

**Chapter 13.10**

**SOLID WASTE MANAGEMENT**

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**Article I. Purpose – Definitions**

**13.10.010 Purpose.**

The city council finds that the storage, accumulation, collection, transportation and disposal of solid waste is a matter of great public concern. Improper control of such matters creates a public nuisance, can lead to air and water pollution, fire hazards, illegal dumping, insect breeding, rodent infestation, and other problems affecting the health, safety and welfare of the residents of this and surrounding cities.

The city council also finds that recycling and green waste programs are necessary for the city to achieve the landfill diversion goals mandated by the state. (Integrated Waste Management Act of 1989, Public Resources Code section 40000 and following.) Failure to comply with this mandate exposes the city and its residents to substantial fines and additional costs. (Ord. 775 § 1, 2003; 1991 code § 12-1.1)

**13.10.020 Definitions.**

In this chapter, the following definitions apply:

AB 939. See *California Integrated Waste Management Act*.

*Bulky waste* means discarded large household appliances (white goods), e-waste (except for universal waste), furniture, tires, carpets, mattresses and similar large items which require special handling due to their size, but can be collected without special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. It does not include abandoned vehicles or household hazardous waste.

*California Integrated Waste Management Act of 1989* or *AB 939* means California Public Resources Code section 40000 and following, and subsequent amendments to it.

*City manager* means the city manager of Pleasant Hill or his or her designee.

*Collection or collect* means the collection of:

- A. Solid waste and its transportation to a transfer station or landfill;
- B. Recyclable material and its transportation to a processing or materials recovery facility; and
- C. Green waste and its transportation to a processing facility or landfill.

*Commercial* means a primarily nonresidential use, including retail sales, professional healthcare, educational services, wholesale operations, manufacturing and industrial operations, and institutional, governmental and nonprofit uses. It does not include a business conducted in a residence with a home occupation permit.

*Compost* means the product resulting from the controlled decomposition of organic wastes, including green waste, wood waste and food waste which are not hazardous wastes.

*Construction and demolition debris* means used or discarded materials resulting from construction, renovation, remodeling, repair, demolition, excavation or construction clean-up operations on any pavement or structure. (See PHMC Chapter 14.40 for regulations.)

*Container* means an approved container used for the disposal and storage until collection of solid waste, green waste or recyclable material. It includes a cart, bin, or drop box (or roll-off box, debris box).

*Diversion requirement* means the diversion of 50% or more of the solid waste and recyclables disposed of in the city, as required by AB 939.

*Environmental laws* means all federal and state statutes and Contra Costa County ordinances and regulations concerning public health, safety and the environment, including amendments to them. These include (by way of example and not limitation):

- A. The Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq.;
- B. The Resource Conservation and Recovery Act, 42 U.S.C. § 69012 et seq.;
- C. The federal Clean Water Act, 33 U.S.C. § 1251 et seq.;
- D. The Toxic Substances Control Act, 29 U.S.C. § 1601 et seq.;
- E. The Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.;
- F. The California Hazardous Waste Control Act, California Health and Safety Code section 25100 et seq.;
- G. The California Toxic Substances Account Act, California Health and Safety Code section 25300 et seq.;
- H. The Porter-Cologne Water Quality Control Act, California Water Code section 13000 et seq.;
- I. The Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code section 25249.5 et seq.

*E-waste* means discarded electronic equipment such as stereos, radios, speakers, televisions, computers, monitors, VCRs, printers, copiers, facsimile machines, DVDs, microwaves, telephones and similar items, including cathode ray tubes and other universal waste which require special handling.

*Franchisee* means a company that has entered into a contractual franchise arrangement with the city for the collection of solid waste, green waste and/or recyclable materials, under Article III of this chapter.

*Garbage*. See *Solid waste*.

*Green waste* means organic material from trees, shrubs, grass and other vegetation. Trees may not be more than six inches in diameter. Green waste does not include plastic bags, brick, rocks, gravel, large quantities of dirt, concrete, sod, nonorganic wastes, loose fruits and vegetables, tree trunks, stumps, palm fronds, branches more than six inches in diameter or three feet in length, or pet waste.

*Hazardous waste* means any substance defined, regulated or listed as a hazardous substance, hazardous material, toxic waste, pollutant or toxic substance or similarly identified as hazardous to human health or the environment under any California or federal law or regulation, including the environmental laws. (See also *Universal wastes*.)

*Household hazardous waste* means hazardous waste generated at residential sites in the city, including normal residential amounts of household chemicals, pesticides, motor oil, paint, products containing mercury, e-waste categorized as universal waste (such as a television tube or monitor), antifreeze, and lead-acid batteries. (See also *Universal wastes*.)

*Landfill* means a permitted disposal site which accepts solid waste.

*Materials recovery facility (MRF)* means a permitted facility where solid waste or recyclable material is sorted or separated for recycling, reuse or processing.

*Medical waste* or *infectious waste* means waste which may cause disease or reasonably be suspected of harboring pathogenic organisms, including waste resulting from medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities, hospitals, and similar facilities processing wastes which may include human or animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing and surgical gloves. (Reference: 17 Cal. Adm. Code 314(d); Health and Saf. Code § 117690.)

*Mixed waste* or *contaminated recyclables* means combined recyclable materials and nonrecyclable materials.

*Multifamily residential* means a residential structure having multiple residences. Under this chapter, it may be classified as residential (with individual billing for each residence) or commercial (with a single billing for each complex).

*Processing facility* means a facility to which green waste, food waste or recyclable material is brought to be processed (into compost, mulch, or soil amendment), separated, or recycled into other products.

*Recyclable material* means glass, paper, cardboard, wood, concrete, plastic, used motor oil, metal, aluminum, green waste and any other waste material capable of being recycled. It includes construction and demolition debris, including asphalt and concrete. (See regulations regarding management plan for construction and demolition debris, at PHMC Chapter 14.40.)

*Recycling center* means a facility established and licensed for the collection of recyclable materials, including but not limited to buy-back centers or drop-off locations, which are supplemental to the curbside recycling program operated by a franchisee.

*Refuse*. See *Solid waste*.

*Residence or dwelling unit* means an individual living unit having bathroom and kitchen facilities in a single-family or a multifamily building. (See also *Multifamily residential*.) It does not include a hotel or motel or an institutional facility.

*Rubbish*. See *Solid waste*.

*Solid waste* means all solid, semisolid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition debris, green waste, vehicle parts, discarded home and industrial appliances, sewage sludge (dewatered, treated or chemically fixed), manure, vegetable or animal wastes, and other discarded wastes under Public Resources Code section 40191. It includes recyclable materials that are discarded by the generator and mixed waste.

A. *Garbage* means kitchen and table food waste, and animal or vegetable waste that results from the storage, preparation, cooking or handling of food.

B. *Refuse* means garbage and rubbish. It does not include green waste or recyclable material.

C. *Rubbish* means nonputrescible solid wastes such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, plastics, rubber byproducts or litter.

*Transfer station* means a facility used to receive solid wastes, temporarily store or process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport.

*Universal wastes* are hazardous wastes that are more common and pose a lower risk to people and the environment than other hazardous wastes. (22 California Code of Regulations, Div. 4.5, Chapter 23.) They include, for example: mercury thermostats, switches and thermometers; batteries; fluorescent and high-intensity lamps; nonempty aerosol cans; certain consumer electronic devices; and cathode ray tubes such as those found in televisions and nonflat monitors.

*Waste generator or generator* means the person who produces the solid waste, recyclable material or green waste, or whose act first causes the solid waste to become subject to regulation. (Pub. Resources Code §§ 40170, 40191.)

*White goods* means inoperative or discarded refrigerators, ranges, water heaters, freezers, washers, dryers, and other similar large household appliances. (See also *Bulky waste*.) (Ord. 775 § 1, 2003; 1991 code § 12-1.2)

## Article II. General Regulations

### 13.10.030 Mandatory collection service – Exceptions.

A. Mandatory collection service. It is mandatory that:

1. Each owner or occupant of a residence subscribe with a franchisee for collection of solid waste, recyclable materials and green waste; and
2. Each commercial use subscribe with a franchisee for collection of solid waste, recyclable materials and green waste.

The only exceptions are set forth in subsection B of this section. Subscription rates are established by city council resolution.

No person may contract with and pay anyone other than a franchisee for the collection of residential or commercial solid waste or recyclable materials, or residential green waste.

B. Exceptions. Following are the exceptions to the mandatory subscription requirement. Exceptions must be approved in writing by the city manager, based on a written request, and renewed periodically after the period

of time established in each case by the city manager. A customer is not required to subscribe for the service during the period of time for which the exception is granted. When an exception applies, the premises must be kept in a sanitary condition which does not cause a nuisance to others.

1. Single-family residential. Upon request of the owner or occupant, the city may grant an exception to the subscription requirement, rendering the owner or occupant eligible for a reduced level of service, if:
  - a. No solid waste is being generated on the premises; or
  - b. Green waste is composted on-site. Upon the request of the owner or occupant, the city may grant an exception when green waste is composted on-site. To qualify, the applicant must have proof of attendance at a composting class in the city (or another city in Contra Costa County), have the green waste container removed from the premises by a franchisee, and be subject to periodic inspection by the city. If this exception is granted, the subscription rate shall be reduced by the amount specified in a franchisee's rate schedule.
2. Multifamily residential. Upon request of the owner or occupant, the city may grant an exception for a multifamily residential building, as to green waste collection only, if green waste is removed from the premises by a gardening, landscaping or tree-trimming contractor as an incidental part of a total service offered by that contractor rather than as a transportation or disposal service. The property for which the exception is granted is subject to periodic inspection by the city.
3. Commercial. Upon request of the business owner, the city may grant an exception for a business use for one or both of the following, subject to periodic inspection by the city:
  - a. As to the mandatory recycling requirement, based on evidence of insurmountable site constraints or the absence of recyclable materials generated at the business location.
  - b. As to green waste collection if green waste is removed from the premises by a gardening, landscaping or tree trimming contractor as an incidental part of a total service offered by that contractor, rather than as a transportation or disposal service. (Ord. 775 § 1, 2003; 1991 code § 12-2.1)

#### **13.10.040 Ownership of solid waste, green waste, recyclables – Disposal by owner.**

A. Ownership. The waste generator owns the solid waste, recyclable materials and green waste until it is placed in a container for collection. Once the solid waste, recyclable materials or green waste is placed in the collection container at the curbside, it becomes the property of a franchisee. The city reserves the right to assert ownership or right to possession of solid waste, recyclable materials or green waste placed for collection, if it determines a franchisee is in breach of a franchise agreement.

B. Disposal by owner. A resident or business owner may dispose of solid waste, recyclable materials or green waste generated at their own premises with their own vehicle, in lieu of availing themselves of the services of a franchisee. (Waste Management v. Palm Springs Recycling Center, Inc., 1994, 7 Cal. 4th 478, 28 Cal. Rptr. 2d 461.) A waste generator disposing of its own solid wastes shall dispose of solid wastes at a landfill, materials recovery facility, processing facility, or recycling center. However, a resident or business owner may not employ another to dispose of solid waste, recyclable material or green waste.

A resident or business owner who disposes of his or her own solid waste, recyclable materials or green waste under this section does not receive a reduction in the subscription rate, unless a specific exception applies under PHMC § 13.10.030.B. A commercial business owner who disposes of recyclable material or green waste is encouraged to identify the city at the disposal location where material is disposed of, in order that the city receives credit toward its diversion requirement. (Ord. 775 § 1, 2003; 1991 code § 12-2.2)

#### **13.10.050 Unlawful collection, scavenging, tampering, littering.**

A. Handling of containers and unlawful collection.

1. No person other than a franchisee may place a collection container within the city, except as expressly authorized by this chapter.
2. No person shall move, remove or interfere with a container or its contents, other than the waste generator or a franchisee. No person shall get into or be inside a container.

3. No person may tamper with, modify, scavenge from or deposit solid waste, recyclable materials or green waste in a container which has not been provided by a franchisee for his or her use, without the permission of the occupant of the premises where the container is located.
4. No person may collect the recyclable materials or green waste from residential or commercial premises or posted recycling centers in the city, except as allowed under PHMC § 13.10.080.B.
5. It is unlawful for any person to hinder, threaten, impede or obstruct a franchisee in the performance of its duties under this chapter.

B. Littering and unlawful disposal.

1. No person may deposit solid waste upon any street, lot or vacant area, or other public place other than as provided in this chapter. Each subscriber is responsible for the containers located on his or her property and for any spillage from containers before collection.
2. No person shall allow the accumulation of solid waste on his or her premises, other than in a container collected at least weekly. No waste generator may allow the waste to enter into drainage systems, sewers or waters. No person may burn or bury waste except as permitted by this chapter. (Ord. 775 § 1, 2003; 1991 code § 12-2.3)

**13.10.060 Collection containers.**

A. Types of containers. Each franchisee shall provide solid waste containers (including carts, bins and debris boxes), recyclable materials containers and green waste containers. The containers shall meet the standards set forth in the franchise agreement. Each franchisee shall make available appropriate-sized containers for commercial and multifamily premises, based on the quantities generated.

B. Filling of containers. Each occupant shall place materials in the appropriate container provided by a franchisee. Materials shall be separated if required by each franchisee and the types of materials shall comply with any specifications of each franchisee. No occupant shall fill any container above the top so as to permit the contents to be blown or otherwise strewn about. Standard containers shall not exceed the weight limit established by each franchisee. No person shall knowingly dispose of a hazardous material with solid waste, recyclable materials or green waste, except household hazardous waste in de minimis quantities.

C. Placement. Residential customers shall keep their containers in a location not visible from the public right-of-way.

Residential customers shall place containers at the curb for collection only on the collection day, or after sunset on the night before. Customers shall remove containers from the curbside by 12:00 midnight of the collection day. Customers using carts for collection shall place solid waste, recyclable materials and green waste carts on the street against the curb, in front of the premises, or in an alternate location approved by a franchisee, which does not interfere with passage on the street or sidewalk. A residential customer may arrange with a franchisee for backyard or side yard service under the terms of a franchise.

Multifamily and commercial premises using bin or debris box service shall place those containers in an enclosure designed for this purpose, which conforms to the requirements of PHMC § 18.50.070.

D. Protection – Safety. Each subscriber shall maintain the containers on their premises, and the area in which they are located, in a good, usable, clean and sanitary condition. The subscriber shall ensure that the lid or cover is kept closed, that solid waste and recyclable materials are not placed outside the container, and that containers do not leak or spill.

Containers must comply with current California Fire Code requirements regarding combustible materials (Section 1.103, Combustible Materials, particularly Section 1103.2.1). (Ord. 775 § 1, 2003; 1991 code § 12-2.4)

**13.10.070 Collection and disposal of solid waste, green waste, recyclables.**

A. Weekly collection. Customers shall place solid waste, recyclable materials and green waste in containers and each franchisee shall collect them at least once a week, or less often as provided in a franchise agreement, or more often as requested for a commercial or multifamily premises. The Contra Costa County health department may require a greater number of collections per week for certain commercial premises.

B. Failure to collect. If containers placed for collection are not collected at the scheduled time, the resident or business owner shall promptly notify the appropriate franchisee. If a franchisee intentionally does not collect the contents of a container because of improper placement of the container, contamination of materials, or other reason, a franchisee's agent shall keep a record and leave a written explanation on the container, on the collection day.

C. Excess materials. Customers are responsible for separately arranging for the collection of excess or bulky waste. The resident or business owner shall pay an extra fee to have overages collected by a franchisee, in an amount established by city council resolution. (Ord. 775 § 1, 2003; 1991 code § 12-2.5)

**13.10.080 Special collection and disposal restrictions.**

A. Unlawful collection. It is unlawful for a person to collect and transport solid waste, recyclable materials or green waste within the city unless the person is a franchisee, or the solid waste, recyclable material or green waste is exempted under this section.

B. Exemptions. The exemptions are:

1. Green waste removed from premises by a gardening, landscaping, or tree-trimming contractor as an incidental part of a total service offered by that contractor (without a reduction in the subscription rate).
2. Tree trimmings and green waste generated at parks or city facilities.
3. Green waste (or food waste) used by the waste generator at the premises where the waste is generated for composting or mulching.
4. Any material which the generator sells or disposes of for compensation (net of any charges for collection).
5. Recyclable material which is donated (other than for commercial processing for reuse recycling).
6. Source-separated recyclable material delivered for recycling to a state-permitted facility by the resident or business owner in his or her own vehicle.
7. Containers delivered for recycling under the California Beverage Container Recycling Litter Reduction Act (California Pub. Resources Code § 14500 et seq.).
8. Solid waste, recyclable materials (including construction and demolition debris), or green waste removed from a premises by the waste generator and transported personally by the owner or occupant to a landfill, materials recovery facility, processing facility, or recycling center.
9. Construction and demolition debris (including excavated soils) removed from a premises by a licensed contractor as an incidental part of a total service offered by that contractor (rather than as a transportation service or a clean-up and transportation service), and transported in the contractor's own vehicle. (See management plan requirements at PHMC Chapter 14.40.)
10. Excavated soil.
11. Byproducts of state-permitted (a) sewage treatment, including sludge, grit and screenings, and (b) stormwater treatment, including screenings, sediment, litter and soluble hazardous materials.
12. Hazardous waste (other than de minimis quantities of household hazardous waste, liquid and dry caustics, acids, medical waste, flammable materials, explosive materials, insecticides and similar substances).
13. Medical waste, which is regulated under the Medical Waste Management Act (California Health and Saf. Code § 117600 et seq.).
14. Waste generated by public schools.
15. Automobiles, auto parts, boats and boat parts.
16. Universal waste, as defined in PHMC § 13.10.020. (Ord. 775 § 1, 2003; 1991 code § 12-2.6)

### Article III. Franchise Agreement

#### 13.10.090 Granting franchise agreement – Rates.

The city council may enter into exclusive or nonexclusive franchise agreements for the collection of solid waste, recyclable materials and green waste in the city. Franchise agreements may be entered into without competitive bidding. (Pub. Resources Code § 40059.) In a franchise agreement, the city council shall establish the method(s) for setting the maximum amount of collection rates, which may include rate changes after holding a public hearing, automatic cost of living rate increases, and provisions for extraordinary circumstance rate changes.

It is unlawful for any person to collect or transport solid waste, recyclable materials or green waste within the city unless the person is a franchisee, or the solid waste, recyclable material or green waste is exempt under PHMC § 13.10.080. (Ord. 828 § 1, 2007; Ord. 775 § 1, 2003; 1991 code § 12-3.1)

#### 13.10.100 Terms and standards of service – Programs – Essential provisions.

Each franchise agreement shall address in detail obligations regarding all of the following:

A. Terms and standards of service, standards of performance and other requirements and conditions regarding the collection and disposal of solid waste, recycling materials and green waste. This shall include limits on operations including days and hours of operation, curbside service, use of streets/clean-up, disabled occupant service (at no cost to the customer and in compliance with the ADA), on-property service, and any other type of service standards, requirements and limitations, consistent with Public Resources Code section 40059.1.

B. Special collection events and programs, such as Christmas tree collection, periodic collection of bulky waste and white goods, leaf pick-up, educational and promotional services, food waste programs, e-waste, used motor oil, household hazardous waste, construction and demolition debris, and special events authorized by the city (such as concerts and parades).

C. Standards of operation and objective measurements to ensure that city receives the maximum feasible diversion credit.

D. Insurance and indemnification requirements, including types and amounts of coverage, and performance bonds.

E. Vehicle standards and driver standards.

F. Procedure for establishing maximum service rates, service fees, and franchise fees or other compensation, including time and frequency of payment. Service fees include all service-related fees including, but not limited to, source reduction and recycling fees, user fees, cost-based fees for city's administrative expenses and programs.

G. Billing and collection requirements.

H. Customer complaint and dispute resolution procedures (including recording of complaints, manner of handling and responding to complaints, hours of operation of local office, after-hours handling of complaints, billing disputes).

I. Record keeping requirements, including reporting, record retention and auditing procedures. These may include records of (1) the type of waste generator, (2) amount by volume or weight collected or disposed of, (3) type and classification of materials as solid waste, recyclable materials or green waste, (4) location of disposal, (5) amount and type of waste disposed of or diverted from landfills, and (6) such other reporting requirements as city may determine. These may also include the manner of keeping customer payments records.

- J. Breach of contract, remedies and penalty for breach (including procedures for termination), liquidated damages, and city's right to take over a franchise in the event of breach.
- K. Assignment of the franchise, change of ownership or control of franchisee, independent contractor status.
- L. Emergency responses at the city's request (such as earthquakes, flooding or fallen tree clean-up). (Ord. 775 § 1, 2003; 1991 code § 12-3.2)

**13.10.110 Service rates and billing procedures.**

- A. Billing and penalties. A franchisee shall bill each subscriber directly, in amounts that are at or below the maximum rates and periods established by the city council. A franchisee may add a penalty, in amounts established by the city council, for an owner or occupant who neglects, fails or refuses to pay the bill. The additional amount may include costs incurred by a franchisee. (Govt. Code § 54348.) If an occupant fails to pay the bill, the owner is responsible for payment.
- B. Payment under protest. If a customer wishes to contest the billing of a franchisee, he or she shall make payment under protest and, at the same time, shall file a written statement of protest with the city manager. Within 30 days, the city manager shall notify the customer of the findings and adjudication and adjustment in the matter. Anyone may appeal the decision of the city manager to the city council, upon submittal of an appeal fee in an amount established by the city council. The city council shall conduct a hearing on the matter at a regular council meeting. The council's decision is final. The city shall refund the appeal fee to the customer if the city council finds in favor of the protest.
- C. Failure to pay. If there is no payment of a bill after 60 days or more, each franchisee shall undertake collection of the bill (including penalties and expenses of collection) for a period of 120 days from the original invoice date. Each franchisee shall make reasonable efforts to obtain payment through issuing late-payment notices, telephone requests for payment, assistance from collection agencies (who shall make at least two attempts at collection), and bringing an action in small claims court. If a franchisee's collection efforts for a 120-day period fail, and franchisee can demonstrate to the city that it attempted on at least five occasions to solicit the monies due, then that franchisee, with the city's consent, may discontinue service. (Ord. 828 § 2, 2007; Ord. 775 § 1, 2003; 1991 code § 12-3.3)