused by improper solid waste and garbage disposal, accumulation, storage and removal.
- (G) Eliminate solid waste and garbage as a breeding site for insects or other vectors, and a food source for rodents and other animals.
- (H) Reduce blighting conditions.

§ 51.15 DEFINITIONS, ASSOCIATED REQUIREMENTS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Accumulation means refuse of any kind, as defined in this chapter, that is not properly contained or stored, or is not removed from the premises as required by this chapter, or is not removed at a frequency that precludes the potential for a nuisance or health hazard as determined by the City of Eureka.

Assembly Bill 939 means the CA Integrated Waste Management Act of 1989, as it may be amended from time to time.

Brown goods means electronic equipment such as stereos, televisions, computers, VCRs, DVD players and other similar items. Though not required to be diverted from the waste stream per this Chapter, many of these materials may be reused or recycled and are expected to be legally diverted from landfills through the City's Bulky Item curbside collection program or whenever possible.

Bulky items/Bulky goods means discarded household appliances including refrigerators, ranges, washers, dryers, water heaters, dishwashers and other similar items (known as "white goods"), electronic equipment such as stereos, televisions, computers, VCRs, DVD players and other similar items (known as "brown goods"), furniture, carpets, mattresses, tires and oversized green wastes such as tree trunks and branches not exceeding two (2) feet in diameter and four (4) feet in length as produced or generated from Residential Property. Though not specifically required to be diverted from the waste stream per this Chapter, many of these materials may be reused, recycled or composted, and are expected to be legally diverted from landfills through the City's Bulky Item curbside collection program or whenever possible. Bulky Items/Goods do not include any motor vehicle or any subassembly, component, or part thereof (except tires), any Construction and Demolition Debris, nor Hazardous or Prohibited Wastes.

City means the City of Eureka, a political subdivision of the State of California.

Collection services means to take physical possession of, transport, and remove materials from the Premises or Property where the materials are produced or generated.

Composting means any process in which organic waste decomposes in a controlled environment.

Construction and Demolition Debris means concrete, bricks, plaster, drywall, wood scraps, roof shingles, plywood, windows, wire, porcelain, toilets, dirt, gravel, rock, tarpaper, lumber, metal and other such discarded items typically associated with construction, demolitions or renovation of a structure. Though not specifically required to be diverted from the waste stream per this Chapter, many of these materials may be reused, recycled or composted, and are expected to be legally diverted from landfills whenever possible.

Container means any and all types of solid waste receptacles approved by the City of Eureka for use by customers for solid waste, recyclable materials or greenwaste collection, including any toter, can, commercial roll off bin, or other type of bin into which refuse of any kind is placed.

Curbside means adjacent to the curb of a public or private street or alley, or on streets without curbs, adjacent to the shoulder of the street; or in shopping centers, business parks and similar premises, adjacent to the garbage enclosures.

Designated representative means the City Manager or such City employee as the City Manager may designate.

Disposal means to deposit refuse into an approved solid waste landfill, transfer station, container, composting or recycling facility or operation.

Food waste means solid and semi-solid putrescible waste resulting from vegetable, fruit, or food packaging, winery and other food processing or manufacturing operations. Though not required to be specifically diverted from the waste stream per this Chapter, many of these materials may be composted and are expected to be legally diverted from landfills whenever possible.

Franchise Collector/Hauler means any person, company or corporation which holds a valid, unrevoked, and unexpired exclusive Agreement to operate on public property an enterprise for the collection and subsequent transportation and disposal of solid waste within the City of Eureka. A Franchise Collector/Hauler operates routes or provides regular service and is directly or indirectly reimbursed for the collection and disposal of solid waste in the City of Eureka.

Garbage means putrescible wastes including kitchen and table food wastes; animal, fish, food, fowl, fruit or vegetable wastes or matter resulting from the storage, preparation, cooking, decay, consumption, processing, or handling of food or food stuffs; non-putrescible wastes that are mixed in the same container with or are contaminated by putrescible wastes; home generated medical type wastes, such as used tissues, bandages and gauze, which are produced at residential premises and are used in medical treatment or the administration of medicines; small dead animals not exceeding 25 pounds in weight; and any putrescible or easily decomposable waste material. Many of these materials may be composted, reused or recycled and are expected to be legally diverted from landfills whenever possible. Garbage does not include prohibited wastes such as hazardous waste and medical waste, ash or yard waste that is free of fruit or that is not highly putrescible. Source-separated food or food containers stored for recycling or composting are considered garbage until they are received at a recycling/composting facility.

Green waste means recyclable/compostable plant materials or yard waste, resulting from the maintenance of any plants growing on a property, and that is to be composted, transported or collected at the premises where produced. Though not specifically required to be diverted from the waste stream per this Chapter, green waste may be composted or recycled and is expected to be legally diverted from landfills whenever possible.

Hazardous waste means any and all waste defined as hazardous under state or federal law as it now exists or may subsequently be amended, including but not limited to the following:

(1) Waste as defined by Public Resources Code Section 40141: Waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may do either of the following:

(a) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness;

(b) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(2) Unless expressly provided otherwise, "hazardous waste" includes extremely hazardous waste and acutely hazardous waste.

(3) Waste as defined by California Health and Safety Code section 25117; toxic, corrosive, reactive, flammable, explosive wastes that meet the definition of hazardous wastes.

These materials may not be disposed in landfills, and shall be disposed appropriately at an approved Hazardous Waste disposal facility.

Mandatory Collection Items means those materials subject to mandatory curbside collection per this Chapter including but not limited to garbage, rubbish and certain recyclable waste materials including but not limited to recyclable containers such as aluminum cans, aerosol cans, containers made of tin and bi-metal, glass bottles and jars, and plastic bottles and packaging, and plastic bags, and all recyclable paper/fiber products including but not limited to newspaper, magazines, white paper, colored paper, cardboard, junk mail, phone books and catalogues.

Medical waste means waste, including bio-hazardous waste, non-RCRA pharmaceutical and sharps waste, as defined by California Health and Safety Code, Division 104, Part 14 (Health and Safety Code § 117600 et seq.), or subsequent revision and home-generated sharps and pharmaceuticals accumulated at a consolidation point. Medical waste may originate from, but is not limited to, hospitals, public or private medical clinics, research laboratories, pharmaceutical industries, blood banks, pathology laboratories, clinical laboratories, veterinary facilities, dialysis or other specialty clinics and other medical facilities. These materials may not be disposed in landfills, and shall be disposed appropriately at an approved Hazardous or Medical Waste disposal facility. Medical waste does not include any waste which has been rendered non-bio-hazardous.

Occupant means the person(s) holding possession of premises for permanent or temporary use.

Occupancy, occupied means premises that 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 premise is occupied during periods when garbage collection service is made available to such premises, occupancy is presumed, unless evidence is presented that gas, electric, telephone and water and sanitary sewer utility services were not being provided to the premises during such periods.

Owner or property owner means the owner of record as shown in the County Assessor's current records as the holder or holders of title to the real property constituting the premises to which refuse collection service is provided.

Premises means any land, building or structure, or portion thereof, where any refuse may be produced, kept, deposited, placed or accumulated.

Private street means a street that is not publicly maintained. Private street does not mean a driveway.

Putrescible waste means garbage causing, showing, or proceeding from decay and which is liable to become putrid, resulting in decomposed; rotten and foul-smelling material. These materials may be composted and are expected to be diverted from landfills wherever possible.

Recyclable waste materials means materials removed or separated from other residential, commercial or industrial garbage or solid waste for purposes of reuse, reprocessing or composting. These materials are expected to be legally diverted from landfills whenever possible. Examples of these materials include but are not limited to:

- (1) All recyclable containers including but not limited to aluminum cans, aerosol cans, containers made of tin and bi-metal, glass bottles and jars, and plastic bottles and packaging and plastic bags.
- (2) All recyclable paper/fiber including but not limited to newspaper, magazines, white paper, colored paper, cardboard, junk mail, phone books and catalogues.
- (3) Construction and demolition debris.
- (4) Bulky items including brown goods, white goods and tires.
- (5) Clothing and textiles.
- (6) Green waste and yard waste
- (7) Food waste.

Rubbish means non-putrescible solid wastes including, but not restricted to, paper, cardboard, crockery, rubber tires and other inert materials. Rubbish contaminated by garbage is considered as garbage. Many of these materials may be recycled or reused and are expected to be legally diverted from landfills whenever possible. Rubbish does not include prohibited wastes such as hazardous wastes and medical waste, or ash.

Solid waste means all putrescible and non-putrescible solid or liquid waste materials greater than 50 percent solids by weight, substances or objects, including but not restricted to materials, substances or objects commonly referred to as trash, garbage, rubbish, refuse, green waste, manure, animal droppings, food processing waste, and recyclable waste materials. Solid Waste does not include the following:

- (1) Sewage collected and treated in a municipal or regional sewage system, or other highly diluted water carried materials or substances less than 50 percent solids content by weight.
- (2) Substances having commercial value which have been salvaged for reuse, composting, recycling, or resale, including but limited to recyclable waste materials or green waste once these are contained within a collection vehicle.
- (3) Mulch, compost or compost piles which are produced or kept at a residence, providing they are properly maintained and stored and not creating a potential health hazard or nuisance.
- (4) Prohibited wastes including but not limited to hazardous waste, radioactive waste, medical waste, and non-residential ash.

Solid waste disposal facility means disposal facility, disposal site, solid waste transfer or processing station or incinerator.

Transfer station means those facilities used to receive solid wastes and to temporarily store, separate, convert, or otherwise process the solid waste and/or recyclables, in preparation for transport.

Vector means a carrier, usually insects or rodents that are capable of transmitting a disease.

Virtually all means almost entirely, or for all practical purposes, almost everything.

White goods mean kitchen and laundry appliances or other large appliances or similar items. Though not specifically required to be diverted from the waste stream per this Chapter, many of these materials may be reused or recycled and are expected to be legally diverted from landfills through the City's Bulky Item curbside collection program or whenever possible.

Yard wastes means leaves, grass, weeds and wood materials from trees and shrubs. Though not specifically required to be diverted from the waste stream per this Chapter, many of these materials are compostable or reusable and are expected to be legally diverted from landfills whenever possible.

§ 51.16 MANDATORY COLLECTION SERVICE.

(A) Use of City of Eureka's Franchise Collection/Hauler Service Required.

The periodic collection of garbage, recyclable items and other solid waste materials from improved properties in the City of Eureka benefits occupants of places and premises in the City of Eureka, and promotes and protects the health, safety and welfare of all residents of the City of Eureka. Therefore, collection services provided by the City of Eureka's Franchise Collector/Hauler are mandatory for all owners of improved property within the City of Eureka in or from which solid waste is created, accumulated or produced.

Solid waste must be regulated to the extent necessary to protect the health, safety, and welfare of the public, to conserve disposal capacity, to meet state laws and to ensure cost effective public service. To this end, the City Council finds that to give practical effect to this policy, a mandatory collection ordinance to regulate the collection of waste, and a comprehensive system for the storage, collection, removal, transport, recovery of marketable and recyclable materials, and disposal of solid waste in the City of Eureka is essential.

(B) Applicability.

Mandatory collection service is required for garbage, recyclable items and other solid waste materials generated on all occupied properties within the City of Eureka, as identified in this Chapter. As mandatory collection service is implemented and becomes available pursuant to the subscription guidelines of this Chapter, the owner, tenant or occupant of every parcel with one or more businesses and/or residential buildings approved for occupancy and located within the City of Eureka shall subscribe to and thereafter use regularly the collection service franchised by the City of Eureka.

No provision herein contained shall be construed to conflict with any provision of the Integrated Waste Management Act, the Medical Waste Management Act, or any other state or federal law. In the event such a conflict exists, or shall exist in the future, state or federal law shall be controlling. This chapter is not intended, nor shall it apply to transfer stations or other solid waste disposal facilities.

(C) Subscription to Collection Service.

Subscription to mandatory collection service shall not be required until the service becomes available to each affected property. The property owner of each occupied premises shall assume responsibility for subscribing to collection service within seven days of either written notification from the City or occupancy of the premises, whichever is sooner. As the City's discretion, providing collection service to all properties may be implemented in phases with residential single family and small residential multi-family properties to be implemented initially. Larger residential multi-family, commercial and other uses shall be implemented as programs become available and economically viable.

(D) Property Owner Responsible for Securing Collection Service.

The owner of any improved property in or from which solid waste and recyclable materials is created, accumulated or produced is responsible for subscribing to the collection service to be rendered to such property by the City's franchised collection service. It is the property owner's responsibility, not the tenant, to secure and maintain collection services.

(E) Payments on Behalf of Owner Permitted.

Nothing in this Chapter is intended to prevent an arrangement, or the continuance of an existing arrangement, under which payments for collection service are made by a tenant or tenants, or any agent on behalf of the Owner, however any such arrangement will not affect the Owner's obligation to the City or to the Franchise Collector/Hauler for payment for such service.

(F) Initial Notification of Mandatory Collection Service.

Within 90 days of adoption of an ordinance by the City of Eureka requiring mandatory collection service, the City shall notify by mail all affected property owners of the ordinance and the requirement for such property owners to subscribe to the collection service. This mailing list will then be provided to the City of Eureka's Franchise Collector/Hauler to monitor service subscriptions. Upon completion of the notification process, the City of Eureka's Franchise Collector/Hauler will deliver the appropriate service bins/carts to each property. The City will also attempt to notify landlords and property managers.

(G) Written Notice Required for Non-use.

The City of Eureka's Franchise Collector/Hauler shall give written notice to the City Manager or designated representative of the address of any occupied premise within the City which is not subscribing to the collection and disposal service provided by the collection service franchised by the City.

(H) Failure to Subscribe.

If the City Manager has reason to believe that any person required to subscribe for service has failed to subscribe or failed to maintain a subscription for service, the City Manager may cause written notice to be mailed to the Owner of the real property so affected directing the Owner to subscribe for such service within ten days after the date of the notice.

Any such notice shall state that if the person to whom it is directed fails within the ten day period to subscribe for such collection service, or fails to appear and show sufficient cause why such person should not be required to subscribe, the Manager may authorize such service and the charges therefore will be assessed against the real property upon which the premises served are located.

After notice and a public hearing, unpaid delinquent accounts may be confirmed by the City Council, and the amount confirmed shall constitute a lien on the property. The lien shall continue until the amount of the charges and interest thereon at the legal rate, computed from the date of confirmation of the charge, is paid in full or until it is discharged of record.

Alternatively or in addition, the confirmed amount may be made a personal obligation of the property owner of record. Alternatively, or in addition, the confirmed amount may be Specially Assessed against the real property involved, and collected at the same time and in the same manner as ordinary real property taxes.

(I) Exemptions.

Property owned by federal, state or local governments shall be exempt from the requirements of this section.

§ 51.17 CURBSIDE RECYCLING COLLECTION.

(A) Weekly Recycling Collection.

In addition to mandatory garbage collection, mandatory curbside recycling collection service shall be in effect for specific recyclables generated on premises within the City of Eureka as identified in this Chapter. The City of Eureka's Franchise Collector/Hauler shall provide a separate cart for source separated recyclable materials, and provide pickup service for these recyclable materials on a weekly basis. Designated recyclables shall be stored separately from garbage and green waste. Persons may place the recycling cart curbside on the day of the week scheduled for collection by the collector.

(B) Residential Recycling Collection System.

The curbside collection of residential recyclables may utilize a two-stream recycling collection system using a divided recycling cart (2 compartments) as provided by the Franchise Collector/Hauler. A single stream collection system may also be utilized. Under a two-stream collection system, all recyclables shall be separated or sorted into two (2) collection groups or streams. The first stream shall include but not be limited to all recyclable containers such as aluminum cans, aerosol cans, containers made of tin and bi-metal, glass bottles and jars, plastic bottles and packaging and plastic bags. The second stream shall include but not be limited to all paper/fiber such as newspaper, magazines, white paper, colored paper, cardboard, junk mail, catalogues and phone books.

(C) Commercial Recycling Collection.

Commercial and large residential multi-family recycling collection and other uses shall be implemented as programs become available and economically viable, as determined by the City Manager.

§ 51.18 CURBSIDE BULKY ITEM/GOODS COLLECTION.

The curbside collection of residential bulky item/goods shall be offered by the City of Eureka's Franchise Collector/Hauler. Each residential property owner may receive two (2) collections per year, and may be used for disposal of white goods, brown goods and other items as approved by the Franchise Collector/Hauler. Residents may contact the Franchise Collector/Hauler directly to access this service. Bulky Items/Goods placed on the curb for collection shall be placed separately from garbage and other recyclables. Many of these materials may be reused, recycled or composted, and are expected to be legally diverted from landfills whenever possible.

§ 51.19 CURBSIDE GREEN WASTE COLLECTION.

A curbside greenwaste collection service may be offered by the City of Eureka's Franchise Collector/Hauler. Residents may contact the Franchise Collector/Hauler directly to establish service. Green waste materials shall be stored separately from garbage and recyclables. Upon establishment of service, the City of Eureka's Franchise Collector/Hauler shall provide a separate bin/cart for diversion of green waste materials including grass clippings, branches, leaves and other yard waste. Food waste shall not be placed in the green waste container.

§ 51.20 COLLECTION AND DISPOSAL OF PROHIBITED WASTES.

No person shall knowingly dispose of any prohibited waste with any Solid Waste, Green Waste or Recyclable Materials. Prohibited Wastes shall include all current hazardous substances, hazardous wastes, electronic wastes (e-waste), and all future prohibited substances or wastes determined to be hazardous by authorities or legislation. All such prohibited hazardous wastes shall be collected, transported and disposed in compliance with all applicable federal, state, and local laws and regulations. A list of Prohibited Wastes shall be available for review at the offices of the Humboldt Waste Management Authority.

§ 51.21 EXCLUSIONS.

(A) Appear and Show Cause for Exclusion.

Any written notice sent to a property owner shall include an option to appear before the City Manager, or a designated representative, at a time specified within the notice to show cause why such person should not be required to subscribe for the collection of garbage and recyclables. In addition, any property owner not receiving a notice may arrange to appear before the City Manager, or a designated representative, at a time specified to show cause why such person should not be required to subscribe for the collection service. At the appearance, the Manager may find excluded from the requirements of said section only those persons who show:

- (1) That they are not owners of the property mentioned; or
- (2) That the property is not within the Eureka city limits, or
- (3) That the property is vacant; or,
- (4) That the residential unit or structure on the property is vacant or temporarily unoccupied for a period in excess of one (1) month; or
- (5) Unique parcel specific conditions which compel the property owner, tenant or occupant to self haul their garbage, recyclables and green waste to the Transfer Station. Such conditions may include properties with long, narrow or steep driveways where the franchisee, in the opinion of the City Manager, is unable to properly and safely use the franchisee's equipment, and granting such exclusion would not create a nuisance; or,
- (6) That the owner or occupant legally recycles and/or composts virtually all their solid waste so that no unsanitary condition, hazard to health, or public nuisance will arise upon the premises owned, managed or controlled by them if they are not provided with collection and disposal services by a collector.
 - a. Declaration required. All persons claiming this exclusion shall be asked to sign a Declaration or Affidavit, under penalty of perjury, once per year stating that they legally recycle and/or compost virtually all their solid waste so that no unsanitary condition, hazard to health, or public nuisance will arise upon the premises owned, managed or controlled by them.

Any exclusion granted by the City Manager is revocable for cause, as determined by the City Manager. Any exclusion granted by the City Manager can be made conditional, as needed to ensure continuing eligibility. Violations of any such conditions can result in the revocation of the exemption, and/or result in the assessment of penalties under Eureka Municipal Code section 10.99

§ 51.22 RATE DEVIATIONS.

(A) Metered Rates.

The City of Eureka's Franchise Collector/Hauler shall include metered service which provides market based incentives to reduce waste and increase waste diversion through curbside collection of recyclable waste materials. Metered service will require that residents and other users, particularly those who recycle and compost the vast majority of their waste, have the opportunity to pay lower rates for smaller garbage bins/carts, thus encouraging higher rates of waste diversion.

(B) Appropriate Rates.

The accumulation of solid waste in certain instances may be so far above the normal or average, that the rates approved by the City Council may not be sufficient to fairly compensate the collector for collecting the same, or the accumulation of solid waste in certain instances may be so far below the normal average that the rates fixed by the City Council may not be fair and just to the property owner obligated to pay for the removal of solid waste. If after attempting to resolve the rate difference, either the collector or the property owner believes such to be the fact, a written application may be made to the City Manager for potential relief, and it shall be the duty of the City Manager to make an investigation and, if possible, to fix a rate fair to both parties.

(C) Disputes over charges made by collectors, or as to the character of the service performed, shall be decided by the City Manager or designee.

§ 51.23 STORAGE.

A property owner or occupant shall store solid waste and recyclable waste materials on their premises, or shall require it to be stored or handled, in such a manner so as not to promote the propagation, harborage or attraction of vectors, or the creation of a nuisance. It shall be unlawful for any person to allow solid waste and recyclable materials to accumulate outside of an authorized waste container.

§ 51.24 CONTAINERS.

(A) Franchise Collector/Hauler to Provide Containers.

The City of Eureka's Franchise Collector/Hauler shall provide containers to properties subscribing to collection service. The Franchise Collector/Hauler shall provide a variety of container sizes to meet the different needs of households. It shall be the duty of every property owner, tenant, lessee, or occupant of any premises to arrange for containers large enough to hold all solid waste ordinarily accumulated on the premises in one week's time. Containers shall be watertight, have suitable bails or handles and a tight-fitting cover.

(B) Maintenance and Location.

(1) All containers, when leaking or in a defective state, shall be cleaned, repaired or replaced by the Franchise Collector/Hauler or owner of the container.

(2) Individually-serviced residences: Containers shall be placed for collection day such that they are easily accessible for collection as approved by the collector. Such placement should occur no earlier than 5:00 p.m. on the day prior to the scheduled collection day, nor later than 10:00 p.m. Emptied containers should be removed promptly from the curb, no later than the day following collection.

(3) All other occupancies: Cans, bins, bulk waste containers, and other vessels for waste storage by all other occupancies shall be placed such that they are easily accessible for collection as approved by the collector.

§ 51.25 FREQUENCY OF COLLECTION OR REMOVAL.

Refuse shall be collected or removed as follows:

(A) Food stores and markets, restaurants and other commercial and industrial occupancies generating substantial quantities of solid waste shall have the same removed at least two times per week.

(B) All other occupancies shall have solid waste removed at least once a week.

(C) Notwithstanding divisions (1) and (2) of this section, every occupancy shall remove and/or subscribe to a waste removal schedule as frequently as necessary to maintain sanitary, nuisance free, vector free, clean and aesthetic conditions on the premises.

(D) Said solid waste shall be collected and removed pursuant to the schedules of this section except when prevented by disruptions due to strikes, severe and unusual weather conditions, or other acts of God which prevent collection, or holidays interrupting the normal seven (7) day collection cycle.

(E) Except in cases of emergency no regularly scheduled collection shall be made on Sunday.

§ 51.26 DISCONTINUING SERVICE UPON VACANCY.

The owner of any premises required to subscribe to a collection service under this chapter may discontinue service for one or more months when the premises are vacant or the occupant is traveling out of town. The owner is required to submit written notice of such vacancy to the City of Eureka's Franchise Collector/Hauler. Monthly collection fees shall continue to accrue until such time as notice is received by the City of Eureka's Franchise Collector/Hauler. In the event of a dispute arising under this section, the dispute shall be reviewed as set forth in this ordinance.

§ 51.27 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the chapter. The City Council hereby declares that it would have passed this chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

§ 51.28 BILLING FOR SERVICES.

The City of Eureka's Franchise Collector/Hauler shall be responsible for billing collection subscribers. In the event that accounts become more than 60 days delinquent, the Franchise Collector/Hauler may submit those accounts to the city for collection. The Franchise Collector/Hauler shall not cease to provide service for properties which have delinquent accounts.

§ 51.29 DELINQUENT ACCOUNTS.

When a delinquent account is forwarded to the City by the City of Eureka's Franchise Collector/Hauler, the city shall then, pursuant to the authority contained in California Government Code § 38790.1, attempt to collect the delinquent fees in the manner described in California Government Code § 25831.

(A) Late Fees.

Prior to forwarding a delinquent account to the City, a late fee shall be applied to delinquent accounts by the City of Eureka's Franchise Collector/Hauler as an incentive to secure payment. The amount of the fee shall be determined by the City of Eureka's Franchise Collector/Hauler and authorized by the Eureka City Council.

§ 51.30 ENFORCEMENT.

The Health Officer and all members of the Police Department are hereby specifically required to enforce the provisions of this chapter and shall have the right to enter any and all premises for the purpose of determining the sanitary condition thereof. It shall be unlawful for any person to deny or obstruct such entry. Additionally, City inspectors may make periodic random checks of curbside recycling contents throughout the community.

(A) Notice and Potential Fines.

The City may develop and implement an inspection program whereby the City may have the ability to fine those entities which are placing recyclable materials into their garbage containers, and/or are placing garbage into their recycling containers. The City may coordinate with transfer station authorities and local recycling processing centers to determine in which neighborhoods to conduct inspections for excessive recycling contamination. Properties which are found with garbage bins containing recyclable materials, and/or those found with recycling bins contaminated with garbage may be issued a notice. Three notices may result in a fine under Eureka Municipal Code section 10.99.

(B) Responsibility.

Property owners in the City of Eureka are responsible for recycling violations caused by tenants.

§ 51.31 APPEAL PROCESS.

The City Manager or a designated representative shall endeavor to resolve all disputes concerning the administration or enforcement of this Chapter. Any affected person who is dissatisfied with the determination of the City Manager may appeal the same to the City Council. The appeal must be in writing and set forth the reasons for the appeal. The written appeal and the appeal fee (to cover administrative costs), as determined by the City Council, must be filed with the City Clerk within 10 days after such decision by the City Manager or a designated representative. No alleged violation of this chapter shall be permitted, or be continued, during the time any appeal is pending.

§ 51.31.1 FEE DISPUTES, LIMITATIONS ON TIME TO CHALLENGE.

Any subscriber that disputes for any reason a fee or charge imposed under the authority of this chapter may seek review of that fee as set forth in 51.31. Any and all fee disputes must be filed no later than 30 days after the fee or charge is assessed. If an appeal is not filed within 30 days, the fee or charge is final, unappealable, fully due and payable, and subject to all applicable collection and lien remedies.

§ 51.32 INDIVIDUAL WASTE REMOVAL.

(A) Nothing in this chapter shall be interpreted to prevent any person from carrying his own solid waste and recyclable materials to an approved public or private disposal site for which a valid permit is in effect.

(B) It shall be unlawful for any person transporting solid waste and recyclable materials within the city to suffer, allow, or permit any portion of the load to be lost in transit.

§ 51.33 RIGHT TO COLLECT SOLID WASTE AND RECYCLABLES.

(A) Only the city and its duly authorized agents, servants, or employees, or persons holding a permit, or contract for the collection of solid waste or recyclables in the city, shall have the right to gather and collect solid waste and recyclables in the city, and it shall be unlawful for any person to gather or collect the same except as provided in this chapter.

(B) The City may issue permits to non-profit organizations for temporary curbside or drop-off collection of recyclable materials.

(C) The Council hereby finds that approved methods of solid waste management, collection and disposal are essential to the preservation of the health, safety, and well-being of the public within the city.

(D) The Council hereby finds that the city is empowered by its Charter and by the Cal. Public Resources Code to contract for collection and disposal of solid waste under such terms prescribed by the Council through ordinance.

§ 51.34 COLLECTION CONTRACT.

(A) Contract.

(1) *Term.* An exclusive contract for the collection and disposal of solid waste for a period not to exceed ten years may be entered into by the city in accordance with and subject to the terms and conditions of this Chapter.

(2) *Bidding.* The Council may award an exclusive contract with or without competitive bidding under the Cal. Public Resources Code for the collection of solid waste within the city.

(3) *Extension of term.* From time to time, the City Council after a public hearing may extend a contract for the collection and disposal of solid waste for successive periods of ten years each, providing that the Council finds the contractor is providing good service at competitive rates.

(4) *Disposal plans.* Such contract shall provide that the contractor shall collect and dispose the solid waste in the city in the manner provided in this Chapter, and in accordance with applicable state and federal laws and regulations.

(5) *Rates.* The contractor shall not charge any amount in excess of the rates specified by the City Council.

(6) *Bond.* The contractor may be required to furnish a surety bond to the city in an amount established by the City Council, conditioned upon the faithful performance of the contract and the provisions of this Chapter.

(7) *Sole and exclusive rights of contractor.* The contractor shall have the sole and exclusive right, subject to the provisions of this Chapter, to collect all solid waste in the city and transport the same through the streets and public ways of the city. An exclusive right to collect all solid waste in the city shall not be applicable to public entities, recyclable, salvageable, or compostable materials or to self disposal as permitted by this Chapter.

(8) *Additional terms.* The Council, by ordinance, shall have power to provide for the inclusion in such contract of such terms as it deems necessary to protect the interests of the city.

(9) *Award of contract.* Before the Council awards a contract, the Council shall consider the following: the proposed method of collection and disposal of solid waste; the financial stability of the collector or bidder; level of service to be provided by collector or bidder to the city; rates to be charged by collector or bidder for collection; the level of service to be provided to city-owned public facilities; and quantity and quality of equipment and assets owned by collector or bidder to be used in collection.

§ 51.35 COLLECTION AT CITY OWNED FACILITIES.

(A) City Buildings and Facilities.

The entity to whom a collection contract is awarded shall collect and dispose of the solid waste produced and generated at any city-owned and operated public building or facility, including but not limited to City Hall, City Police Station, Eureka City Main Fire Station and all fire stations, Wharfinger Building, Adorni Center, Municipal Auditorium, Sequoia Park and Zoo, Ryan Memorial Building, Municipal Corporation Yard, Wastewater Treatment Plant, the Eureka Marina, Eureka Boardwalk and Fisherman's Terminal and other city-owned and operated buildings, parks or playgrounds. Collection of such solid waste shall be made at least once each week or per terms of an approved Franchise contract.

(B) City Containers.

The city shall place all solid waste in containers, bins, or hoppers ready for collection by the contractor. In the event the city rents from the contractor any container, bin, or hopper used for the collection or disposal of solid waste, the city shall pay to contractor a rental rate identical to that charged by contractor to others in the usual course of business.

(C) Street Solid Waste Containers.

The contractor, at no charge to the city, not less frequently than once a week, shall service street solid waste and recycling containers placed and maintained by the city on any public street or sidewalk.

§ 51.36 LITTERING; UNLAWFUL DISPOSAL.

(A) It shall be unlawful for any person to throw or deposit any solid waste and recyclable materials, or to cause the same to be thrown or deposited, upon any street, alley, gutter, park, or other public place. Except for clean fill, and compostables, it shall be unlawful to throw or deposit solid waste and recyclable materials in or upon any vacant lot or back yard, or to store or keep the same otherwise than in containers or bins as required by this Chapter.

(B) It shall be unlawful to have, store, deposit, or keep solid waste where rodents can have access thereto or feed thereon.

(C) Each day's violation of this section shall be treated, considered, and be a separate and distinct offense.

(D) It shall be unlawful for any person to knowingly deposit in any container for collection by a commercial refuse collector, any of the following materials:

- (1) Group 1 wastes or hazardous wastes or other prohibited waste as defined by state law.
- (2) Liquid wastes, including petroleum products or septage.
- (3) Automobiles, automobile bodies, automobile frames, engines or engine blocks or portions thereof. Light gauge automobile parts such as hoods, doors, grilles, or fenders are permitted.
- (4) Animal bodies or portions thereof, except for dogs, cats or smaller animals, not exceeding 25 pounds each, on an individual basis.
- (5) Hot ashes or burning material.
- (6) Fish processing wastes more than four days old.

§ 51.37 COLLECTION VEHICLES.

(A) All equipment and containers used for the collection and hauling of garbage, solid waste and recyclables shall be so constructed and maintained as to prevent leakage, spillage, or overflow. All trucks and equipment shall be clearly identified by an assigned equipment number and with the licensee's name and local telephone number affixed thereto.

(B) All collection vehicles shall be well maintained, painted, clean and in satisfactory mechanical condition.

(C) For servicing large, bulky dry loads, an open steel truck bed may be used provided adequate canvas or other covers are applied to restrict any loss of debris.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the _____ day of _____, 2008 by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

MIKE JONES
Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the _____ day of _____, 2008, and hereby approved.

VIRGINIA BASS
Mayor

Approved as to Form:

Approved for Administration:

SHERYL SHAFFNER
City Attorney

DAVID W. TYSON
City Manager

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the _____ day of _____, 2008.

KATHLEEN L. FRANCO SIMMONS
City Clerk