

ORDINANCE NO. 2568

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING ORDINANCE NO. 1993, AS AMENDED, BY MODIFYING THE TERMS OF THE LAIDLAW WASTE SYSTEMS, INC. FRANCHISE TO REQUIRE COLLECTION OF YARDWASTE FROM SINGLE-FAMILY AND SPECIFIED MULTI-FAMILY RESIDENCES WITHIN THE CITY OF CHULA VISTA FOR THE PURPOSE OF RECYCLING

The City Council of the City of Chula Vista does ordain as follows:

SECTION I: That Section 8.23.010 of the Chula Vista Municipal Code is hereby amended to add the following subsection:

Sec. 8.23.010 Definitions.

"FF 1/2. "Salvaging or Salvageable" means the controlled and/or authorized storage and removal of Solid Waste, Designated Recyclables or recoverable materials."

SECTION II: That Section 8.23.230 is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 8.23.230 Residential Yard Waste Recycling Services.

Grantee shall provide Yard Waste Recycling services to all Single-family Residences and those Multi-family dwellings not serviced by Curbside Collection or by landscapers who haul yard waste from the Multi-family dwelling ("Specified Multi-Family"), on the following terms and conditions:

A. Exclusivity - The City grants to Grantee, for the term herein specified and subject to such terminations herein allowed, the exclusive right to collect Yard Waste, deposited in Designated Yard Waste Recycling Containers (or alternatively, "Containers") and/or bundles located at Designated Recycling Collection or Storage Location(s) as may be identified for Single-family households and by Specified Multi-family dwellings. This grant of exclusive license is not intended and does not preclude duly licensed landscape contractors, non-profit organizations and community groups from conducting recycling programs for the purpose of raising funds, nor does it preclude a person from selling or otherwise disposing of their own Yard Waste through a landscape contractor, self-haul or composting, so long as said collection, donation or sale does not occur at the Designated Recycling Collection or Storage Location. However, once the Yard Waste has been placed in the Designated Recycling Containers or at a Designated Recycling Collection or Storage Location, the material ("Franchised Recyclables") becomes one of the subject matters of this grant of franchise. The Grantee agrees to cooperate with the City in reaching a modification to this Section to the extent required by law at anytime it should be deemed necessary in the future.

B. Obligations of Grantee

1. Implementation Schedule - Grantee shall commence and diligently implement this franchise Citywide from the date of this franchise so that all single-family residences and Specified Multi-Family residential complexes in the City have Yard Waste Recycling Collection service by December 1, 1993.

2. Collection - Grantee shall furnish said labor, services, materials and equipment required to perform this franchise. Grantee shall provide Collection and Removal services for all Yard Waste which is placed in Designated Recycling Containers or in bundles, at Designated Recycling Collection or Storage Locations, as defined by the City of Chula Vista Municipal Code Chapter 8.25, segregated from Refuse, from all Single-family and Specified Multi-Family residences. Grantee shall offer collection of Yard Waste not less than once per week and provide any additional Collection as shall be necessary to prevent overflow of the Exterior Recycling Containers at specified Multi-family Residences. Collection will be on regularly scheduled Refuse Collection days or as negotiated with the City for Single-family residences and as shall be arranged with the building property owner, manager or designated agent thereof for Specified Multi-family complexes. The Grantee and the City will mutually agree to any changes in Collection schedule frequencies or Removal Frequency.

Design of Collection vehicles shall be done to limit the contamination and maximize the salvageable value of the collected Yard Waste. Any and all changes to the established means of Collection of Franchised Residential Recyclables, as herein outlined, shall be notified to the City in advance.

Acceptable materials for collection include all Yard Waste as herein defined, excluding palm fronds, treated or processed wood or lumber, Bulky Waste or any other materials as shall be determined by the City as to not be Salvageable. All acceptable Yard Waste shall be void of nails, wire, rocks, dirt or any other material that is not considered Yard Waste.

3. Containers - Grantee shall purchase and distribute, or otherwise arrange for the distribution of, Designated Recycling Containers, to include the following:
  - a. Yard Waste Recycling Container. A Container on wheels (approximately 67) to be used for the collection of Yard Waste shall be offered to each eligible Residential customer for purchase or rent. Grantee shall distribute Containers to all customers requesting use of said Containers. The type of Container to be used or changes of Container type shall be approved by the City prior to purchase and distribution. Grantee shall retain ownership of the Containers unless the customer pays in full for the Container, as specified herein.

Paper (kraft) or plastic bags will not be acceptable in the program, unless negotiated between the City and the Grantee. Properly bundled materials, such as tree limbs shall be included in the Collection, as herein defined. Acceptable bundles shall be no longer than four (4) feet in length, no more than eighteen (18) inches in diameter, or no heavier than forty (40) pounds. Bundles may be tied with string or twine only; no wire, plastic or other material may be used. Residents may provide their own "refuse" can-like Container for the purpose of storing the Yard Waste for Collection. This Container must be of the type acceptable by the City for the Collection of Refuse, in accordance with City ordinances. No Container shall be more than 35 gallons in size and weigh more than fifty (50) pounds when used for Storage of Yard Waste for Collection. All Containers used for the Storage of Yard Waste shall be kept so that operational performance allows for maximum hauler Collection efficiency.

Grantee will be responsible for keeping records and making them available to the City regarding additional Containers requested, and the reason for the request, e.g., damaged, stolen, etc.

- b. Exterior Recycling Containers. An appropriate Yard Waste Collection and Storage Container(s) shall be provided for use at each Multi-family complex that meets the space restraints and Collection needs of the respective complex and the residents therein. Said Containers may include 90 gallon carts on wheels, 2 cubic yard bin or 3 cubic yard bin. Each container shall conform to the following: plastic containers should include recycled plastic content; be fire resistant; be of durable quality and warranty; be heat stamped or labeled for commodity; be clearly labeled on the lids and the front facing of the bin, in Spanish and English (with graphics) as to the Designated Recyclable(s) and "No Trash"; be clearly labeled with the Grantee's name and phone number.
- c. Compost bins. The Grantee agrees to offer Compost Bins to all residents. The Grantee shall arrange for a mechanism that allows for bins to be ordered through the Grantee and sold to residents at the bulk purchasing cost (including shipping and a reasonable handling and administration charge). Compost bin types to be considered should be sturdy and proven state-of-the-art compost design. The Grantee may choose to offer residents a choice of two different models, e.g., one "open composting system" and one "closed." Bins should be composed of scrap waste wood and/or recycled plastic content. Residents shall be allowed to purchase the bins through an ordering system designed by the Grantee, with assistance from the City, that allows for wide distribution of the ordering mechanism (e.g., mail order coupons) to a majority of Chula Vista residents. The franchisee will work with the City to establish and implement the bin ordering system.

The Grantee will work with the City to provide information to the residents on bin delivery and/or pick-up specifics, and on the use of the composting bins, once received. Bins may be dropped or shipped to a central location in the City for pick-up by residents from that site, provided residents are properly notified as to the pick-up point, or as an alternative bins may be delivered directly to residential dwellings.

4. Transportation and Marketing of Franchised Recyclables - Grantee shall transport collected Franchised Recyclables to a central collection and Processing point and shall retain responsibility of the materials, so as to yield the highest possible Salvageable value for the Franchised Recyclables as collected and in accordance with any Processing contract held by the Grantee. No noncontaminated Franchised Recyclables shall be Landfilled, unless approved by the City. Should the collected Yard Waste be unsalvageable, only the City Manager (or designee) of the City of Chula Vista may decide not to collect the affected Yard Waste material. All written contracts, if any, with processors, recyclers or other brokers of Franchised Recyclables shall be submitted to the City.

Franchised Recyclables that are contaminated due to the placement of Refuse in a Designated Recycling Container, or inclement weather that leaves the Franchised Recyclables unsalvageable, may be landfilled. The Grantee shall retain a record of such occurrences and report said occurrences to the City on a quarterly basis. Should contamination of Franchised Recyclables occur at a Single-family or Multi-family complex, said residence shall be notified. Should contamination occur three or more times, said residence shall be notified that they are in violation of CVMC Chapter 8.25 and that said residence is subject to penalties therein described.

In order to allow for the Yard Waste Program to fully assist the City in meeting its AB 939 obligations, the City is interested in having the collected Yard Waste processed for compost or mulch (not biofuel). To this end, the City reserves the right to direct the Grantee to transport the collected materials to a duly permitted composting facility in the South Bay area, if it deems

it to be in the best interest of the City. The City will negotiate with the Grantee to allow for the most equitable and beneficial processing of the collected yard waste. City staff will assist in the marketing of material to the extent practical and feasible.

5. Missed Pick-ups - In case of missed pick-up called in by a Single-family Resident or Multi-family complex property manager, owner or designated agent thereof, Grantee shall, where possible, provide Collection within 24 hours. If unable to accommodate due to inadequate notice, the Franchised Recyclables shall be picked-up on the next scheduled collection day and Single-family Resident or Multi-family complex owner, property manager or designated agent thereof is to be notified. If the Designated Recycling Containers are overflowing or otherwise creating a Nuisance as a consequence of a missed pick-up, the Grantee is required to provide Collection within 48 hours of notification of missed pick-up. Information on missed pick-ups shall be logged by Grantee and shall be available to the City.
6. Public Awareness Program - The parties hereto agree to work diligently to formulate promotional plans and/or advertising to encourage Recycling in the City and thereby maximize the mutual benefits of this ordinance. The Grantee, in conjunction with the City, is responsible for promotion, education and outreach activities related to the program. The Grantee will prepare an introductory packet of information regarding the Citywide Yard Waste Recycling program and will distribute such packet to each eligible residence and Specified Multi-family complex owners, property managers or designated agent thereof. The packet shall include, but not be limited to: a) an informational notice, appropriate for hanging on refrigerator or other location indoors, that details all program elements, how residents can participate, proper placement of Yard Waste in Containers or Bundles, the City's mandatory recycling ordinance and recycling hotline phone number; and, b) a general information brochure on composting;

A "pay as you go" sticker designed with a tear-off portion to allow the Yard Waste Collection driver to remove the tear-off portion once the materials are collected shall also be made available to Program participants. The Grantee, with assistance from the City, shall arrange for distribution of the stickers through at least two retail outlets, the Grantee's business location, and other locations, as necessary, to be negotiated.

All promotional materials shall be developed with the City's Conservation Coordinator's or other designated City employee's advise and consultation, from the first step in development, through the final printing and distribution of materials. No materials shall be developed or distributed without the approval of the Conservation Coordinator or other designated City employee. All Introductory Materials shall be fully translated into Spanish, unless otherwise approved by the City. All subsequent materials shall be fully or at least partially translated into Spanish, unless otherwise approved by the City. All program materials shall utilize graphic representation of Designated Recyclables. The franchisee will be required to distribute the City's composting guide (upon resident request) and other City developed yard waste related informational materials; the City will provide copies of guides and City developed materials at no cost to the negotiated franchisee.

The Grantee shall provide to the City a detailed outline of program promotional materials to be developed and outreach activities to be conducted in advance of program implementation. The Grantee will participate in community and school outreach activities during the initial phase of program implementation and provide ongoing outreach activities, to include, community events, media events, make presentations to community groups and businesses on an as needed basis and as directed by the City, and attend County-wide meetings related to recycling,

speaking on the City's Yard Waste Recycling Program if needed and directed by the City. The Grantee also agrees to reasonably assist in developing incentives to increase participation and tonnage collected, and to encourage involvement of community and youth groups. All such Yard Waste Program outreach may be conducted in conjunction with the other franchised Recycling programs, upon approval by the City.

The Grantee and the City agree that the main purpose of an aggressive public education program is to increase participation and diversion, as well as limiting contamination of Franchised Recyclables. Beginning in the second year, if, in the City's judgement, it is reasonably determined that the public education effort has not resulted in high enough Program interest, the Grantee will perform reasonable public education activities at the City's direction at a cost to the Grantee to be agreed upon by the City and added to the cost of the Program fee, not to exceed \$.10 per Unit per month. If needed, as part of the educational activities as determined by the City with input from the Grantee, the Grantee will develop incentives to increase participation, such as, offering rewards for program participants that have high participation levels and high tonnage levels.

The Grantee agrees to work with the City to provide ongoing Program monitoring services and quality control to prevent contamination of materials and encourage participation to property managers, to include on-site visitations, as deemed necessary by the Grantee and/or the City.

The Grantee will provide to the City a quarterly accounting of all outreach activities conducted during the previous quarter. The Grantee will also provide an accurate accounting of all costs associated with Program outreach, to include, but not be limited to, costs for designing of outreach materials, printing of outreach materials, etc.

7. Local Manager - The Grantee shall at all times during the term of this ordinance have a local manager charged with the responsibility for supervision of the recycling operations and obligations of the Grantee and agrees to provide, at a minimum, one (1), quarter-time person directly assigned to the Yard Waste Program, whose duties are to include: promotional material development and distribution; program monitoring (including on-site visitations); educational outreach to school children; community outreach and reporting duties.
  8. Anti-scavenging - The Grantee agrees to provide information to all property owners, managers or designated agents there of regarding the City's anti-scavenging ordinance and how to report scavenging occurrences. The Grantee agrees to inform all of its employees of the City's anti-scavenging ordinance on a regular basis and how said employees shall report scavenging occurrences.
- C. Obligations of the City - Subject to the provisions of Paragraph B5 of this ordinance, the City shall have lead responsibility for directing the development and expenditures of the public awareness activities for the Yard Waste Recycling Program.

The City agrees to reasonably enforce all Program specifications. This includes the following: that Single-family residents and Multi-family complexes are allowed to place up to five containers (to be no more than 35 gallons in size each) and/or bundles at the Designated Collection Location per "pay-as-you-go" sticker; the City's mandatory recycling ordinance requirements as they pertain to Yard Waste and as described herein; and, Yard Waste Container specifications.

If during the initial period of the franchise, or any extension thereof, the City discontinues the separate collection of multi-family recyclables and reverts to a Mixed Waste Processing system for

commingled collection of waste and recyclables, the City agrees to allow a rate adjustment to permit the Grantee to recover the loss incurred on the sale of vehicular equipment specifically purchased to meet the Grantees obligations under this ordinance. Such loss will be calculated by deducting the realizable market value of the equipment from the reasonably depreciated book value of the equipment at the time of the sale of equipment.

D. Funding and Rates for Collection

1. Funding Sources - The Residential Yard Waste Recycling Program will be funded by four sources: a monthly recycling fee to all eligible residents (to be billed to the property manager or resident, as with refuse billings); Net revenues from the sale of collected Yard Waste material, at such time as the market provides revenues for Yard Waste; savings in disposal cost of material diverted from the landfill; grant funds when available and awarded.
  - a. A monthly recycling fee, charged to eligible residents is the primary source of funding for this program. In general, it will be allocated equally among the customer base, as determined by Section D.2 below, receiving said Recycling Collection services and will be determined by the Grantee's operating expenses directly attributable to the recycling program, less: any such revenue that shall be received from the sale of the collected Recyclables at such time that the market allows, the savings realized in disposal costs of material diverted from the landfill and any grant funds received for the program.
  - b. All collected Recyclables will be marketed at fair salvageable value, as outlined in Section B.3 above, and any such net revenues as shall be obtained from such sales shall be retained by Grantee as an offset against operating expenses. The City shall be notified of significant changes in fair salvageable values in writing as part of the quarterly reporting requirements.
  - c. Recyclables collected in the Program will be diverted from disposal in the landfill, thereby resulting in a cost savings to the Grantee ("Landfill Diversion Credit"). On a monthly basis, Grantee will determine the recycled material tonnage collected and the resulting Landfill Diversion Credit based on the landfill disposal cost approved by Council for refuse collection rates and will credit this savings during the first year of operation as an offset against operating expenses. When reevaluating program costs in subsequent years, the City agrees to consider Landfill Diversion Credits of less than 100 percent. The amount will be subject to negotiation and the intent is to provide an economic incentive for the Grantee towards increased participation and program success.
  - d. Any grant funds received will be applied to the costs of the Program when award is noticed or during the next rate review procedure if the award takes place once a specific rate has been determined, with the intent of directly reducing the monthly fee to the rate payer.
2. Rates for Collection - It is the City's intent to ensure that the rates charged to the citizens for the Yard Waste Recycling Program are appropriate and equitable. The City hereby establishes the following fees and charges for Residential Yard waste services, based on using the service, using the service with a resident's own container, or using the service with a Laidlaw-provided container, either rented or purchased. These fees and charges are subject to change by the Council by resolution from time to time as the Council determines necessary. The Council directs that the below listed fees and charges shall be placed in the City's Master Fee Schedule, and any amendments hereto shall be by resolution amending said Master Fee Schedule:

Optional Service Levels. Each Item below is in the alternative:

1. Charge if Resident is Not Using System\*. . . . . \$0.00
2. Subscription Services, Monthly Fee with Rental
  1. For Laidlaw Container Rental. . . . . \$1.00
  2. For Weekly Collection Services\*\*\*. . . . . \$2.00\*\*
  - Total Monthly Fee for Services With Rental. . . . . \$3.00
3. Subscription Services, Monthly Fee with Purchase of Container.
  1. For Weekly Collection Services\*\*\*. . . . . \$2.00
  2. One-Time Laidlaw Container Purchase Price . . . . . \$50.00-\$70.00\*
4. Pay-As-You-Go Services, Sticker Purchases
  1. For 5 cans or bundles per Sticker. . . . . \$1.00

Notes to Service Charges

- \* Requires composting of yardwaste or selfhaul. Yardwaste may no longer be put in regular trash.
- \*\* Purchase of Laidlaw Container Required If Resident Desires Not to Rent Laidlaw Container. See Item 3 Below.
- \*\*\* Service price entitles Resident to put out weekly 1 Laidlaw container (65 gal) and up to 6 bundles in addition to the Laidlaw container.

Specific rate review procedures will be used by the City which are consistent with the procedures used for normal Refuse Collection. Council intends to provide annual reviews of the aforementioned fees and charges, and currently intends that same shall occur on or about May 31st of each year. Rate review will consider adjustments for actual sale of Recyclables and Landfill Diversion Credits in previous period compared to original estimated amounts. Shortfalls or overages will be used in determining rates for upcoming periods. Rate review will be conducted as referenced in Section 9 of the Franchise as amended, including the amendment created by Ordinance No. 2104, Rates for Collection. An increase in rates for Yard Waste Recycling services will be subject to the same limitations and conditions for Refuse Collection rates listed in Section 9.

- E. Record Keeping and Reports - Grantee agrees to accurately record collection data sufficient to comply with the reporting requirements delineated below and shall file with the City written quarterly and annual reports of Grantee's performance under this ordinance as follows:
  1. Quarterly Program Reports - Within fifteen (15) working days after the last day of each quarter, Grantee shall submit a Quarterly Program report to include, but not be limited to, the following:
    - a. Tonnage summary of all Franchised Recyclables Recovered, by material and including a revenue statement of all sales of Franchised Recyclables from the Program, by material.
    - b. Salvageable value for all Recyclables collected from the Yard Waste Recycling Program by the Grantee and/or its processor assignee. The weight receipts and salvageable value for material at the time processed shall be available for inspection by the City.

- c. Total number of customers served in the Program and resident participation rates in terms of an overall Program average. Any increases to the number of customers serviced shall also be reflected.
  - d. Discussion of problems and noteworthy experiences in the Program operation, to include specifically contamination occurrences, listed by Residence. Grantee agrees to monitor Program participation to reflect general participation by residents, contamination problems, other problems and assess need for additional public outreach activities.
  - e. Report of all education and community outreach efforts conducted during the quarter.
  - f. Overall assessment of performance during the quarter.
  - g. Recommendations to increase tonnage of Franchised Recyclable materials recovered.
2. Annual Report - On or before July 31 of each year of the term of this ordinance, Grantee shall submit a fiscal year-end annual report to include, but not be limited to, the following:
- a. A collated summary of the information contained in the quarterly reports and a summary of the average overall Program participation rates and tonnages of recovered Franchised Recyclables.
  - b. Discussion of problems and noteworthy experiences in the Program operation, measures taken to resolve problems, increase efficiency and Program participation. Number of complaints listed by type of complaint, i.e., missed pick-up, quality of service, etc., that occurred during the year.
  - c. Report of all education and community outreach efforts conducted during the year and a discussion of their general impact on participation and recovered tonnages.
  - d. Overall assessment of performance during the year.
  - e. Recommendations to increase tonnage of recyclable materials recovered.
  - f. Additional information as necessary to meet State and/or Federal mandated reporting requirements.
- F. Performance Standards - This ordinance for Residential Yard Waste Recycling services is subject to the performance standards and franchise conditions detailed in Section 14 Forfeiture of the franchise (ordinance No. 1993). While it is the intent of Section 23 to describe specific Yard Waste collection services to be provided by the Grantee in addition to existing refuse collection and disposal services, Grantee agrees that unacceptable performance of recycling services will be considered severable from its other obligations under the Franchise.
- Every reasonable effort must be made by the Grantee to maintain high levels of participation in order to reach the City's established diversion goals and assist in meeting the diversion standards set out in Assembly Bill 939 and the City and County's Mandatory Recycling Ordinances.
- G. Additional Franchise Fee - The Grantee, as part of the consideration of this ordinance, agrees to pay to the City an additional franchise fee at a rate consistent with that paid for refuse collection and detailed in Section 4 Consideration of the Franchise, as amended by Ordinance 2104. This rate will

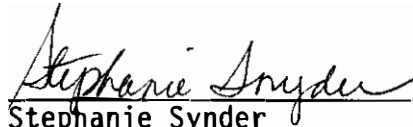


be set at eight percent (8%) of the annual Gross Receipts collected by said Grantee within the City of Chula Vista from residents for the Yard Waste Recycling Program within the City, unless increased by resolution of the City Council. It is understood that any such increase in the franchise fee by the City shall be cause for the Grantee to increase charges in order to "pass through" the cost of the franchise fee.

- H. Term - it is the intent of the City that the term for the provision of Residential Yard Waste Recycling Services shall be to the year 2002, subject, however, to the right of the City to cancel same upon giving a two year notice of cancellation by the City without cause which cannot be tendered sooner than the end of the third year from the date of the adoption of the ordinance enacting this Section. The services remain cancelable for cause at any time.

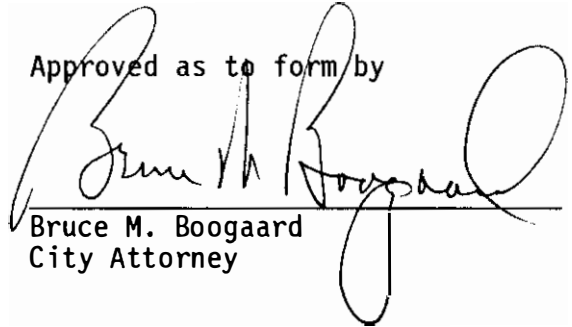
**SECTION 3:** This ordinance shall take effect and be in full force and effect on the thirtieth day from and after its adoption.

Presented by



Stephanie Synder  
Principal Management Assistant

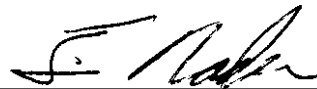
Approved as to form by



Bruce M. Boogaard  
City Attorney

PASSED, APPROVED and ADOPTED by the City Council of the City of Chula Vista, California, this 21st day September, 1993, by the following vote:

AYES: Councilmembers: Fox, Horton, Moore, Rindone, Nader  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None  
ABSTAIN: Councilmembers: None



Tim Nader, Mayor

ATTEST:



Beverly A. Authelet, City Clerk

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) ss.  
CITY OF CHULA VISTA )

I, Beverly A. Authelet, City Clerk of the City of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2568 had its first reading on September 14, 1993, and its second reading and adoption at a regular meeting of said City Council held on the 21st day of September, 1993.

Executed this 21st day of September, 1993.



Beverly A. Authelet, City Clerk