

ORDINANCE NO. 3105

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHULA VISTA MUNICIPAL CODE CHAPTER 8.25 –
“RECYCLING,” TO IMPLEMENT A CONSTRUCTION AND
DEMOLITION DEBRIS RECYCLING PROGRAM

WHEREAS, under California law as embodied in the California Waste Management Act of 1989 (California Public Resources Code Sections 40000, *et seq.*), the City of Chula Vista is required to prepare, adopt and implement source reduction and recycling plans to reach landfill diversion goals, and is required to make substantial reductions in the volume of waste materials going to the landfills, or face fines up to \$10,000 per day; and

WHEREAS, in order to meet these goals it is necessary that the City promote the reduction of solid waste, and reduce the stream of solid waste going to the landfills; and

WHEREAS, waste from construction, demolition, and renovation of buildings represents a significant portion of the volume of waste presently coming from the City of Chula Vista and much of this waste is particularly suitable for recycling and reuse; and

WHEREAS, the City’s commitment to the reduction of waste requires the establishment of programs for recycling and salvaging of construction and demolition (C & D) waste; and

WHEREAS, certain types of projects are exempt from these requirements.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Chula Vista, does ordain as follows:

SECTION I: That Section 8.25.095 is added to the Chula Vista Municipal Code and Chapter 8.25 is modified to read as follows:

Chapter 8.25
RECYCLING

Sections:

8.25.010 Purpose and intent.

8.25.020 Definitions.

8.25.030 Mandatory fees for recycling.

8.25.035 *Reserved.*

8.25.040 Separation of recyclable materials, storage, and containers.

8.25.050 Mandatory recycling.

8.25.060 Recycling programs.

8.25.070 Reports.

8.25.080 Scavenging.

8.25.090 Composting.

8.25.095 Construction and Demolition Debris Recycling.

8.25.100 Enforcement.

8.25.110 Severability.

8.25.010 Purpose and intent.

The purpose of this Chapter is to provide standards for integrated solid waste management, to include source reduction, recycling and composting of solid wastes, in order to provide for the long-term health, safety and welfare of Chula Vista residents through extending current landfill capacity, preserving resources, and providing for the general protection of the environment. The Chapter provides for regulation of the storage, collection, transportation and recovery of marketable and recyclable materials.

8.25.020 Definitions.

For purposes of this Chapter, and other municipal code provisions referring hereto, the following words shall have the meanings ascribed thereto, unless the context in which they are used clearly indicates another meaning:

A1. "Aluminum" means recoverable materials made from aluminum, such as used aluminum food or beverage containers, aluminum foil, siding, screening, and other items manufactured from aluminum.

A2. "Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any Construction, Demolition, or Renovation Project within the City of Chula Vista.

B. "Bin" shall mean those plastic or metal containers of one cubic yard (202 gallons) to eight cubic yards that have plastic lids on the top (unless metal lids are designated by the City Manager). Bins are used for weekly or more frequent collection of waste, yard waste or designated recyclables by the City or its franchise agent.

C. "Bulky waste" means discarded items whose large size or shape precludes or complicates their handling by standard residential or commercial solid waste, recycling and green waste collection methods. Bulky items include white goods, furniture, large auto parts, trees, stumps, carpet and other potentially oversize wastes. Bulky waste does not include hazardous or infectious waste unless specifically exempt, such as freon-containing refrigerators.

D. "Buy-back center" means a facility licensed and permitted by the Department of Conservation and/or local jurisdiction which pays a fee for the delivery and transfer of ownership to the facility of source-separated materials for the purpose of recycling or composting.

E. "Cardboard" means post-consumer waste paper grade corrugated cardboard (grade No. 11), kraft (brown) paper bags, or solid fiber boxes which have served their packaging purposes and are discarded and can later be reclaimed for collection and recovery for recycling.

F. "Carts" shall mean those plastic containers with a capacity of less than 202 gallons (one cubic yard). Carts shall have a fixed lid and are designed for automated and/or semi-automated collection of solid waste, yard waste and/or designated recyclables by the City or its franchise agent.

G. "City" shall mean the City of Chula Vista, a municipal corporation of the state of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

H. "Collection" means the act of removing and conveying nonhazardous and noninfectious solid waste, commingled or source-separated materials, from residential, commercial, industrial, or institutional (governmental) generators to a facility for processing, composting, transfer, disposal or transformation.

I. "Commercial" means a site and/or business zoned or permitted for any use other than residential including, but not limited to, commercial, light industrial, industrial and agricultural. Commercial generators that generate three or more cubic yards of waste per week are serviced by a bin or compactor collection vehicle.

J. "Commercial recyclables" means designated recyclable materials from the two commercial subcategories of "office" and "hospitality." Materials include, but are not limited to: office paper, cardboard, newspaper, and aluminum from offices; and cardboard, glass bottles and jars, plastic bottles, aluminum, tin and bi-metal cans, and white goods from hospitality establishments.

K. "Compactor containers" means those fully enclosed metal containers of two to 40 cubic yards provided by the City's hauler or customer. Compactors typically serve very large quantity generators.

L. "Compost" means the product resulting from the controlled biological decomposition of organic wastes that are source-separated from the municipal solid waste stream.

M. "Composting" shall mean the controlled and monitored process of converting organic wastes into compost.

N1. "Construction" means the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.

N2. "Construction and Demolition waste" means used or discarded materials removed from the premises during demolition, dredging, grubbing, and building, resulting from Construction, remodeling, repair, and/or Demolition activities on housing, commercial, governmental buildings, and other structures and pavement.

O1. "Contract or franchise agent(s)" means any person or private or public entity designated by the City Council, pursuant to Article XII of the City Charter and Chapter 8.23 CVMC, as being responsible for administering the collection, processing and/or disposal of solid waste or designated recyclables.

O2. "Conversion Rate" means the rate set forth in the standardized Conversion Rate Table approved by the City pursuant to this Chapter for use in estimating the volume or weight of materials identified in a Waste Management Report.

O3. "Covered Project" shall have the meaning set forth in Section 8.25.095 of this Chapter.

O4. "Demolition" means the decimating, deconstructing, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

O5. "Divert" means to use material for any purpose other than disposal in a landfill or transformation facility.

O6. "Diversion Requirement" means the diversion of ninety percent of Inert Waste and not less than fifty percent of the remaining waste generated via Reuse or recycling, unless a partial or full diversion exemption has been granted pursuant to Section 8.25.095 of this Chapter, in which case the Diversion Requirement shall be the maximum feasible diversion rate established by the Waste Management Report Compliance Official for the project.

P. "Recycling box" shall mean those containers with a capacity of 18 gallons to 32 gallons which are supplied by the City or its franchise agent for manual collection of designated recyclables at special events.

Q. "Curbside collection" means the service of removing and conveying nonhazardous and noninfectious solid waste, source-separated recyclables and/or green waste from the public thoroughfare at the curb or alley. (The City shall make the final determination regarding eligibility for curbside collection, which shall generally apply to small quantity generators.)

R1. "Designated containers" ("containers") shall mean those containers designated by the City Manager for temporary storage and collection of waste or designated recyclables including but not limited to curbside bins, carts, bins, roll-off boxes, and/or compactor containers.

R2. "Designated recyclables" means those materials designated by the City Manager for recovery or reuse. Any material having an economic value on the secondary materials market or that is otherwise salvageable shall be included and/or other materials that have been separated from other small quantity or large quantity generators for the purposes of being recycled for resale and/or reuse, and placed at a designated recycling or waste collection or storage location or in a designated recycling or waste container for the purpose of collection and processing, or any such designated recyclable materials collected under a mixed waste processing program. The list includes, but is not limited to: newspaper (ONP), mixed paper (MP), corrugated cardboard (OCC), steel, tin and bi-metal cans, metal coat hangers, aluminum containers, white goods, glass food and beverage containers, No. 1 and No. 2 plastic containers, all California redemption containers, used oil, used oil filters, yard waste, clean lumber, concrete and asphalt.

S. "Designated solid waste and recycling collection or storage location" means a place designated by the City Manager for storage and/or collection of waste, green waste and/or recyclables pursuant to CVMC 8.24.100. Designated locations include, but are not limited to, the curb, alley, waste/recycling enclosure, a loading dock, or basement of a commercial enterprise or multifamily complex where waste and recyclables are placed for collection or temporary storage prior to collection by the City's franchise agent.

T. “Franchised recyclables” means any residential, commercial or industrial recyclables, as defined herein, to be collected by the City’s contract agent or franchisee, placed in designated recycling containers or at designated recycling collection or storage location(s).

U. “Garbage” means all nonhazardous, noninfectious organic waste including: kitchen and table waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking, or handling of food stuffs, except organic wastes separated therefrom and used in composting in accordance with CVMC 8.25.090.

V. “Generator” means every owner, tenant, occupant or person owning or having the care and control of any premises in the City including the temporary use of parks, open space or a public thoroughfare.

W. “Glass bottles and jars” means food and beverage containers made from silica or sand, soda ash, and limestone, the product being transparent or translucent and being used for packaging or bottling, including container glass designated redeemable under the California Beverage Container Recycling and Litter Reduction Law, Division 12.1 (commencing with Section 14500) of the California Public Resources Code, as well as glass jars and bottles without redeemable value (“scrap”), but excluding household, kitchen, and other sources of noncontainer glass such as drinking glasses, ceramics, light bulbs, window pane glass, and similar glass products that are not bottles or jars.

X. “Grantee” shall mean the City’s franchise agent(s).

Y. “Green wastes” means the leaves, grass, weeds, shrubs, tree branches, tree trunk and other wood materials from trees. Green waste may also include preconsumer food waste, incidental amounts of waxed or plastic-coated cardboard and mixed paper, and unpainted and untreated lumber. Green waste does not include tree stumps in excess of 35 pounds, more than incidental dirt or rock, plastic, glass, metal, painted or treated lumber, plywood, particle board, or other manufactured products that contain glue, formaldehyde, nonorganic or nonbiodegradable materials.

Z. “Green waste processing” means the accumulation and storage of green waste in a manner that leads to the intentional or unintentional thermophilic decomposition of green waste. The acceptance of payment for green waste and the accumulation of more than 15 yards or three tons per year of unprocessed, shredded, ground or composted material shall constitute green waste processing and is subject to the City, County and state requirements regulating compost and/or solid waste facilities. Residential, commercial and agricultural sites that generate, stockpile or process green waste material generated on-site and used on-site without sale of finished or unfinished material, that are otherwise compliant with all conditions of the municipal code for nuisance, may apply for an annual exemption.

AA. “Hazardous or toxic waste” means any waste material or mixture of wastes which is toxic, corrosive, flammable, explosive, an irritant, a strong sensitizer, and which generates pressure through decomposition, heat or other means, if such a waste or mixture of wastes may cause substantial personal injury, serious illness or harm to humans, domestic animals, or wildlife, during, or as an approximate

result of, any disposal of such wastes or mixtures of wastes as defined in Section 25117 of the California Health and Safety Code, which is not legally disposable at a Class III landfill.

BB. "Hospitality" means any establishment that offers dining services, food or beverage sales. This includes taverns, bars, cafeterias, and restaurants, as well as motels and hotels (temporary housing of less than one month duration), hospitals, schools, colleges, and other such establishments that have dining services, or a restaurant or bar, on their premises.

CC. "Industrial recyclables" means recyclables from industrial, construction, and demolition operations, including, but not limited to, asphalt, concrete, dirt, land-clearing brush, sand and rock.

DD. "Industrial solid waste" means solid waste originating from mechanized manufacturing facilities, factories, refineries, construction and demolition projects, and/or publicly operated treatment works, excluding recyclables and compostables, if properly handled and treated, and excluding hazardous or toxic waste.

EE. "Inert waste" means materials such as concrete, soil, asphalt, ceramics, brick, masonry, tile, earthen cooking ware, automotive safety glass, and mirrors.

FF. "Improper disposal" means the discarding of any item or items upon public or private premises that were not generated on the premises as a part of its authorized use, unless written consent of the property owner is first obtained.

GG. "Improper disposal site" means any premises that have intentionally or unintentionally accumulated solid waste or recyclables and/or charged a fee for accepting material without a solid waste or composting permit from the county local enforcement agency. This does not include businesses licensed and permitted in the City to purchase source-separated recyclables.

HH. "Incidental waste" means less than one pound of waste deposited in a public litter bin or designated waste container to prevent litter, such as waste from a fast food meal deposited in a designated waste container or public litter bin by a pedestrian or vehicle operator.

II. "Industrial generator" means any property or generator that is engaged in the manufacture of products including but not limited to construction and demolition. Industrial generators are typically serviced by roll-off box containers of 10-yard to 40-yard capacities and typically generate inert materials such as asphalt, concrete, building debris and some wood and dry green waste.

JJ. "Industrial" means any form of mechanized manufacturing facilities, factories, refineries, and construction and demolition operations, excluding hazardous waste operations.

KK. "Institutional" shall mean any premises owned and/or occupied by local, state and federal agencies, typically office or education facilities with a common waste stream.

LL. "Integrated solid waste management" means a planned program for effectively controlling the storage, collection, transportation, processing and reuse, conversion, or disposal of solid waste, recyclables and/or compostables in a safe, sanitary, aesthetically acceptable, environmentally sound and economical manner. It includes all administrative, financial, environmental, legal and

planning functions as well as the operational aspects of solid waste handling, disposal, litter control and resource recovery systems necessary to achieve established objectives.

MM. "Landfill" means a disposal system by which solid waste is deposited in a specially prepared area which provides for environmental monitoring and treatment pursuant to the California Code of Regulations, California Public Resources Code and the Federal Resource Conservation and Recovery Act.

NN. "Large quantity generator" means those residential, commercial, industrial and institutional entities that generate more than 300 gallons of waste per week excluding source-separated recyclables diverted from disposal or transformation.

OO. "Mixed waste processing" means a system of recovering recyclables from the mixed waste stream through separation at a processing facility, transfer station, landfill, or other such facility, instead of separation at the primary waste generation source.

PP. "Multifamily" means a structure or structures containing a total of four or more dwelling units in any vertical or horizontal arrangement on a single lot or building site.

QQ. "Newspaper" means newsprint-grade paper including any inserts that come in the paper, and excluding soiled paper, all magazines and other periodicals, telephone books, as well as all other paper products of any nature.

RR1. "Non-Covered Project" shall have the meaning set forth in Section 8.25.095 of this Chapter.

RR2. "Nuisance" means anything which is injurious to human health, or is indecent or offensive to the senses, and interferes with the comfortable enjoyment of life or property, and affects at the same time an entire community or neighborhood, or any number of persons, although the extent of annoyance or damage inflicted upon the individual may be unequal, and which occurs as a result of the storage, removal, transport, processing, or disposal of solid waste, compost, and/or designated recyclables.

SS. "Office" or "offices" for purposes of this Chapter shall mean any office, combination of offices, or connected building or office space regardless of office affiliation, ownership, or occupancy. This includes, but is not limited to, businesses used for retail, wholesale, professional services, legal services, financial services (to include banks), medical services, shipping and receiving areas, churches, schools, colleges, and libraries.

TT. "Office paper" means waste paper grades of white and colored ledgers and computer paper. Examples include forms, copy paper, stationery, and other papers that are generally associated with desk and employee work area activity, and any additional materials to be added by ordinance.

UU1. "Performance Deposit" means cash, money order or check submitted to the City.

UU2. "Plastic bottle" means a plastic container with narrow neck or mouth opening smaller than the diameter of the container body, used for containing milk, juice, soft drinks, water, detergent, shampoo or other such substances intended for household or hospitality use; to be distinguished from nonbottle containers (e.g., deli or margarine tub containers) and from nonhousehold plastic bottles such as those for containing motor oil, solvents, and other nonhousehold substances.

VV. "Pollution" means the condition caused by the presence in or on a body of water, soil, or air of any solid waste or substance derived therefrom in such quantity, or such nature and duration, or under such condition, that the quality, appearance, or usefulness of the water, soil, land, or air is significantly degraded or adversely altered.

WW1. "Processing" means the reduction, separation, recovery, conversion, or recycling of any component(s) of solid waste.

WW2. "Project" means any activity, which requires an application for a Construction or Demolition permit, or any similar permit from the City of Chula Vista.

XX. "Putrescible wastes" means the waste in organic material with the potential decomposition capacity to emit noticeable quantities of odor and gas by-products. Material in this category includes, but is not limited to, kitchen waste, dead animals, food from containers, etc., except organic wastes separated therefrom and used in composting.

YY. "Recyclables" means any materials that are recyclable, reclaimable, and/or reusable within the following generating categories: small quantity generator and large quantity generator. Any material having an economic value on the secondary materials market or that is otherwise salvageable shall be included and/or other materials that have been separated from other small or large quantity generators for the purposes of being recycled for resale and/or reuse, and placed at a designated recycling or waste collection or storage location or in a designated recycling or waste container for the purpose of collection and processing, or any such designated recyclable materials collected under a mixed waste processing program.

ZZ. "Recycling" shall mean any process by which materials which would otherwise be discarded, deposited in a landfill or transformation facility and become solid waste are collected (source-separated, commingled, or as "mixed waste"), separated and/or processed, and returned to the economic mainstream in the form of raw materials or products or materials which are otherwise salvaged or recovered for reuse.

AAA. "Refuse" means garbage and rubbish.

BBB. "Removal" means the act of taking solid wastes or designated recyclables from the place of generation either by the contract or franchise agent(s), or by a person in control of the premises.

CCC1. "Removal frequency" means frequency of removal of solid wastes or recyclables from the place of generation.

CCC2. "Renovation" means any change, addition, or modification in an existing structure.

DDD. "Residential," for purposes of this Chapter, means any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, including single- and multiple-family dwellings, apartment-hotels, boarding and lodging houses. "Residential" does not include short-term residential uses, such as motels, tourist cabins, or hostels which are regulated as hospitality establishments.

EEE1. "Residential recyclables" means those specific recyclable materials from residential solid waste (single-family and multifamily) including, but not limited to, aluminum, glass bottles and jars, newspaper, plastic bottles, tin and bi-metal cans, white goods, and yard waste.

EEE2. "Reuse" means further or repeated use.

FFF. "Roll-off service" means service provided for the collection, removal and disposal of industrial waste such as construction, demolition and other primarily inert nonputrescible wastes and green wastes. Roll-off service is usually provided using metal containers of 10 to 40 cubic yards that are open on the top with doors on one end.

GGG. "Rubbish" means nonputrescible solid wastes such as ashes, paper, glass, bedding, crockery, plastics, rubber by-products or litter. Such materials that are designated as recyclable or compost may be exempt from categorizing as rubbish; provided, such materials are handled, processed and maintained in a properly regulated manner.

HHH. "Salvaging or salvageable" means the controlled and/or authorized storage and removal of solid waste, designated recyclables or recoverable materials for the purpose of recycling, reuse, or storage for later recycling or reuse.

III. "Scavenging" means the uncontrolled and/or unauthorized removal of solid waste, designated recyclables or recoverable materials. Such activity is unlawful and is a misdemeanor punishable by up to six months in jail and \$1,000 in civil penalties under CVMC 8.24.200 and 8.25.080 and Chapter 9, Section 41950 of the California Integrated Waste Management Act of 1989.

JJJ. "To segregate waste material" means any of the following: the placement of designated recyclables in separate containers; the binding or bagging of designated recyclables separately from other waste material and placing in a separate container from refuse, or the same container as refuse; and the physical separation of designated recyclables from other waste material (either at the generating source, solid waste transfer station, or processing facility).

KKK. "Small quantity generator" means those residential, commercial, industrial and institutional entities that generate less than 300 gallons of waste per week excluding source-separated recyclables diverted from disposal or transformation.

LLL. "Solid waste" means all putrescible and nonputrescible solid, semisolid and liquid wastes, such as refuse, garbage, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and includes liquid wastes disposed of in conjunction with solid wastes at solid waste transfer/processing stations or disposal sites, which are

generated by residential, commercial or industrial sites within the City. Solid waste shall not include: hazardous and infectious waste, sewage collected and treated in a municipal or regional sewage system or materials or substances having commercial value or other importance which can be salvaged for reuse, recycling, composting or resale.

MMM. "State" shall mean the state of California.

NNN. "Storage" means the interim containment of solid wastes, yard wastes, or recyclables in an approved manner after generation and prior to disposal, collection or processing. ("Interim" means for one week or less; roll-off containers may store nonputrescible waste for up to 30 days.)

OOO. "Streets and byways" shall mean the public streets, ways, alleys and places as the same now or may hereafter exist within said city, including state highways now or hereafter established within said city.

PPP1. "Tin and bi-metal cans" means any steel food and beverage containers with a tin or aluminum plating.

PPP2. "Total Project Costs" means the total value of a Project as calculated using Chula Vista's standard valuation multipliers.

QQQ. "Transfer or processing station" means those facilities utilized to receive solid wastes and to temporarily store, separate, convert, or otherwise process the solid waste and/or recyclables.

RRR1. "Unit" means an individual residence contained in a residential multifamily complex.

RRR2. "Waste Management Report (WMR)" means a WMR form, approved by the City Manager or designee, for the purpose of compliance with this Chapter.

RRR3. "Waste Management Report Compliance Official" means the designated staff person(s) authorized by the City Manager and responsible for implementing the Construction and Demolition Debris Recycling Program.

SSS. "White goods" means kitchen or other large enameled appliances which include, but are not limited to, refrigerators, washers, and dryers.

TTT. "Wood waste" means lumber and wood products but excludes tree stumps in excess of 35 pounds, more than incidental dirt or rock, plastic, glass, metal, painted or treated wood, plywood, particle board or other manufactured products that contain glue, formaldehyde, nonorganic or nonbiodegradable materials.

UUU. "Vector" means any nuisance such as odor, unsightliness, sound, or a carrier, usually insects or rodents, that is capable of transmitting a disease.

VVV. "Yard waste" means the leaves, grass, weeds, and wood materials from trees and shrubs from the single-family and multifamily residential sources of the City's green waste (to include landscape haulings from residential sources). Acceptable materials for collection include all yard waste as herein defined, excluding 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.

8.25.030 Mandatory fees for recycling.

A. The City Council finds and determines that the regular collection of recyclables by the contract or franchise agent(s) of the City from all places in the City is a service to the premises from which it is collected. All owners or occupants of premises generating recyclables shall pay the monthly collection fee charged by the City's contract or franchise agent, not to exceed the City-approved maximum rates. A schedule of maximum rates shall be kept on file with the City Clerk and is available for public review. Maximum rates may be subject to increase pursuant to the terms of the City's contract or franchise with the contract or franchise agent(s). Subject to the terms of the then-in-effect contract or franchise, the Council may from time to time establish such rates by resolution, including the establishment of rates for different classifications of quantity generators (small quantity generators, large quantity generators, residential, commercial, or industrial, or subclassifications thereof) or types of materials generated or other classifications which are deemed to be in the public interest.

B. Pursuant to California Public Resources Code Section 41900, et seq., the City may, by resolution of the City Council, impose fees on City generators to pay the actual costs incurred by the City in preparing, adopting or implementing an integrated waste management plan in accordance with state mandates.

C. The contract or franchise agent shall provide billing service and be totally responsible for the collection of such fees, at the same time and in the same manner as the collection of charges for refuse collection pursuant to CVMC 8.24.180. No person shall willfully fail, neglect or refuse, after demand by the contract or franchise agent(s), to pay the fees provided for herein.

8.25.035 Reserved.

(Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992; Ord. 2428 § 1, 1990).

8.25.040 Separation of recyclable materials, storage, and containers.

A. The owner, operator, and/or occupant of any premises, business establishment, industry, or other property, vacant or occupied, shall be rebuttably presumed to be the generators of, and be responsible for the safe and sanitary storage of, all solid waste, designated recyclables, and compost accumulated on the property. The designated recyclables and compost shall be stored separately from refuse. The property owner, operator, or occupant shall store such solid waste, designated recyclables, and compost on the premises or property in such a manner so as not to constitute a fire, health, or safety hazard, and shall require it to be handled in such a manner so as not to promote the propagation, harborage, or attraction of vectors, or the creation of litter or other nuisances.

B. A container or containers for designated recyclables shall be provided by the contract or franchise agent(s) for any premises generating residential or commercial recyclables, for the exterior collection of designated recyclables. Containers for industrial recyclables shall be provided by the generator of the

designated recyclables, unless otherwise arranged through the City Manager. The containers shall effectively segregate the designated recyclables from refuse.

C. All such containers to be used in the City's recycling programs shall be approved by the City Manager, in conjunction with the contract or franchise agent(s) (or, in the case of industrial recyclables, the generators of the industrial recyclables).

D. Designated recyclables shall be sorted according to type and/or as established by program guidelines and placed in separate containers, containers with segregated compartments, or commingled (in one recycling container), as agreed upon by the City Manager and the contract or franchise agent(s). Containers, if more than one, shall be grouped together and placed for collection at the same time as when regular refuse collection occurs or at designated recycling collection times (if different from refuse collection) and at designated recycling collection locations.

E. All containers used for recycling purposes, storage or collection, including commercial and industrial recycling containers used in City recycling programs as well as all other containers used for recycling purposes whether owned or operated by a commercial entity, nonprofit organization, or any other persons or entity, shall be identified with the name and current telephone number of the owner or the responsible agency or person. Commercial recycling containers shall remain locked at all times in order to discourage scavenging and prevent dumping of refuse in the container, unless exempted by the City Manager in conjunction with the contract or franchise agent(s).

F. Containers which do not comply with the requirements of this Section shall be presumed to be refuse and taken by the contract or franchise agent(s) for disposal or potential use as salvaging or recycling containers.

G. It shall be unlawful for any person to dispose, dump, or otherwise place material other than designated recyclables in a designated recycling container or at a designated recycling collection or storage location.

H. Exemption. Designated recyclables which are source-sorted by their generator for the purpose of recycling by selling them to a buy-back center or donating them to a City-licensed nonprofit or community group conducting recycling programs for the purpose of raising funds do not have to be placed in the designated recycling container required by this Section, nor placed in a designated recycling collection location in accordance with this Section. When designated recyclables are received by a City-licensed nonprofit or community group conducting recycling programs for the purpose of raising funds, they shall be stored and sorted in accordance with this Section and transported to a buy-back center for the purpose of recycling.

8.25.050 Mandatory recycling.

It shall be mandatory for all generators of residential, commercial, and industrial recyclables in the City to separate from refuse, for recycling purposes, all designated recyclables and otherwise participate in recycling as described by this Chapter.

8.25.060 Recycling programs.

A. The City Manager shall establish and promulgate reasonable regulations, guidelines and other program-related specifics as to the implementation of recycling programs for residential, commercial, and industrial recycling, including the method for collection of designated recyclables.

B. Commercial and industrial establishments shall develop their respective “in-house” recycling plans that provide for the collection of designated recyclables in conjunction with the City’s established recycling programs. The City and the contract or franchise agent(s) shall assist in program development and provide technical expertise and training materials.

C. Collection of recyclables from single-family residential units shall minimally occur once weekly. For commercial and industrial entities, collection shall be provided as needed to meet demand.

D. The City encourages use of buy-back centers, donation centers (for used furniture and other reusable bulky items, and nonprofit agents), scrap dealers, home and commercial composting, source reduction, and other creative, lawful and environmentally sound efforts to reduce waste in accordance with this Chapter that do not conflict with any established or planned City-sponsored recycling, composting or source-reduction programs.

8.25.070 Reports.

A. All commercial and industrial establishments shall submit recycling tonnage documentation on an annual basis to the City’s conservation coordinator, due on or before January 31st, for the previous year. Annual reporting shall be on the form promulgated by the City Manager, and commence on the first anniversary of the date set forth in the mandatory recycling implementation schedule as established in this Chapter as July 1, 1993. Voluntary reporting prior to the required mandatory recycling is encouraged.

B. Effective July 1, 2008, all Applicants for a Construction or Demolition permit for a Covered Project must submit a Waste Management Report (WMR) to the Waste Management Report Compliance Official for approval, prior to permit issuance, per Section 8.25.095.

8.25.080 Scavenging.

A. It shall be unlawful for any person other than authorized City personnel or contract or franchise agent(s) to remove any separated designated recyclable(s) or salvageable commodity from any designated recycling collection or storage location, or designated recycling container. However, the original generator of the designated recyclables may, for any reason, remove the designated recyclables placed by said generator from the designated recycling container or designated recycling collection or storage location in which said generator had originally placed them.

B. It shall be unlawful for any person to disturb, modify, harm, or otherwise tamper with any container or designated recycling collection or storage location containing designated recyclables, or the contents thereof, or to remove any such container from the location where the same was placed by the generator thereof,

or to remove the contents of any such container, unless authorized by the generator of such designated recyclables or duly authorized City personnel or contract or franchise agent(s).

8.25.090 Composting.

A. Every establisher of a composting pile, bin, holding area or other such composting system shall first obtain a permit from the City, if the total volume used within the boundaries of the premises for composting is 15 cubic yards or greater.

B. Every composting pile, bin, holding area or other such composting system shall be maintained so as to not create a public or private nuisance through visual, odor, safety and/or other means, or as prescribed in Chapter 19.66 CVMC. Without constituting a limitation on the foregoing, no such composting pile, bin, holding area or other such composting system shall be maintained within six feet from an exterior window, exterior door or other exterior entrance to an inhabited residential structure other than one owned by the owner of such composting system.

C. The owner, operator, or occupier of property containing a composting pile, bin, holding area or other such composting system that is greater than five feet high, five feet wide and five feet in length shall weekly monitor temperature, through utilization of a thermometer designed for such purposes.

D. No single compost pile, bin, holding area or other such composting system on a residential single-family (as defined in Ordinance No. 2443) premises shall be more than five feet in height and/or greater than six feet in width or length.

8.25.095 Construction and Demolition Debris Recycling

A. Projects.

1. Covered Projects. The following project categories are Covered Projects and must comply with this Section 8.25.095:

a. Any Project requiring a permit for Demolition or Construction, with a Project valuation of \$20,000 or more, unless defined as a Non-Covered Project in Section 8.25.095.A.3., below.

b. Any sequenced developments, such as housing subdivision Construction or subdivision Demolition must be considered as a "project" in its entirety for purposes of this Section, and not as a series of individual projects.

2. City-Sponsored Projects. All City Construction and Demolition projects shall be considered "Covered Projects" and shall submit a Waste Management Report to the City Manager or designee prior to issuance of any Construction or Demolition permits.

3. Non-Covered Projects. A Performance Deposit and Waste Management Report shall not be required for the following:

a. Work for which a Construction or Demolition permit is not required.

b. Roofing projects that do not include tear-off of existing roof.

c. Work for which only a plumbing, only an electrical, or only a mechanical permit is required.

d. Seismic tie-down projects

- e. Projects less than 10,000 square feet, where no structural building modifications are required.
- f. Emergency required to protect public health and safety.
- g. Individual single-family home Renovations that are not part of a larger project.

While not required, it shall be encouraged, that at least 50% of all project-related Construction, Renovation and Demolition waste from Non-Covered Projects be Diverted.

B. Submission of Waste Management Report.

1. Construction and Demolition Waste Management Report Forms. Applicants for any Covered Project shall complete and submit a Construction and Demolition Waste Management Report on a Waste Management Report form (WMR) approved by the City for this purpose. The WMR shall be submitted for review and approval, prior to issuance of a Construction or Demolition permit. The completed WMR shall indicate all of the following:

- a. The type of project;
- b. The total square footage of the project;
- c. The estimated volume or weight of Construction and Demolition debris, by material type, to be generated;
- d. The maximum volume or weight of Construction and Demolition debris that will be recycled or Diverted from the landfill;
- e. The maximum volume or weight of Construction and Demolition debris that will be disposed of in a landfill; and
- f. The vendors or facilities that the Applicant proposes to use to collect process or receive the Construction and Demolition debris.

In estimating the volume or weight of materials identified in the WMR, the Applicant shall use the standardized conversion rates established and approved by the City for this purpose.

2. Initial Application. Notwithstanding any other provision of this Code, no Construction or Demolition permit maybe issued until the initial Construction and Demolition Waste Management Report has been approved by the WMR Compliance Official. The WMR Compliance Official will respond to the applicant's WMR submittal within 10 business days with an approval, denial or request for clarification. If the WMR Compliance Official does not respond within 10 business days, the applicant should notify the Official. After notification by the Applicant, the Official will then have three business days to complete the review. If the review is not completed within three business days after the notification, the deposit requirement will be waived.

3. Amount of Security. The Applicant for any Covered Project shall submit a Performance Deposit. The amount of the Performance Deposit shall be calculated as the lesser of three percent of the Total Project Cost or \$30,000. Acceptable forms of payment include Cash, Money Orders, and Checks.

The WMR Compliance Official shall waive the Performance Deposit if the total deposit required pursuant to this Section would be fifty dollars or less. Performance Security funds will be placed in a secured account, subject to interest, and returned to the Applicant upon acceptance of proof of compliance in

full, or if partial compliance, on a prorated basis dependent on the degree of compliance. All interest earned will be the property of the City and used for waste reduction and recycling activities.

4. Documentation. Within 30 days after Demolition is completed (if a Demolition permit only) or 30 days after the issuance of a certificate of occupancy or at the time of issuing the last certificate of occupancy for units within a phased Project of any Covered Project, the Applicants shall submit to the WMR Compliance Official, documentation that it has met the Diversion Requirement for the Project, unless Applicant has been granted an Exemption pursuant to Section 8.25.095.C of this Chapter. The documentation shall include all of the following:

a. Receipts from the vendor or facility that received each material, showing the actual weight or volume of that material;

b. A copy of the completed Waste Management Report form, in its entirety; and

c. Photographs and narrative documentation of the Applicant's Reuse activities.

5. Weighing of Wastes. Applicants shall make reasonable efforts to ensure that all Construction, Renovation and Demolition waste Diverted for Reuse or disposed of is measured and recorded using the most accurate method of measurement available. To the extent practical, all Construction, Renovation and Demolition waste shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For Construction, Renovation and Demolition waste for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the Applicant shall use the standardized rates established by the Conversion Rates Table approved by the City for this purpose. Conversion Rate Tables will be included with the Waste Management Report form.

6. Determination of Compliance and Release of Performance Deposit. The WMR Compliance Official shall review the information submitted under this Section and determine whether the Applicant has complied with the Diversion Requirement, as follows:

a. Compliance. If the WMR Compliance Official determines that the Applicant has fully complied with the Diversion Requirement applicable to the Project, he or she shall cause the release of the Performance Deposit to the Applicant within 30 days of the Applicant's submission of the documentation required under this Section. If the Applicant has complied in part, a portion of the performance deposit will be withheld. The amount withheld will be proportional to the percentage of materials that are not Recycled/Diverted.

b. Noncompliance. If the WMR Compliance Official determines that the Applicant failed to submit the documentation within the required time period, then the Performance Deposit shall be forfeited to the City. All forfeited and/or unrecovered funds shall be used for waste reduction and recycling activities.

C. Exemption.

1. Application. If an Applicant for a Covered Project experiences unique circumstances that the Applicant believes make it infeasible to comply with the Diversion Requirement, the Applicant may apply for an Exemption at the time that he or she submits the WMR. The Applicant shall indicate on the WMR the maximum rate of diversion he or she believes is feasible for each material and the specific circumstances that he or she believes makes it infeasible to comply with the Diversion Requirement.

2. Meeting with WMR Compliance Official. The WMR Compliance Official shall review the information supplied by the Applicant and may meet with the Applicant to discuss possible ways of meeting the Diversion Requirement.

3. Granting of Exemption. If the WMR Compliance Official determines that it is infeasible for the Applicant to meet the Diversion Requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate this rate on the WMR submitted by the Applicant. The WMR Compliance Official shall return a copy of the WMR to the Applicant marked "Approved with Exemption." The Applicant shall then be responsible for Diverting the revised rate noted by the WMR Compliance Official on the Approved WMR, in compliance with the provisions of this Section.

4. Denial of Exemption. If the WMR Compliance Official determines that it is possible for the Applicant to meet the Diversion Requirement, he or she shall so inform the Applicant in writing. The Applicant shall resubmit a WMR form in full compliance with Section 8.25.095. If the Applicant fails to resubmit the WMR, or if the resubmitted WMR does not comply with this Section, the WMR Compliance Official shall deny the WMR.

D. Appeal.

Appeals. Appeals of a determination made by the WMR Compliance Official under this Section 8.25.095 shall be made to the City Manager or designee. The appeal shall be in writing and filed with the City Clerk within ten (10) business days of issuance of the WMR Compliance Official's decision. The appeal shall be limited to the following issues: (1) the granting or denial of an exemption; and (2) the amount of security to be released. The decision of the City Manager or designee shall be final.

8.25.100 Enforcement.

A. The City Manager or designee is responsible for enforcing the provisions of this Chapter.

B. Types of materials included in designated recyclables may be administratively deleted by the City Manager under emergency conditions (to include market failures), subject to formal ordinance amendment approved by the City Council, if such conditions persist.

C. Nothing in this Chapter or its implementing regulations shall prevent the City or its contract or franchise agent(s) from efforts to obtain voluntary compliance by way of warning, notice of violation, educational or other means.

8.25.110 Severability.

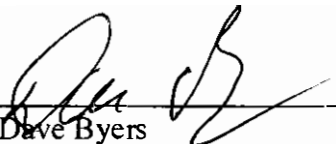
If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are hereby declared to be severable.

SECTION II: Effective Date.

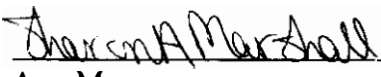
This ordinance shall take effect thirty days after final passage.

Presented by:

Approved as to form by:



Dave Byers
Public Works Director



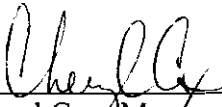
Ann Moore
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 11th day of March 2008, by the following vote:

AYES: Councilmembers: McCann, Ramirez, and Cox

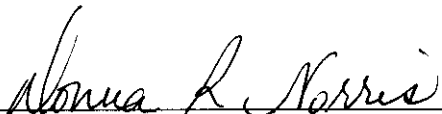
NAYS: Councilmembers: None

ABSENT: Councilmembers: Castaneda and Rindone



Cheryl Cox, Mayor

ATTEST:

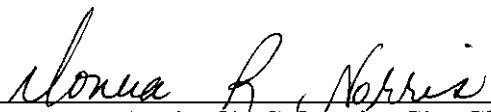


Donna R. Norris, CMC, Interim City Clerk

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

I, Donna R. Norris, Interim City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3105 had its first reading at a regular meeting held on the 4th day of March 2008 and its second reading and adoption at a regular meeting of said City Council held on the 11th day of March 2008; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

Executed this 11th day of March 2008.



Donna R. Norris, CMC, Interim City Clerk