

BEFORE THE BOARD OF SUPERVISORS

FOR THE COUNTY OF FRESNO

STATE OF CALIFORNIA

ORDINANCE NO. 18-001

AN ORDINANCE AMENDING THE ORDINANCE CODE OF THE COUNTY OF FRESNO BY AMENDING AND CHANGING THE HEADINGS OF CHAPTERS 8.20 AND 8.24 OF TITLE 8 THEREOF, AND BY RENUMBERING CHAPTER 8.24 AS CHAPTER 8.19, AND BY ADDING NEW CHAPTERS 8.23 AND 8.24, RELATING TO THE MANAGEMENT, COLLECTION AND DISPOSAL OF SOLID WASTE WITHIN THE UNINCORPORATED AREA OF THE COUNTY OF FRESNO

The Board of Supervisors of the County of Fresno ordains as follows:

Section 1: The Ordinance Code of the County of Fresno is hereby amended by amending Chapter 8.24 of Title 8 thereof, by renumbering and changing the heading of “Chapter 8.24 – Waste Disposal,” which hereafter shall be “Chapter 8.19 – Solid Waste Management -- Prohibitions,” and which shall read in its entirety as follows:

Chapter 8.19 -- SOLID WASTE MANAGEMENT – PROHIBITIONS

Sections:

8.19.010	Unsanitary Conditions Prohibited
8.19.020	Reserved
8.19.030	Water closet, privy, cesspool—Contents removal
8.19.040	Sanitary facilities—Discharge into waterways.
8.19.050	Open pits and excavations prohibited
8.19.060	Scavenging Prohibited

8.19.010 - Unsanitary conditions prohibited.

It is unlawful for any person to maintain, permit or allow to exist upon his property or premises, or in or upon any property or premises which he is then and there occupying or leasing, any kind of water closet, privy, cesspool or other container for refuse matter in an unsanitary condition.

8.19.020 – [Reserved].

8.19.030 - Water closet, privy, cesspool—Contents removal.

1 It is unlawful for any person to remove the contents of any water closet, privy or
2 cesspool, except in a water-tight container and so covered that the same shall not be
3 exposed to flies or offensive to the senses, and without having first obtained a written
4 permit therefor from the health officer in accordance with Chapter 8.50 of this code.

5 8.19.040 - Sanitary facilities—Discharge into waterways.

6 It is unlawful for any person to hereafter establish or install any sanitary facility
7 which is designed to or which does discharge any contents or effluent, whether
8 previously filtered or otherwise treated or not, from any privy, water closet, cesspool or
9 septic tank into any river, stream, canal, lake or other surface body of water, or
10 discharge the same in such near proximity thereto that the same might reasonably be
11 expected to enter such waters by seepage, percolation, drainage or otherwise and in no
12 event within one hundred feet of the high water mark of such body of water.

13 8.19.050 - Open pits and excavations prohibited.

14 It is unlawful for any person to maintain or to permit to exist upon lands under his
15 control any well or cesspool of whatever depth or dimension or any other pit or
16 excavation within the earth of more than five feet in depth and being less than four feet
17 across in its greater dimension without having the same capped or covered in a secure
18 manner; provided further, that any such well, cesspool, pit or excavation which has
19 been permanently abandoned shall be completely filled in.

20 8.19.060 - Scavenging prohibited.

21 A. No person shall open, look into, search through or remove any of the contents of
22 any waste receptacle.

23 B. For purposes of this section, "solid waste receptacle" shall mean any bin,
24 automatic lift container or any other type of receptacle used for the deposit,
25 storage, collection or transport of garbage, litter, junk, debris, refuse, swill,
26 rubbish, waste matter, putrescible waste, hazardous waste, infectious waste,
27 recyclable materials, or garden refuse.

28 C. This section shall not apply to the following persons:

- 1 1. Any owner, tenant, lessee, or occupant of the property for which the solid
- 2 waste receptacle is used;
- 3 2. Any persons acting with the consent of any owner, tenant, lessee, or
- 4 occupant of the property for which the solid waste receptacle is used;
- 5 3. Any private collector or any contractor of a private collector, that owns or
- 6 maintains the solid waste receptacle or is responsible for hauling away its
- 7 contents, who is acting in accordance with their duties as such; or
- 8 4. Any employee or contractor of any city, county, state or federal government
- 9 agency, who is acting in accordance with their duties as such.
- 10 D. Notwithstanding any other provision of this Code, any person violating this
- 11 section is guilty of an infraction. The first violation of this section in any twelve-
- 12 month period shall be punished by a fine of one hundred dollars. The second
- 13 violation of this section in the same twelve-month period shall be punished by a
- 14 fine of two hundred dollars. The third and each subsequent violation of this
- 15 section within the same twelve-month period shall be punished by a fine of three
- 16 hundred dollars for each violation.
- 17 E. This section shall apply and be enforced only in the following area of the
- 18 unincorporated county: Fig Garden policing district boundaries.
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Section 2. The Ordinance Code of the County of Fresno is hereby amended by amending Chapter 8.20 of Title 8 thereof, by amending and changing the heading of “Chapter 8.20 – Garbage and Rubbish Disposal”, which hereafter shall be “Chapter 8.20 – Solid Waste Disposal,” and which shall read in its entirety as follows:

Chapter 8.20 -- SOLID WASTE DISPOSAL

Sections:

- 8.20.010 Definitions
- 8.20.020 Operation permit - Required
- 8.20.030 Operation permit - Application
- 8.20.035 Designation by boundaries of Southeast Regional Solid Waste Commission Area of Fresno County
- 8.20.040 Solid waste facility permit – Required
- 8.20.041 Solid waste facility permit – Application
- 8.20.050 Reserved
- 8.20.060 Garbage removal
- 8.20.070 Waste management surcharge
- 8.20.075 Southeast Regional Disposal Site closure/post-closure maintenance fee
- 8.20.080 Fees
- 8.20.090 Enforcement
- 8.20.100 Permit – Nontransferable – revocation, suspension and modification
- 8.20.110 Solid waste vehicle load cover requirement

8.20.010 - Definitions.

The following words, terms and phrases, when used in this chapter, have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. "Director" means the Director of the public works and planning department or his/her designee.
- B. "Disposal site or landfill" means any premises upon which is located a facility for the ultimate disposal of solid waste.
- C. "Health officer" means the Director of the department of public health or his/her designee.
- D. "Operation permit" means the permit issued by the health officer in accord with Sections 8.20.020 and 8.20.030, which authorizes businesses to provide public collection service or transportation of solid waste.
- E. "Public collection service" means regular curbside collection of solid waste from

1 carts, cans, bags, or other containers, and loose or bundled items, and the
2 collection of solid waste from bins of any size.

3 F. "Solid waste" means solid waste as defined in California Public Resources
4 Code, Division 30, Part 1, Chapter 2, Article 40191 and regulations promulgated
5 thereunder.

6 G. "Solid waste facility" means a solid waste transfer or processing station, a
7 composting facility or organics processing facility, a gasification facility, a
8 transformation facility, an Engineered Municipal Solid Waste conversion facility,
9 or a Disposal facility, as consistent with California Public Resources Code
10 §40194 with authorization to operate pursuant to a valid permit issued by the
11 appropriate governmental agency.

12 H. "Solid waste facility permit" means the permit issued by the health officer in
13 accord with Section 8.20.040 and the California Public Resources Code Section
14 44002 which authorizes the operation of a solid waste facility.

15 I. "Solid waste independent hearing officer" means the hearing officer appointed
16 pursuant to the provisions of Public Resources Code § 44308.

17 J. "Solid waste management surcharge" means the fee levied in accord with
18 Section 8.20.070 upon each ton of solid waste delivered to a Disposal site or
19 landfill.

20 8.20.020 - Operation permit—Required.

21 It is unlawful for any person, without first having obtained a written Operation
22 permit from the health officer, to engage in the business of providing public collection
23 services or of transporting solid waste.

24 8.20.030 - Operation permit—Application.

25 A. Upon application made to the health officer upon the forms prescribed by the
26 health officer for the permit required under Section 8.20.020, and payment of
27 such fee as may be set forth in the Master Schedule of Fees, Charges and
28 Recovered Costs for Fresno County, the health officer shall conduct an

appropriate investigation and inspection of the equipment, facilities, and premises. If the health officer determines that the business will be maintained and operated in conformance with the California Code of Regulations Title 14, Chapter 3, Minimum Standards for Solid Waste Handling and Disposal, an Operation permit shall be issued and the Director so notified.

B. The applicant for the permit set forth in Section 8.20.020 shall provide information to the health officer on the prescribed application form regarding the location and extent of the proposed collection service, including identified disposal or transfer facilities to be utilized by the applicant. Information obtained in this manner will be provided to the Director to aid in the administration of public collection service.

C. All Operation permits required herein shall remain in effect unless revoked pursuant to Section 8.20.100, and it is unlawful for a person thereafter to continue to engage in the activities set forth under Section 8.20.020 unless a new Operation permit is issued by the health officer as provided herein.

8.20.035 - Designation by Boundaries of Southeast Regional Solid Waste Commission Area of Fresno County.

The fee specified in Section 8.20.075 applies with respect to all solid waste collected or transported within the Southeast Regional Solid Waste Commission Area, the boundaries of which are described as follows:

All of the area, lying within the following described perimeter boundary (plus all parcels which front upon and are served by the delineated highways and avenues):

Beginning at the intersection of the centerline of Elkhorn Avenue and the southeasterly boundary line of Fresno County, thence westerly along Elkhorn Avenue to the centerline of Fowler Avenue, thence north along Fowler Avenue to the centerline of Manning Avenue thence west along Manning Avenue to the easterly boundary of the railroad right-of-way for the Atchison Topeka and Santa Fe Railroad, thence northwesterly and northerly along said easterly boundary of the railroad right-of-way to the centerline of

1 Adams Avenue, thence east along Adams Avenue to the center of State Highway Route
2 99, thence northwesterly along State Highway Route 99 to the centerline of American
3 Avenue, thence east along American Avenue to the centerline of Temperance Avenue,
4 thence north along Temperance Avenue to the southerly boundary of the railroad right-
5 of-way for the Southern Pacific Railroad, adjacent to the California Avenue Alignment,
6 thence east along the southerly boundary of the Southern Pacific Railroad right-of-way
7 to the centerline of Indianola Avenue, thence north to the centerline of State Highway
8 Route 180, thence east and southeast along State Highway Route 180 to the westerly
9 boundary of the Friant Kern Canal, thence southeasterly along the Friant Kern Canal to
10 the centerline of American Avenue, thence east along American Avenue to the
11 centerline of Hills Valley Road, being also the east boundary line of Fresno County,
12 thence continuing along the County boundary line, south 6± miles, west 9± miles, and
13 southwesterly 8.5± miles to the intersection of the County boundary line and the
14 centerline of Elkhorn Avenue, the point of beginning.

15 8.20.040 - Solid waste facility permit—Required.

16 It is unlawful for any person, without first having obtained a written solid waste
17 facility permit from the health officer, to establish or maintain a solid waste facility.

18 8.20.041 - Solid waste facility permit—Application.

19 A. Upon application and payment of a fee as set forth in Section 8.20.080 made to
20 the health officer upon the forms prescribed by the health officer for the permit
21 required under Section 8.20.040, the health officer shall process the proposal
22 and issue the permit pursuant to California Public Resources Code Sections
23 44001 et seq.

24 B. All solid waste facility permits required herein shall be reviewed by the health
25 officer five years after their date of issuance, and if in the opinion of the health
26 officer revisions to the permit are necessary, an application for a permit
27 modification and an application fee shall be submitted by the operator as
28 required herein, and it is unlawful for a person thereafter to continue to engage

1 in the activities as set forth under Section 8.20.040 unless a new permit is
2 issued by the health officer as provided herein.

3 8.20.050 - [Reserved]

4 8.20.060 - Garbage removal

5 In accordance with Title 14 California Code of Regulations § 17331, the owner
6 or tenant of any premises, business establishment, or industry shall be responsible for
7 the satisfactory removal of all solid waste accumulated on the property or premises. In
8 areas where public collection service is available, garbage shall not be allowed to
9 remain on the premises for more than seven days to prevent the propagation,
10 harborage, or action of flies, rodents, or other vectors, and the creation of nuisances,
11 except when disruptions in normal collection schedules occur due to strikes, severe
12 weather conditions, "Acts of God," or official holidays. Provided further, where it is
13 deemed necessary by the health officer because of the propagation of vectors and for
14 the protection of public health, more frequent removal of garbage shall be required.

15 8.20.070 - Waste management surcharge.

16 A. The payment to the county of a waste management surcharge on all solid waste
17 delivered to any Disposal site or landfill owned or operated by the County of
18 Fresno irrespective of its origin, and on all solid waste generated within the
19 County of Fresno and delivered to any Disposal site or landfill, shall be required
20 of all operators of such facilities, and those parties from whom such payment is
21 required pursuant to their contractual obligations with the County of Fresno.

22 B. Payment of the surcharge shall be made as specified in Section 8.20.080, and
23 shall be accompanied by a report listing the volume or tonnage of waste on
24 which the payment is based. This report shall be on a form prescribed by the
25 Director.

26 C. Operators of a Disposal site or landfill are required to perform one of the
27 following:

- 28 1. Record the weight (or volume) of each load of incoming waste in a bound

1 ledger, pre-numbered receipt or data processing record which shall remain at
2 all times in the Disposal site scale house or other location approved by the
3 Director. The ledger, receipt or data processing records shall be made current
4 by the end of each working day to reflect all loads which arrived during that
5 day. The ledger, receipt or data processing records shall be made available
6 for inspection by the Director or his designee at any time during normal
7 business hours; or

- 8 2. The operator, in lieu of maintaining a separate business record as required in
9 subdivision 1 of this subsection, may submit to the Director an annual
10 photogrammetric volume survey of the Disposal site prepared and certified by
11 a licensed civil engineer, wherein the tonnage of waste landfilled is
12 ascertained and the surcharge amount verified. The operator shall submit
13 quarterly surcharge payments and tonnage reports as specified in Section
14 8.20.070B based upon the operator's estimate of tonnage for each quarter as
15 approved by the Director. Any adjustments will be made in the final quarterly
16 payment and report which will be based on the photogrammetric survey. In no
17 event will such year-end adjustments result in refunds to the operator, but
18 overpayments will be credited to the next quarterly surcharge payment; or
19 3. The operator shall maintain volume and/or tonnage records and submit
20 quarterly reports and surcharge payments based on some other method as
21 approved by the Director.

22 D. The surcharge shall apply to all waste delivered to any Disposal site or landfill
23 with the following exceptions:

- 24 1. The surcharge shall not apply to material removed from the waste stream at a
25 disposal facility for recycling, resource recovery or other forms of reuse if the
26 disposal facility operator maintains records of all solid waste entering the site
27 and of all recycled material leaving the site and makes those records
28 available to the Director upon request.

- 1 2. The surcharge shall not apply to inert material deposited in inert material
2 Disposal sites operating under a permit issued by the health officer.
- 3 3. The surcharge shall not apply to Class II sites which are solely limited to
4 petroleum waste derived from oil exploration or drilling operations, or to liquid
5 scrubber wastes from petroleum refineries.

6 E. The surcharge will be used to: (1) pay those costs incurred by the county health
7 department in enforcement and monitoring activities as authorized by California
8 Public Resources Code Section 43213; and (2) pay all those costs incurred by
9 the county in the preparation, adoption, and implementation of the integrated
10 waste management plan, as authorized by California Public Resources Code
11 Section 41901.

12 F. The surcharge shall not be used to fund any special project or capital project
13 undertaken by any solid waste commission or planning committee which is
14 related to the functions as set forth in Section 8.20.070E.

15 G. The Board of Supervisors will set the amount of the surcharge at a noticed
16 public hearing, based on estimated costs and estimated amounts of solid waste
17 and adjust the amount upward or downward each year as needed to raise the
18 necessary funds without creating a surplus.

19 8.20.075 - Southeast Regional Disposal Site closure/post-closure maintenance fee.

20 A. Each person having a permit issued under Section 8.20.030 shall pay to the
21 County of Fresno a Southeast Regional Disposal Site closure/post-closure
22 maintenance fee on all solid waste collected or transported by that person within
23 the Southeast Regional Solid Waste Commission Area as delineated in Section
24 8.20.035 and which is ultimately disposed at any public or private Disposal site
25 or landfill.

26 B. Payment of the closure/post-closure maintenance fee shall be made as specified
27 in Section 8.20.080, and shall be accompanied by a report listing the tonnage of
28 waste on which the payment is based. This report shall be on a form prescribed

1 by the Director.

2 C. All persons identified in subsection (A) are required to record the weight of each
3 load of waste collected in the area specified in Section 8.20.035 in a bound
4 ledger or data processing record which shall remain in the solid local business
5 office or other location approved by the Director. The ledger or data processing
6 records shall be made current by the end of each working day to accurately
7 record all solid waste collected within the area specified in Section 8.20.035 (B).
8 The ledger, receipt or data processing records shall be made available for
9 inspection by the Director or his designee at any time during normal business
10 hours.

11 D. The closure/post-closure maintenance fee shall apply to all solid waste
12 transported or collected within the area specified in Section 8.20.035, with the
13 following exceptions:

14 1. The fee shall not apply to material removed from the waste stream at a
15 disposal facility for recycling, resource recovery or other forms of reuse. The
16 disposal facility operator shall furnish a monthly report, in a form and manner
17 prescribed by the Director or his designee, which lists the total amount of
18 solid waste delivered to a disposal facility and the total amount processed,
19 diverted and/or recycled. The monthly report shall also list the total amount of
20 solid waste going out of a disposal facility.

21 2. The fee shall not apply to inert material deposited in inert material Disposal
22 sites operating under a permit issued by the health officer.

23 E. The fee will be used to pay the County of Fresno portion of those costs incurred
24 by the County of Fresno as a result of all statutory and regulatory requirements
25 for the closure/post-closure maintenance fee of the Southeast Regional Disposal
26 Site located at 12716 East Dinuba Avenue, Selma, CA 93662.

27 F. The County of Fresno Board of Supervisors will set the amount of the fee at a
28 noticed public hearing, based on estimated costs and estimated amounts of

solid waste and adjust the amount upward or downward each year as needed to raise the necessary funds without creating a surplus.

8.20.080 - Fees.

- A. The county solid waste management surcharge shall be as set forth in the Master Schedule of Fees, Charges and Recovered Costs for Fresno County. Payment of the surcharge shall be made to the county within forty-five (45) days of the end of the calendar quarter. A ten percent penalty will be assessed against any portion of the surcharge payment not made to the county within sixty days of the end of the calendar quarter, unless some other payment date is approved in writing by the Director prior to the end of the sixty-day period.
- B. County solid waste permit and inspection fees shall be as set forth in the Master Schedule of Fees, Charges and Recovered Costs for Fresno County. Said fees shall be payable annually and shall cover a period of one year from the date payment is due unless otherwise specified by the health department or provided in this chapter. If any fees required to be paid by this chapter have not been paid when due, there shall be imposed, in addition to all fees due and owing, a penalty equal to ten percent of said fees for each month or fraction thereof during which said fees are delinquent and unpaid. No person required by this chapter to pay a fee is entitled to a refund or proration of the fee unless specifically authorized by the health department.
- C. The application fee to accompany the solid waste facility permit application for the initial issuance or modification of the permit shall be as set forth in the Master Schedule of fees, Charges and Recovered Costs for Fresno County.
- D. Fees and penalties collected by the health officer from solid waste facility operators or collectors in conjunction with compliance monitoring and enforcement activities of the health officer as required by state law shall be as set forth in the California Public Resources Code Section 4000 et seq.
- E. The Southeast Regional Disposal Site closure/post-closure maintenance fee

1 shall be as set forth in the Master Schedule of Fees, Charges, and Costs
2 Recovery for Fresno County. Payment of the fee shall be made to the county
3 within thirty days of the end of the calendar quarter. A ten percent penalty will be
4 assessed against any portion of the fee payment not made to the county within
5 thirty-one days of the end of the calendar quarter, unless some other payment
6 date is approved in writing by the Director, or his designee, prior to the end of
7 the thirty-one day period.

8 8.20.090 - Enforcement.

9 The health officer or his authorized representatives, in so far as may be
10 necessary for the performance of their duties shall, upon the presentation of proper
11 credentials at any reasonable time, have the right to enter the premises for the purpose
12 of inspecting the premises or while performing any other act in pursuance of their duties
13 hereunder.

14 8.20.100 - Permit—Nontransferable—Revocations, suspension and modification.

15 No permit obtained pursuant to the provisions of this chapter is transferable
16 without written consent of the board of supervisors. Any such permit may be revoked,
17 suspended or modified as set forth in the California Public Resources Code Section
18 44300 et seq., if the health officer determines that any of the terms and conditions of
19 this chapter or of any permit issued hereunder have not been met; and any
20 administrative hearing requested with regard to such action shall be conducted by the
21 solid waste independent hearing officer.

22 8.20.110 - Solid waste vehicle load cover requirement.

- 23 A. All vehicles hauling solid waste upon entering American Avenue Disposal Site
24 shall be covered in a manner that will prevent any part of the load from spilling,
25 falling, blowing or leaking from the vehicle. The loads on all vehicles entering the
26 landfill shall remain covered until the dumping of the load occurs.
- 27 B. Vehicles which enter the American Avenue Disposal Site with solid waste that is
28 uncovered or covered in such a manner that the waste is susceptible to being

1 spilled, blown off, leaked or dropped from the vehicle while in motion shall be
2 charged a fee in accordance with the Master Schedule of Fees, Charges and
3 Recovered Costs for Fresno County, in addition to the disposal fee which would
4 otherwise be charged.

5 C. In lieu of being charged the fee referenced in the immediately preceding
6 Paragraph B, users of the American Avenue Disposal Site who bring solid waste
7 in uncovered pickup trucks and utility trailers of less than eight feet in length shall
8 be given the option of purchasing a tarp at the Disposal site.

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Section 3: The Ordinance Code of the County of Fresno is hereby amended by adding Chapter 8.23 to Title 8 thereof, which shall read in its entirety as follows:

Chapter 8.23 RECYCLING HAULER REPORTING

Sections:

8.23.010	Findings
8.23.020	Purpose and Intent
8.23.030	Definitions
8.23.040	Recycling Hauler Registration
8.23.050	Reporting Requirements
8.23.060	Civil Administrative Penalties

8.23.010 Findings.

The County of Fresno Board of Supervisors finds that:

There is a need to implement a Reporting System for Recycling Haulers to begin collecting, compiling and submitting to the County recycling diversion data that is currently unavailable.

A. Currently the County receives recycling diversion data only from haulers within Exclusive Service Area Program and will receive recycling diversion data from haulers within the Non-Exclusive Waste Hauler Agreement Program.

B. Implementation of a requirement for Recycling Haulers to submit quarterly reports on the volumes and types of recyclable materials they collect within the County's unincorporated areas will enable the County to capture data needed for planning purposes related to meeting State diversion mandates.

8.23.020 Purpose and Intent.

A. This chapter establishes a system for registering Recycling Haulers who are performing services in the unincorporated areas of the County and requiring them to submit information on the volume and types of Recyclable Materials they collect within the County's unincorporated areas. This system will require each Recycling Hauler to submit to the County Representative, on a quarterly basis, a Recycling Report providing the specified data.

B. This chapter is not intended to preclude a resident, business, building or

demolition contractor from donating, selling or otherwise disposing or hauling
Recyclable Materials.

8.23.030 Definitions.

For purposes of this chapter, the following terms shall be defined as follows:

- A. "C&D Debris" ("Construction and Demolition Debris" or "C&D") means materials resulting from construction, renovation, remodeling, repair, or demolition operations on any residential, commercial or other structure or pavement. The C&D materials can be in mixed or source separated form.
- B. "County Representative" means the Director of the Department of Public Works and Planning, or his/her designee, who may be a County official or an agent of County specifically designated to serve as the County Representative and thereby authorized to administer the program and enforce the terms of this chapter on County's behalf.
- C. "Discarded Material" means Solid Waste, Recyclable Materials, and Organic Materials placed by a Generator in a collection container and/or at a location that is designated for collection.
- D. "Generator" means a person whose act or process produces Solid Waste, Recyclable Materials, or Organic Materials.
- E. "Organic Materials" or "Compostable Materials" mean Discarded Materials from a Generator intended for and capable of being composted, digested or otherwise processed (such as food scraps, yard trimmings or compostable paper), and that are separated, set aside, handled, packaged, offered, or otherwise delivered for collection by a Generator in a manner different from Solid Waste.
- F. "Recycling Hauler" means a person or entity engaged in commercial hauling of Recyclable Materials, Organic Materials, or C&D with no more than ten percent (10%) Residual in the unincorporated area of the County and is not engaged in commercial hauling of Solid Waste pursuant to the Exclusive Service Area Program (described in Chapter 8.21) or the Non-Exclusive Waste Hauler

Agreement Program (described in Chapter 8.24). A person or entity engaged in commercial hauling of Recyclable Materials, Organic Materials, or C&D with more than ten percent (10%) Residual must comply with the requirements of the Exclusive Service Area Program (described in Chapter 8.21) or the Non-Exclusive Waste Hauler Agreement Program (described in Chapter 8.24).

G. "Recyclable Materials" or "Recyclables" means Discarded Materials from a Generator intended for and capable of being recycled, and that are separated, set aside, handled, packaged, offered, or otherwise delivered for Collection by a Generator in a manner different from Solid Waste.

H. "Recycling Report" means the report providing information on the volume and types of Recyclable Materials and/or Organic Materials transported by the Recycling Hauler in the unincorporated area of the County.

I. "Residual" means the non-recyclable, non-compostable materials left over after processing residual waste or Recyclable Materials or Organic Materials or C&D. This material is typically disposed in a landfill.

J. "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, as defined in California Public Resources Code §40191.

8.23.040 Recycling Hauler Registration.

A. Recycling Haulers shall register with the County Representative and provide Recycling Reports as set forth in this chapter.

B. Registration shall be in writing and submitted in a format specified by the County Representative, and each Recycling Hauler shall pay an annual administrative fee to the County in the amount of \$150.00, payable on July 1 of each year.

C. Registration of a Recycling Hauler shall be renewed every three years.

8.23.050 Reporting Requirements.

A. Each Recycling Hauler shall be required to submit a Recycling Report each calendar quarter to the County Representative, providing data on the volume and type of Recyclable Materials hauled during the calendar quarter from Generators

1 within the unincorporated areas of the County. The Recycling Report shall be
2 due to the County Representative approximately forty-five (45) calendar days
3 after the end of each calendar quarter as follows: First Quarter (January-
4 February-March) report due May 15; Second Quarter (April-May-June) report due
5 August 15; Third Quarter (July-August-September) report due November 15;
6 Fourth Quarter (October-November-December) report due February 15.

7 B. The format of the Recycling Report and submittal guidelines shall be determined
8 by the County Representative. The data to be included by the Recycling Hauler
9 in the Recycling Report must provide to the furthest extent possible the specific
10 volumes and types of Recyclable Materials by weight (e.g., tons) and by the
11 source of generation.

12 8.23.060 Civil Administrative Penalties.

13 Failure of a Recycling Hauler to comply with any or all of the provisions of this
14 chapter shall be subject to enforcement as an infraction, including the issuance of any
15 administrative citations and/or fines as provided for in Fresno County Ordinance Code
16 Chapter 1.13, in the amount of \$100 for the first violation, \$200 for the second violation
17 and \$500 for each subsequent violation.

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Section 4: The Ordinance Code of the County of Fresno is hereby amended by adding Chapter 8.24 to Title 8 thereof, which shall read in its entirety as follows:

Chapter 8.24 NON-EXCLUSIVE WASTE HAULER AGREEMENT PROGRAM

Sections:

- 8.24.010 Findings
- 8.24.020 Purpose and Intent
- 8.24.030 Authority
- 8.24.040 Definitions
- 8.24.050 Application for Non-Exclusive Waste Hauler Agreement Permit
- 8.24.060 Application Review by County
- 8.24.070 Waive Irregularities
- 8.24.080 Non-Exclusive Waste Hauler Agreement Procedures
- 8.24.090 Implementation and Operation of Non-Exclusive Waste Hauler Agreement Services
- 8.24.100 Revocation or Suspension of Permit
- 8.24.110 Severability

8.24.010 Findings.

The County of Fresno Board of Supervisors finds that:

- A. The State of California through its California Integrated Waste Management Act of 1989, Assembly Bill 939, codified as Public Resources Code Section 40000, et seq. ("AB 939"), requires that each local jurisdiction in the State Divert fifty percent of discarded materials from landfill deposition;
- B. The County is empowered under Article XI, Section 7, of the California Constitution to make and enforce, within its limits, all police and sanitary ordinances and regulations not in conflict with general laws;
- C. In the exercise of its police powers, the County may determine, in its discretion and consistent with the broad scope of its authority in the area of public health and sanitation, the best methods or means available to advance and protect the public health, safety, and welfare of the residents of the County;
- D. The storage, accumulation, collection and disposal of Solid Waste, including without limitation, garbage, trash, debris and other discarded materials is a matter of substantial public concern in that improper control of these materials may create a public nuisance, air pollution, fire hazard, rodent and insect

infestation and other problems adversely affecting the public health, safety and welfare.

E. Pursuant to the California Public Resources Code, the County is authorized to determine aspects of Solid Waste handling which are of local concern and the means by which such services are to be rendered under terms and conditions prescribed by the County of Fresno Board of Supervisors by resolution or ordinance, including the provision of Solid Waste Collection, processing and Disposal services on an exclusive or non-exclusive basis, either with or without competitive bidding;

F. Implementation of a Non-Exclusive Waste Hauler Agreement system will improve documentation of recycling efforts by requiring the Contractor to provide Collection, Disposal, and recycling information as required by AB 341 (Chapter 476, Statutes of 2011) and AB 1826 (Chapter 727, Statutes of 2014). This aids the County's effort to substantiate its compliance with the State's waste reduction mandate;

G. The County of Fresno Board of Supervisors has determined that establishment of the Non-Exclusive Waste Hauler Agreement Program, which together with the Exclusive Service Area Program described in Chapter 8.21 is intended to regulate the Collection and Disposal of Solid Waste and promote recycling and other waste Diversion efforts in the unincorporated areas of the County, is required as the means that will best advance and protect the public health, safety and welfare of the residents of the County, based on the foregoing findings.

8.24.020 Purpose and Intent.

It is the purpose and intent of this chapter to establish a Non-Exclusive Waste Hauler Agreement Program to provide additional regulation and oversight regarding the provision of Solid Waste handling services in the unincorporated areas of the County, in order to advance the County's AB 939 diversion efforts, and to promote the general health, safety and welfare of Fresno County and its inhabitants.

1 8.24.030 Authority.

2 This chapter is adopted pursuant to the police power of the County of Fresno as
3 set forth in Article XI, Section 7, of the California Constitution.

4 8.24.040 Definitions.

5 For purposes of this chapter, the following terms shall be defined as follows:

- 6 A. "AB 341" means the California legislation (Stats. 2006, Ch. 476), as it may be
7 amended from time to time, that, among other things, added Chapter 12.8
8 (commencing with section 42649) of Part 3 of Division 30 of the Public
9 Resources Code, imposing mandatory commercial recycling and requirements
10 that each jurisdiction implement an outreach and education program and monitor
11 compliance with the mandatory commercial recycling requirements.
- 12 B. "AB 939" means the California Integrated Waste Management Act of 1989
13 (California Public Resources Code, Division 30, commencing with Section
14 40000), as it may be amended from time to time.
- 15 C. "AB 1826" means the California legislation (Stats. 2014, Ch. 727), as it may be
16 amended from time to time, that, among other things, added Chapter 12.9
17 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public
18 Resources Code, imposing requirements that each jurisdiction implement an
19 organic waste recycling program and provide for education, outreach and
20 monitoring of businesses subject to those requirements.
- 21 D. "Applicable Law" means all Federal, State and local laws, ordinances,
22 regulations, rules, orders, judgments, decrees, resolutions, permits, approvals, or
23 other type of requirement imposed by any governmental agency having
24 jurisdiction over the Collection and disposition of Solid Waste, including those
25 that are in force and effective as of the Effective Date, as well as such additions
26 and changes thereto as become effective by means of their enactment,
27 amendment, issuance or promulgation after the Effective Date and during the
28 term of the Non-Exclusive Waste Hauler Agreement.

- 1 E. "Board of Supervisors" means the governing legislative body of the County of
2 Fresno.
- 3 F. "CERCLA" means the Comprehensive Environmental Responsibility
4 Compensation and Liability Act, 42 United States Code Section 9601, et seq., as
5 amended or superseded, and the regulations promulgated thereunder.
- 6 G. "Change in Law" means the adoption, promulgation, or modification of any
7 generally applicable and enforceable Federal, State or local law, regulation,
8 ordinance, order, judgment, decree, permit or administrative agency guidelines
9 (excluding orders, judgments, and decrees specific to a particular facility) duly
10 adopted and promulgated officially in writing for uniform application occurring
11 after the Effective Date (hereinafter collectively referenced as "Laws"). Change in
12 Law does not include any changes initiated by a Contractor. Change in Law
13 shall not include (i) Laws enacted or adopted prior to the Effective Date, or (ii)
14 Laws particular to the Solid Waste, Collection, hauling, processing and Disposal
15 industry that are enacted or finally adopted or approved prior to the Effective
16 Date of the Non-Exclusive Waste Hauler Agreement but initially become effective
17 after such date.
- 18 H. "Collection" (and "collect," "collected," and "collecting") means the pickup and
19 removal by Contractor from its Customers' premises of Solid Waste, or other
20 material and transportation of such material to a Processing Site or a Solid
21 Waste Facility, as appropriate and consistent with Contractor's obligations under
22 the Non-Exclusive Waste Hauler Agreement.
- 23 I. "Collection Vehicle" means vehicles used to provide Solid Waste handling
24 services such as Roll-Off trucks, box trucks with or without a hydraulic lift gate, or
25 trucks with open top containers affixed to the body of the truck.
- 26 J. "Compactor," "compactors," and "compactor Service" means any Container
27 incorporating a built-in mechanism to reduce waste volume by crushing action or
28 other compacting method.

- 1 K. "Construction and Demolition Debris," "C&D Debris" or "C&D" means the debris
2 from used construction materials, dredging, grubbing, and rubble resulting from
3 constructing, remodeling, repair, razing, renovation, demolition, excavation or
4 construction clean-up activities at residential, commercial or governmental
5 buildings, and any other structure or pavement.
- 6 L. "Container(s)" means Roll-Off Boxes, compactors, trailers, or similar containers
7 used to provide Solid Waste Handling Services. This definition does not include
8 carts or bins as defined in Chapter 8.21 and utilized as part of delivery of
9 services under an Exclusive Service Area Program Agreement pursuant thereto.
- 10 M. "Contractor (s)" means the party or parties that enter into Non-Exclusive Waste
11 Hauler Agreements with the County.
- 12 N. "County" means the legal entity known as the County of Fresno, California, a
13 political subdivision of the State of California; and depending upon the context in
14 which the term is used, "County" also may mean the geographical area within the
15 territorial boundaries of the County of Fresno, as it exists now or in the future.
- 16 O. "County Representative" means the Director of the Department of Public Works
17 and Planning, or his/her designee, who may be a County official or an agent of
18 County specifically designated to serve as the County Representative and
19 thereby authorized to administer the program and enforce the terms of the Non-
20 Exclusive Waste Hauler Agreements on County's behalf.
- 21 P. "County Solid Waste Surcharges" means the charges imposed by the County on
22 all Solid Waste generated within the Southeast Regional Commission area for
23 closure and post-closure maintenance of the closed County landfill in the
24 Southeast Regional Commission area and the charges imposed by the County
25 on all Solid Waste generated and Collected in the County, used for Countywide
26 Solid Waste management program activities.
- 27 Q. "Customer" means the person or entities receiving Solid Waste Handling
28 Services pursuant to a Non-Exclusive Waste Hauler Agreement.

- 1 R. "Debris Box Services" means the Collection, transportation, and Disposal of
2 materials placed in containers of ten (10) cubic yards or greater.
- 3 S. "Delivery" means a Customer's deposit of Solid Waste in a Container at a
4 location designated for Collection consistent with County's codes or ordinances.
- 5 T. "Designated Solid Waste Facility" means a permitted Solid Waste Facility, if one
6 is specifically designated by the County, for use by Contractor, to which
7 Contractor shall deliver all Solid Waste Collected under a Non-Exclusive Waste
8 Hauler Agreement following such designation.
- 9 U. "Discarded Material" means Solid Waste, Recyclable Materials, and Organic
10 Materials placed by a Generator in a Collection Container and/or at a location
11 that is designated for Collection.
- 12 V. "Disposal," "disposing," "dispose," or "disposed" means the final disposition, at a
13 Solid Waste Facility, of Solid Waste collected by Contractor.
- 14 W. "Diversion" or "diverted" means activities that reduce or eliminate the amount of
15 Solid Waste from Solid Waste Disposal including, but not limited to, recycling and
16 composting.
- 17 X. "Effective Date" means the date on which the Non-Exclusive Waste Hauler
18 Agreement is fully executed by the Parties, which shall be deemed to be the date
19 of its approval on behalf of County.
- 20 Y. "ESAP Hauler(s)" means a Solid Waste Enterprise engaged in commercial
21 hauling of Solid Waste in the unincorporated area of the County governed by the
22 Exclusive Service Area Program provisions of Chapter 8.21. Only an ESAP
23 Hauler can be both an ESAP Hauler and a NEWHA hauler.
- 24 Z. "Exclusive Service Area Program" or "ESAP" means the program established by
25 the enactment of Chapter 8.21, including the contracts described therein ("ESAP
26 Agreements") that establish the Exclusive Service Areas that are assigned
27 thereunder to designated private waste haulers ("ESAP Haulers"), to provide
28 weekly Collection services as provided therein.

1 AA. "Excluded Waste," means

2 i. Hazardous Waste,

3 ii. Medical and Infectious Waste,

4 iii. Volatile, corrosive, biomedical, infectious, biohazardous, and toxic
5 substances or material,

6 iv. Waste that Contractor reasonably believes would, as a result of or upon
7 Disposal, be a violation of local, State or Federal law, regulation or
8 ordinance, including land use restrictions or conditions,

9 v. Waste that in Contractor's reasonable opinion would present a significant
10 risk to human health or the environment, cause a nuisance or otherwise
11 create or expose Contractor or County to potential liability, and

12 vi. Special Waste.

13 BB. "Generator" means a person whose act or process produces Solid Waste,

14 Recyclable Materials, Organic Materials or Construction and Demolition Debris.

15 CC. "Hazardous Waste" shall have the meaning set forth in California Code of

16 Regulations, Title 14, Division 7, Chapter 3, Article 4, (most notably Section

17 17225.32) and Health and Safety Code Section 25117, or in CERCLA, or in their
18 successor laws and regulations as may be amended from time to time,

19 whichever definition is in the opinion of the County more inclusive.

20 DD. "Medical and Infectious Waste" means biomedical waste generated at hospitals,

21 public or private medical clinics, dental offices, research laboratories,

22 pharmaceutical industries, blood banks, mortuaries, veterinary facilities, and

23 other similar establishments.

24 EE. "Non-Exclusive Waste Hauler Agreement," "NEWHA," or "Agreement" means the

25 agreement between the County and any NEWHA Hauler for the authorized

26 provision of the Solid Waste Handling Services as specified therein, including all

27 exhibits and future amendments thereto. A NEWHA Hauler shall comply with all

28 provisions of the Agreement in providing Solid Waste Handling Services for any

- and each transaction involving the Collection, for compensation, of Solid Waste equal to or exceeding ten (10) cubic yards from any Customer.
- FF. “Non-Exclusive Waste Hauler(s)” or “NEWHA Hauler(s)” means a person or entity authorized to engage in commercial hauling of Solid Waste in the unincorporated area of the County that is not governed by the Exclusive Service Area Program provisions of Chapter 8.21. Only an ESAP Hauler can be both an ESAP Hauler and a NEWHA hauler.
- GG. “Non-Exclusive Waste Hauler Agreement Permit,” or “NEWHA Permit,” or “Permit” means the permit required to engage in the authorized commercial hauling of Solid Waste in the unincorporated area of the County that is not governed by the Exclusive Service Area Program provisions of Chapter 8.21. The NEWHA Permit must be obtained in addition to the separate operation permit that is issued by the county health officer as required by Chapter 8.20.
- HH. “Organic Materials” or “Compostable Materials” mean Discarded Materials from the Customer intended for and capable of being composted, digested or otherwise processed (such as food scraps, yard trimmings or compostable paper), and that are separated, set aside, handled, packaged, offered, or otherwise delivered for Collection by a Customer in a manner different from Solid Waste. Organic Materials shall not include any Excluded Waste.
- II. “Party” or “Parties” means County or Contractor individually, or County and Contractor.
- JJ. “Processing Site” means any plant or site used for sorting, cleansing, treating, or reconstituting Construction and Demolition Debris, Organic Materials, Recyclable Materials or Solid Waste for the purpose of making such material available for reuse.
- KK. “Quarterly Remittance(s)” means the quarterly payment made to the County by each NEWHA Hauler of Service Fees and County Solid Waste Surcharges.
- LL. “Recyclable Materials” or “Recyclables” mean Discarded Materials from the

Customer intended for and capable of being recycled, and that are separated, set aside, handled, packaged, offered, or otherwise delivered for Collection by a Customer in a manner different from Solid Waste. Recyclable Materials shall not include any Excluded Waste.

MM. "Recycling Hauler" means a person or entity that is engaged in commercial hauling of Recyclable Materials, Organic Materials, or C&D with no more than ten percent (10%) Residual in the unincorporated area of the County and that is not engaged in commercial hauling of Solid Waste pursuant to the Exclusive Service Area Program (described in Chapter 8.21) or the Non-Exclusive Waste Hauler Agreement Program (described in Chapter 8.24). A person or entity engaged in commercial hauling of Recyclable Materials, Organic Materials, or C&D with more than ten percent (10%) Residual must comply with the requirements of the Exclusive Service Area Program (established by Chapter 8.21) or the Non-Exclusive Waste Hauler Agreement Program (established by this chapter).

NN. "Residual" means the non-recyclable, non-compostable materials left over after processing residual waste or Recyclable Materials or Organic Materials or C&D. This material is typically Disposed in a landfill.

OO. "Roll-Off Collection Truck" means a Collection Vehicle with a mechanical device such as a winch that pulls or loads a Roll-Off Box onto the truck bed or attached trailer and separately transports each Roll-Off Box to a Solid Waste Facility.

PP. "Roll-Off Box" means a metal Container of between ten (10) and fifty (50) cubic yards that is normally loaded onto a Roll-Off Collection Truck and transported to an appropriate facility. A Roll-Off Box may be open topped or covered at the discretion of County with or without a compaction unit. Roll-Off Boxes shall also include trailers.

QQ. "Self-Haul" or "Self-Hauler" means that any residential or commercial Generator of Solid Waste may itself, but not through an agent, transport and Dispose of Solid Waste generated within the unincorporated area of the County by the

household or business enterprise of that Generator only. Any such "Self-Hauler" who elects to forego the Solid Waste Handling Services offered by Contractor shall be obligated to comply with all applicable legal requirements governing such transport and Disposal, including but not limited to County reporting requirements.

RR. "Service Fee" means the portion of each NEWHA Hauler's gross revenues that is due and payable to the County from such gross revenues, as specified in the Non-Exclusive Waste Hauler Agreements.

SS. "Solid Waste" means solid waste as defined in California Public Resources Code, Division 30, Part 1, Chapter 2, Article 40191 and regulations promulgated thereunder (except as to any types of waste specifically excluded from the scope of the definition by this chapter). Excluded from the definition of Solid Waste are: Excluded Waste, Recyclable Materials kept separate from Solid Waste for the purpose of Recycling, Organic Materials, and Construction and Demolition Debris with 10% or less residual.

TT. "Solid Waste Enterprise" means any individual, partnership, joint venture, unincorporated private organization, or private corporation, which is regularly engaged in the business of providing Solid Waste Handling Services.

UU. "Solid Waste Facility" means a solid waste transfer or processing station, a composting facility or organics processing facility, a gasification facility, a transformation facility, an Engineered Municipal Solid Waste conversion facility, or a Disposal facility, as consistent with California Public Resources Code §40194 with authorization to operate pursuant to a valid permit issued by the appropriate governmental agency.

VV. "Solid Waste Handling Services" means the removal of Solid Waste and placement in a Collection Vehicle for transport, storage, or processing of Solid Waste for residential, commercial, institutional, or industrial users or Customers.

WW. "Source Separated" means the segregation, by the Generator, of materials

designated for separate Collection for some form of recycling, processing, composting, recovery or reuse.

XX. "Special Waste" includes any materials that under current or future statute or regulation require the application of special treatment, handling, or Disposal practices beyond those normally required for Solid Waste. "Special Waste" shall be deemed to include, without limitation, all of the following: flammable waste; liquid waste transported in a bulk tanker; sewage sludge; pollution control process waste; residue and debris from cleanup of a spill or release of chemical substances, contaminated soil, waste, residual, debris, and articles from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or Disposal of any other Special Wastes; dead animals; manure; waste water; explosive substances; radioactive substances; fluorescent tubes; and abandoned or discarded automobiles, trucks, motorcycles or parts thereof, including tires.

8.24.050 Application for Non-Exclusive Waste Hauler Agreement Permit.

Applications to provide NEWHA Hauler Solid Waste handling services in the unincorporated County area shall be filed in writing and submitted in a format specified by the County Representative. Each such application shall set forth, contain, or be accompanied by information specified in the application instructions provided by the County Representative, which shall include, at a minimum, the following:

(1) Qualifications Information.

(i) Description of Applicant. A detailed statement of the corporate or other business entity organization of the applicant.

(ii) Municipal References

(iii) Customer References

(iv) Proof of Insurance

(v) History of Litigation, Regulatory Actions, and Liquidated Damages

(vi) Criminal History

1 (2) Operations Information.

2 (i) Estimated Number of Collection Vehicles

3 (ii) Estimated Number of Compactors or Roll-Off Boxes if applicable

4 (iii) Materials to be Collected - Description the types of materials (e.g.,
5 Solid Waste, Recyclable Materials, Organics Materials, Construction and
6 Demolition Debris) to be Collected and services to be performed pursuant
7 to grant of a NEWHA Permit.

8 (iv) Processing Sites and Solid Waste Facilities to be utilized

9 (v) Hazardous Waste Procedures

10 (vi) Location and Hours of Customer Service Center

11 (vii) Billing Procedures

12 (3) Application Fee for Permit. An application fee shall be provided with each
13 application for a Permit, the amount of which shall be provided in the County of Fresno
14 Master Schedule of Fees, Charges and Recovered Costs, which shall be paid in the
15 form of cash, certified or cashier's check, or money order, to pay the costs of studying,
16 investigating, and otherwise processing such application, and which shall be in
17 consideration thereof and not returnable or refundable in whole or in part; provided,
18 that any applicant who shall deliver to the County Representative a written withdrawal
19 of or cancellation of any application hereunder, not later than the seventh day
20 following the day such application is received by the County Representative, shall be
21 entitled to have returned and refunded ninety percent (90%) of the application fee.

22 (4) Other Information as Requested by County Representative. Include any
23 other details, statements, information or references pertinent to the subject matter of
24 such application which shall be required or requested by the County Representative.

25 (5) Non-Exclusive Waste Hauler Agreement. Completion, execution by an
26 individual authorized to bind the applicant, and submission as part of the application
27 package, of the template Non-Exclusive Waste Hauler Agreement.

28 ///

1 8.24.060 Application Review by County

2 The County Representative shall convene a committee to evaluate any and all
3 applications for Non-Exclusive Waste Hauler Agreement Permits and the committee
4 shall provide a written recommendation to the County Representative as to the
5 qualifications and capabilities of the applicant.

6 8.24.070 Waive irregularities

7 The County Representative may, in his/her discretion, waive any minor
8 irregularities contained in an application.

9 8.24.080 Non-Exclusive Waste Hauler Agreement Permit procedure

10 The procedures set forth in this section shall govern the procedure for granting or
11 denying the Non-Exclusive Waste Hauler Agreement Permit. The Board of
12 Supervisors may adopt by resolution such additional procedures not inconsistent with
13 this section.

14 A. Unless suspended or revoked, the Permit shall remain valid for a period of three
15 (3) years. The Permit must be renewed by Contractor prior to its expiration by
16 application to the County Representative, the procedure for which may include, but is
17 not necessarily limited to inspection of the Contractor's Collection Vehicles that are
18 used in the performance of the Solid Waste Handling Services.

19 B. Upon failure by any Contractor to renew the requisite Permit prior to the renewal
20 deadline, the Permit would expire by its terms. In such event, the Agreement and the
21 authorization provided therein for Contractor's performance of Solid Waste Handling
22 Services pursuant to the terms thereof, would be automatically terminated.

23 8.24.090 Implementation and Operation of Non-Exclusive Waste Hauler Agreement
24 Services

25 A. The collection, transportation and deposition of Solid Waste shall be provided on
26 a non-exclusive basis by the Contractors, and such Solid Waste handling
27 services shall be provided in accordance with the terms of the Agreements and
28 subject to the provisions of this chapter.

- 1 B. Rates collected by a Contractor from Customers for Solid Waste handling
2 services will be used to pay all costs incurred by the Contractor to provide for the
3 collection, transportation, and disposal of Solid Waste.
- 4 C. Each Contractor shall ensure that its Customers are in compliance with the
5 requirements of AB 341 and AB 1826 and shall confirm and report to the County
6 Representative that Recyclable Materials and Compostable Materials are either:
7 1. Collected by the Contractor
8 2. Self-hauled by the Customer
9 3. Collected by another Recycling Hauler, NEWHA Hauler or ESAP Hauler
10 permitted to operate in the County
- 11 D. Each Contractor shall deposit Collected Solid Waste at a permitted Solid Waste
12 Facility.
- 13 E. Each Contractor shall begin Solid Waste Handling Services on the Effective Date
14 for the full implementation and enforcement of this chapter.
- 15 F. Each Contractor shall limit Collection to six a.m. to seven p.m. in residential
16 zones, and each Contractor shall limit collection to four a.m. to six p.m. in
17 commercial zones; provided, however, that the County reserves the right to
18 require collection no earlier than six a.m. in commercial areas located near
19 residences.
- 20 G. Each Contractor shall submit annual and quarterly reports to the County.
21 Contents of the annual and quarterly reports shall be as set forth in the Non-
22 Exclusive Waste Hauler Agreements.
- 23 H. Each Contractor shall pay the County a Service Fee as set forth in the Non-
24 Exclusive Waste Hauler Agreements. Payment of the Service Fee shall be made
25 to the County as part of the submittal of the quarterly report.
- 26 I. Each Contractor shall be required to pay to the County Solid Waste Surcharges,
27 for Collected Solid Waste generated in the County, whether deposited at a Solid
28 Waste Facility located within or outside the boundaries of the County, as follows:

(1) the per-ton closure/post-closure maintenance fee for Solid Waste generated and Collected within the territorial boundaries of the Southeast Regional Solid Waste Commission Area, as identified in Fresno County Ordinance Code Section 8.20.035; and (2) the per-ton surcharge for Solid Waste management program activities (this latter surcharge is incorporated into the tipping fee at the American Avenue Disposal Site, and thus requires no separate payment if that facility is used).

J. Each Contractor shall have the right to refuse to accept hazardous, medical, or infectious waste, or other waste that may not legally be disposed at a Solid Waste Facility or presents a hazard to the Contractor's employees. The Contractor shall contact the Customer and request proper disposal by Customer of such waste.

K. All materials a Contractor is prohibited from collecting (under any of its governmental permits) shall remain the property of the Customer that discarded such materials. The Customer shall remain solely responsible for such materials, including without limitation, the transportation and disposal of such materials, retrieval of such materials from any location to which a Contractor may have transported them and for any and all damages, losses, liabilities, fines, penalties, forfeitures, claims, demands, actions, proceedings or suits arising out of or relating to the generation, transportation, handling, cleanup, remediation or disposal of such materials.

L. Customers may place, at the point of collection the following items:

1. Solid Waste;
2. Recyclable Materials;
3. Organic Materials;
4. Construction and Demolition Debris

M. Each residential or commercial Generator of Solid Waste shall have the option to self-haul its own Solid Waste so long as the transport and disposal is performed

in a manner consistent with the provisions of this chapter and all other applicable laws, ordinances and regulations, including but not limited to the following:

1. Any residential or commercial Generator of Solid Waste may itself (for a commercial Generator this means performance of its Disposal services by an individual listed on its payroll as an employee), but not through an agent, transport and properly dispose of Solid Waste as defined by this chapter, generated within the unincorporated area of the County by the household or business enterprise of that Generator only.
2. Each residential or commercial Generator of Solid Waste shall be required to secure Solid Waste handling services from a Contractor with a Non-Exclusive Waste Hauler Agreement or an ESAP Hauler (pursuant to Chapter 8.21) if the Generator does not elect to self-haul its own Solid Waste.
3. Each residential or commercial Generator of Solid Waste who elects to forego the Solid Waste handling services offered by a Contractor with a Non-Exclusive Waste Hauler Agreement pursuant to this chapter shall be obligated to comply with all applicable legal requirements governing the transport and disposal of Solid Waste, including but not limited to such "self-hauler reporting requirements" as may be mandated by subsequent amendment to this chapter.

N. Waste consisting of flammable liquids, anti-freeze, insecticides, poisons, caustics, acids, explosives, liquid paint or other household hazardous waste material, shall not be placed for collection, but rather shall be delivered to a designated hazardous waste facility consistent with Applicable Law, or at a County-sponsored household hazardous waste drop-off event. The unlawful disposal of hazardous waste, household hazardous waste, or medical and infectious waste is illegal and already subject to appropriate remedies under existing law. Hazardous waste and medical and infectious waste shall not be placed by Customers for Collection by means of Solid Waste handling services

provided by Contractors pursuant to this chapter, but rather shall be handled by Customers in accordance with all applicable legal requirements.

O. It is unlawful for any individual, firm or entity to establish, operate or carry on the business of collection, transport and/or disposal of Solid Waste, Recyclable Material, Organic Material and Construction and Demolition Debris in the unincorporated areas of the County, except:

1. NEWHA Haulers operating in conformance with the provisions of this chapter;
2. ESAP Haulers operating in conformance with Chapter 8.21;
3. Recycling Haulers operating in conformance with Chapter 8.23;
4. Materials which otherwise would constitute Solid Waste that are removed from premises by a landscaping, gardening or construction contractor as an incidental part of a gardening, landscaping, tree trimming, cleaning, maintenance, construction or similar service offered by that contractor rather than a hauling service;
5. Recyclable Material, Organic Material or Construction and Demolition Debris generated by a Customer and donated or sold by the Customer;
6. Self-haul materials, which are delivered by an individual (or for a commercial Generator, where the disposal services are provided by an individual listed on the Generator's payroll as an employee), directly to a Processing Site, or Solid Waste Facility in a manner consistent with any and all other laws, regulations or ordinances now or hereafter applicable.

P. This chapter is not intended to prohibit the collection, transport and disposal of any items of Excluded Waste beyond those restrictions already applicable under existing laws, regulations or ordinances in effect as of the date of enactment of this chapter.

Q. Non-Exclusive Waste Hauler Agreements, Required Terms. The County Representative shall cause to be prepared a standard form of Non-Exclusive Waste Hauler Agreement, which shall be approved by the Board of Supervisors

1 and utilized as the template for each Non-Exclusive Waste Hauler Agreement.
2 The Board of Supervisors may at its discretion, delegate to the County
3 Representative or his or her designee, the ability to approve and execute on the
4 County's behalf each Non-Exclusive Waste Hauler Agreement. Each such
5 Agreement shall include the following terms, which are the basic terms upon
6 which the County is willing to enter into a Non-Exclusive Waste Hauler
7 Agreement under this chapter:

- 8 1. Term. The duration of each Agreement shall be stated and shall not exceed
9 an initial term of three (3) years.
- 10 2. Record Keeping and Reporting. Each Agreement shall require the
11 contracting NEWHA Hauler to maintain accurate accounting, statistical, and
12 other records relating to services provided under the Agreement, and to
13 comply with all report submittal requirements and related matters as
14 specified therein.
- 15 3. Indemnity and Insurance Requirements. Each Agreement shall contain
16 appropriate insurance requirements, indemnity and defense provisions, and
17 provisions for payment of the Service Fee and the County Solid Waste
18 Surcharges.

19 8.24.100 Revocation or Suspension of Permit.

20 After a hearing as provided for in this part, the County Representative may
21 revoke or suspend any Permit if the Contractor has violated a provision of this chapter
22 or of the Agreement or any other Applicable Law, ordinance or regulation of any public
23 agency. It is unlawful for any person to operate under a Permit which has been
24 revoked or suspended.

25 A. Interim Suspension

26 The County Representative, without a hearing, may suspend a Permit for not
27 more than ninety (90) days, if the County Representative finds that continued
28 operation by the Contractor will constitute a threat to the public health, safety or

1 general welfare of the County.

2 B. Notice of Hearing on Suspension or Revocation of Permit

3 For any suspension of a Permit based on a violation that is not cured by the
4 Contractor within thirty (30) days' notice of such violation, or the proposed
5 revocation of a Permit, the Contractor shall be provided the opportunity for a
6 hearing, before a panel convened by the County Representative for that
7 purpose. The County Representative or his/her agent shall serve a notice of
8 suspension or revocation of a Permit on the Contractor by first class certified
9 mail not less than fifteen (15) days prior to such hearing. The Contractor also
10 shall have the right to appeal any ruling of the panel approving the suspension
11 or revocation of the Permit to the Director of the Department of Public Works
12 and Planning.

13 C. Revocation

14 In the event of a ruling approving the revocation of a Permit, the County
15 Representative shall notify the Contractor within forty-eight (48) hours in writing
16 of the reasons therefor. Such notification may be made in person or by
17 registered/certified mail. The notice shall include, without limitation, the effective
18 date of any revocation of a Permit to Collect Solid Waste.

19 D. Appeals

20 A person may appeal any ruling of the panel approving the suspension or
21 revocation of a Permit, provided a written notice is received by the County
22 Representative within twenty (20) calendar days after notice by the County
23 Representative of any notice of ruling on the suspension or revocation of a
24 Permit from the County Representative to the Contractor. Appeals requesting a
25 review must be submitted in writing and must provide a detailed explanation of
26 the basis for the appeal.

27 The Director of the Department of Public Works and Planning shall review and
28 resolve all appeals. The hearing on any appeal shall be conducted before the

Director, or in the discretion of the Director, before a hearing officer appointed by the Director who will provide a recommended decision to the Director. Failure by Contractor to pursue a timely appeal shall be deemed a failure to exhaust administrative remedies.

E. Customer Notification

Upon denial of a Permit by the County Representative, or final revocation of a Permit following the resolution of any appeal, the Contractor or collector shall cease operations in the County within the time period determined by the County Representative or Board on appeal, but in no event shall the Contractor or collector operate for more than forty-five (45) days after notice of revocation or denial.

The Contractor shall provide each of its Customers written notification by certified mail of termination of service within ten (10) days of revocation or denial of a Permit, a copy of which shall be provided to the County Representative. Such notice shall have attached a list of all current NEWHA Haulers in the County.

8.24.110 Severability

If any clause, provision, sentence, or paragraph of the ordinance codified in this chapter, or the application thereof, is deemed to be invalid as to any person, entity, establishment, or circumstance, such invalidity shall not affect the other provisions of this chapter which shall still remain in full force and effect, and to this end, it is declared that the provisions of this chapter are severable.

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1 **Section 5.** This Ordinance shall take effect thirty (30) days after final passage.
2 THE FOREGOING was passed and adopted by the following vote of the Board of
3 Supervisors of the County of Fresno this 9th day of January, 2018,
4 to wit:

5 AYES: Supervisors Borgeas, Magsig, Mendes, Pacheco, Quintero

6 NOES: None

7 ABSENT: None

8 ABSTAINED: None

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SAL QUINTERO, Chairman of the
Board of Supervisors of the County of Fresno

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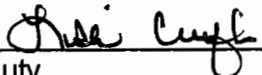
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ATTEST:

BERNICE E. SEIDEL

Clerk to the Board of Supervisors
County of Fresno, State of California

By: 
Deputy

FILE # 17-1606

AGENDA # 41

ORDINANCE # 18-001