

ORDINANCE NO. 2020-008

AN ORDINANCE OF THE CITY OF CITRUS HEIGHTS AMENDING CHAPTER 74 OF THE CITRUS HEIGHTS MUNICIPAL CODE RELATING TO BUSINESS AND MULTIFAMILY RECYCLING

The City Council of the City of Citrus Heights does ordain as follows:

The provisions of Chapter 74 of the City of Citrus Heights Code are amended, as follows:

SECTION 1. Amendment. Section 74-1 of the Citrus Heights Code is hereby amended to read as set forth below:

Sec. 74-1. - Definitions:

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words and phrases not defined in this section have the meanings set forth in Division 30, Part 1, Chapter 2 of the Public Resources Code, § 40105 and following, and the regulations of CalRecycle or its successor agency. If not defined in the Public Resources Code or the Board's regulations, then the applicable definitions found in the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 and following, and the regulations implementing RCRA will apply.

Act means the California Integrated Waste Management Act of 1989 (sometimes referred to as "AB 939"), Public Resources Code § 40000 and following as it may be amended, and as implemented by the regulations of CalRecycle.

CalRecycle means the California Department of Resources, Recycling and Recovery, or any successor agency thereof.

Clerk means the city clerk or as otherwise designated by the city council.

Collection means to take physical possession, remove and transport solid waste.

Commercial edible food generator includes a "tier one" or a "tier two" commercial edible food generator as such terms are defined in Subdivisions (a)(73) and (a)(74), Title 14, Division 7, Chapter 12 of the California Code of Regulations, and as it may be amended.

Commercial premises means all lots or portions of a lot in the city other than residential premises, where commercial solid wastes are generated or accumulated including multifamily residential properties.

- "Multifamily residential property" means five or more individual living units located on a single parcel of land and any mobile home park located within the city.

Commercial solid waste means any solid waste generated by and at a commercial premise, including salvageable materials, placed in bins, carts, drop boxes or compactors or the like, or as otherwise prescribed by the department for accumulation and collection.

Council means the city council or as otherwise designated by the city council.

Department means the general services department of the city or as otherwise designated by the city council.

Designated recyclable materials means materials that are separated by the responsible person from solid waste prior to disposal to be recycled consistent with the requirements of the Act. The city may adopt a schedule of materials that may qualify as recyclables, which may be revised periodically.

Designated organic recyclable materials means materials that are separated by the responsible person from solid waste prior to disposal to be recycled consistent with the requirements of the Act. The city may adopt a schedule of materials that may qualify as organic recyclables, which may be revised periodically.

Director means the director of the general services department of the City of Citrus Heights.

Dispose or Disposal means the final disposition of solid waste collected.

Franchise, commercial means a franchise issued under this chapter that grants to a franchisee the right to collect and transport on a regular, recurring basis, solid waste from commercial premises located within the city, except as provided in Sections 74-38 and 74-138.

Franchise, residential means a franchise issued under this chapter that grants to a franchisee the exclusive right to collect and transport on a regular, recurring basis, solid waste from commercial premises located within the city, except as provided in Sections 74-38 and 74-138.

Franchisee means a solid waste collector designated as a franchisee pursuant to a commercial franchise or a residential franchise agreement with the city granting to him or her the privilege of collecting or causing to be collected or transported, for a fee, any solid waste within the city in accordance with this chapter.

Garbage does not include designated recyclable materials or designated organic recyclable materials set out for the purposes of collection and recycling, and that are not landfilled.

Hazardous waste means any waste materials or mixture of wastes defined as a “hazardous substance” or “hazardous waste” pursuant to RCRA, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601 and following or as defined by CalRecycle. If there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or solid waste, the term hazardous waste will be construed to have the broader, more encompassing definition.

Medical waste means any item regulated under the Medical Waste Management Act (Part 14, commencing with Section 117600, of Division 104 of the Health and Safety Code), that has not been treated and may not be disposed of at a solid waste disposal facility.

Mixed use premise means all lots zoned with a blend of various compatible uses such as commercial and residential. The uses may be located in the same building or in separate buildings.

Organic recycling means the controlled and monitored process of separation, recovery, volume reduction, conversion, or recycling of organic waste for the purpose of recovery.

Recycling means the process of sorting, cleansing, treating and reconstituting of recyclables, which would otherwise be disposed of at a disposal site, for the purpose of returning the

recyclables to the economy in the form of raw materials for reused, remanufactured or reconstituted products.

Residential premises mean all residentially zoned lots used for residential purposes, excluding premises with multi-family structures consisting of five or more units.

Responsible Person means any individual, firm, copartnership, joint venture, association, corporation, governmental agency, and the plural as well as the singular, responsible for the day to day operation of each commercial, residential, or mixed use premise in the city at which solid waste is generated or accumulated.

Salvageable material includes materials which can be separated from solid waste and sold for reuse or recycling, but does not include material disposed of at a landfill.

Solid waste means all putrescible and nonputrescible solid, semisolid, and liquid waste generated or accumulated for collection or disposal within the city. Solid waste includes bulky items, construction and demolition waste, green waste, and organic waste. Solid waste does not include any of the following: (1) hazardous waste, (2) medical waste regulated under the Medical Waste Management Act (Part 14, commencing with Section 117600, of Division 104 of the Health and Safety Code) that has not been treated and may not be disposed of at a solid waste disposal facility, and (3) recyclable material.

Truck means any truck, trailer, semitrailer, conveyance, vehicle or equipment approved by the department used to collect or haul refuse.

SECTION 2. Amendment. Section 74-2 of the Citrus Heights Code is hereby amended to read as set forth below:

Sec. 74-2. - Rules and regulations.

- (a) The department is authorized to make and enforce rules and regulations governing solid waste generation, storage, recovery, accumulation, collection, transportation and disposal; types of solid waste containers and vehicles used therefor; for the operation and maintenance of sanitary methods of solid waste disposal; and for the effective administration of this chapter. All such rules and regulations shall be consistent with this chapter and effective on the 30th day following filing thereof with the clerk and serving thereof on each affected franchisee.
- (b) Any person who asserts that he or she is aggrieved by the terms or application of a regulation issued pursuant to this chapter may appeal the regulation by filing a written notice of appeal with the clerk. The notice of appeal shall specifically identify the regulation from which appeal is taken and the reasons for the appeal. Upon receipt of such a notice, the clerk shall schedule the appeal for a public hearing by the council, notice of which is given in the manner prescribed by section 74-7. At the conclusion of the public hearing, the council shall be vested with jurisdiction to deny the appeal or rescind or modify the determination. The decision of the council shall be final. Any regulation from which an appeal is filed prior to the effective date thereof shall not become effective until the date of a determination by the council of the appeal. Any regulation from which an appeal is filed on or subsequent to the

effective date thereof shall remain in full force and effect during the pendency of the appeal, and any decision which rescinds or modifies the regulation shall apply prospectively.

- (c) It shall be unlawful and constitute a violation of this section for any person to violate or fail to comply with the provisions of regulations issued pursuant to this section which are expressly authorized by other sections of this chapter.

SECTION 3. Amendment. Sec. 74-3 of the Citrus Heights Code is hereby amended to read as set forth below:

Sec. 74-3. - Applicability of State Regulations. The regulations of CalRecycle appearing in chapter 3 of division 7 of title 14, California Administrative Code, commencing with section 17200, shall be applicable within the city. All of such regulations shall be enforced in the same manner as this chapter, and violations of any of such regulations shall constitute violations of this section. This section shall be enforced by the department.

SECTION 4. Amendment. Section 74-4 of the Citrus Heights Code is hereby amended to read as set forth below:

Sec. 74-4. - Federal and state standards.

- (a) All franchises issued to the franchisees shall be subject to the terms and conditions specified in this chapter, in the franchise agreement, and in all other applicable federal, state and local laws and regulations.
- (b) In granting any franchise, the city council may prescribe such other additional terms and conditions, not in conflict with this chapter, as in the judgment of the city council are in the public interest.
- (c) The franchisees shall provide solid waste collection, removal, recycling, organic recycling, and transportation services consistent with the provisions of this chapter, the terms and conditions of the franchise issued, and any applicable federal, state, or local statute, ordinance, rule or regulation.
- (d) The franchisees shall provide services without undue interruptions caused by mechanical failures or other inadequacies of equipment and shall utilize equipment in quantities and of an age and quality adequate for the provisions of reliable service and to provide preventive and repair maintenance of such equipment sufficient to ensure reliability.

SECTION 5. Amendment. Section 74-5 is hereby amended to read as set forth below:

Sec. 74-5. Enforcement

Except as otherwise expressly provided, this chapter shall be enforced by the general services director, and/or his or her designee.

SECTION 6. Amendment. Section 74-6- is hereby amended to read as set forth below:

Sec. 74-6. – Abatement Proceedings

Any operation contrary to this chapter or contrary to residential or commercial franchise, or the terms or conditions imposed therein, is unlawful and a public nuisance. The department is authorized to commence, in the name of the city, actions or proceedings for the abatement and removal and enjoining thereof in the manner provided by law and shall take such other steps and shall apply to such court as may have jurisdiction to grant such relief as will abate and remove such operation and restrain and enjoin any person from so operating.

SECTION 7. Amendment. Section 74-7- is hereby amended to read as set forth below:

Sec. 74-7. - Notices.

- (a) Whenever a section of this chapter authorizes or requires a public hearing to be conducted by the council, notice of the time, date, place and purpose of the hearing shall be published at least once not later than ten calendar days in advance of the date of commencement of the hearing in a newspaper of general circulation which is published within the city and shall be served upon the franchisee who is affected by the hearing.
- (b) Any notice or other communication to the franchisee which is authorized or required by this chapter shall be deemed served and effective for all purposes when reduced to writing and deposited in the United States mail, postage prepaid, and directed to the latest address of the franchisee shown in the city records.

SECTION 8. Amendment. Section 74-8 hereby amended to read as set forth below:

Sec. 74-8. – Unlawful dumping prohibited.

It is unlawful for any person to place, deposit, dump, release, spill, leak, pour, emit, empty, discharge, inject, bury, or dispose into the environment (including by abandonment or discarding of barrels, containers, and other closed receptacles) or cause to be placed, deposited, dumped, released, spilled, leaked, poured, emitted, emptied, discharged, injected, buried, or disposed, any solid waste to come to be located on any premises in the city, except in an authorized location or permitted container or at an authorized or permitted solid waste collection facility.

SECTION 9. Amendment. Article II –is hereby amended to read as set forth below:

ARTICLE II. - SANITATION REGULATIONS

SECTION 10. Amendment. Section 74-36 is hereby amended to read as set forth below:

Sec. 74-36. - On site storage

Every owner, tenant or occupant of a dwelling unit or keeper of every commercial premise or mixed use premise with a fixed location in the city which generates solid waste shall provide and, at all times, keep within an enclosure or conveniently located near an enclosure or building

watertight containers and shall cause to be deposited in such containers, and not elsewhere, all solid waste accumulating on the premises. The containers shall have tightly fitted covers and shall not leak or permit the escape of odors. It shall be unlawful for any person to fail to comply with the requirements of this section.

SECTION 11. Amendment. Section 74-37 is hereby amended to read as set forth below:

Sec. 74-37. - Collection or transportation prohibited.

Except as authorized, it shall be unlawful for any person to engage in the business of or otherwise organize, direct or sponsor the collection or transportation of solid waste within the city without possessing a valid residential or commercial franchise agreement with the city.

SECTION 12. Amendment. Section 74-38 is amended to read as set forth below:

Sec. 74-38. - Exempt collection or transportation.

The collection or transportation of the following types of solid waste under the circumstances indicated are exempt from the provisions of section 74-37:

- (1) Solid waste on or from any federal facility or housing project property owned by the United States or from any state facility owned by the state;
- (2) Solid waste produced by operation of the public agency under a system of solid waste collection of the public entity under a system of solid waste collection and transportation operated and maintained by the public agency;
- (3) Solid waste accumulated as a result of operation of the farm or ranch consisting of five acres or more;
- (4) Solid waste generated on a commercial, mixed use premise or residential premise removed by the responsible person from his or her premises to a lawful point of disposal;
- (5) Construction and demolition waste removed from the premises by a licensed contractor using its own employees and equipment as an incidental part of a total service offered by that contractor to a lawful disposal location;
- (6) Yard waste removed from the premises by a gardening, landscaping, or tree trimming contractor as an incidental part of the total service offered by the contractor to a lawful point of disposal;
- (7) Dead animals, bones, meat scraps or food waste resulting from food processing plants for tallow or fertilizer, or other waste material to be used as raw material in manufacturing, or solid waste for purposes of salvage; provided that such persons shall reuse or recycle or cause to be reused or recycled all material collected, and shall not transport any collected materials to a disposal site;
- (8) Solid waste which cannot be handled by standard solid waste collection equipment or which involve significant health, operating or handling hazards, including but not

limited to, rice hulls, tomato pulp, chemical residues, explosives, and other toxic, noxious or hazardous substances; provided that all such wastes shall be deposited in and appropriate disposal area permitted pursuant to California State Solid and/or Hazardous Waste Management Standards; and

- (9) Commercial edible food resulting from commercial establishments for the purposes of redistribution and recovery for consumption.

Any transportation of solid waste collected in the city authorized by the section must be transported to a materials handling, recovery, transfer, or disposal facility, or site permitted by CalRecycle in strict compliance with any and all requirements of this chapter related to transportation and any regulations issued hereunder.

SECTION 13. Amendment. Section 74-39 is hereby amended to read as set forth below:

Sec. 74-39. – Solid Waste removal.

Except as otherwise provided by this chapter, all solid waste created, produced or accumulated in or about a residential premise situated in the city, shall be collected in a solid waste cart, and removed from the premises by the franchisee with a residential franchise at least once every week. All solid waste, created, produced or accumulated in or about any commercial premise with a fixed location shall be removed from the premises by a franchisee with a commercial franchise at least once every week. All solid waste, created, produced or accumulated in or about any mixed-use premise with a fixed location shall be removed from the premises by a franchisee at least once every week. Pursuant to regulations issued as required by section 74-2, the general services department may require a greater or lesser number of collections consistent with proper sanitation requirements. It is unlawful for the responsible person of any of such premises to fail or neglect to provide for the removal of solid waste as required by this section or regulations issued under this chapter. Each day's violation of this section shall be treated and considered to be a separate and distinct offense.

SECTION 14. Amendment. Section 74-40 is hereby amended to read as set forth below:

Sec. 74-40. - Mandatory service.

Except as otherwise expressly provided by this chapter, the responsible person of every commercial premise, mixed use premise and residential premise located within the city shall subscribe to a solid waste collection service operating pursuant to this chapter. Each business (DBA) and/or residential unit with a separate address and each separate business unit and each separate dwelling unit, under separate rental agreement, with a common address located on such parcel shall subscribe to such solid waste collection service.

- (b) Exceptions to this mandatory service requirement are listed in sections 74-38 and 74-138 of this chapter, but in any case any parcel owner of a five-acre or larger parcel may submit a written request for an exemption from mandatory service to the director, who will consider such requests on a case by case basis. The general services director and/or his or her

designees, will submit a written response within 30 days of receipt of a written request either approving or denying the exemption from mandatory service.

- (c) The department may, in connection with solid waste collection mandated by this section, adopt and issue from time to time, pursuant to section 74-2, regulations which prescribe the type, capacity and number of containers; the permissible loaded weight of containers; the weight, size, and method of packaging nonputrescible wastes; and may designate the location of solid waste collection containers and packages to be set out for collection. The department may also issue regulations for remotely located accounts that provide for exempting, by the department, any such remote account from the mandatory service requirement of this section or that provides for a special fee, set by the department, for service provided to any such remote account.
- (d) The collection of solid waste shall include subscription to designated recyclable materials and/or designated organic recyclable materials collection with the same franchisee. The department may issue written approval via an alternative exemption and compliance form, pursuant to section 74-129.

SECTION 15. Amendment. Section 74-42 is hereby amended to read as set forth below:

Sec. 74-42. - Solid waste accumulation.

No owner, tenant or occupant of any premises in the city, whether vacant or improved, shall allow any accumulation of solid waste to remain thereon for longer than two weeks if such solid waste is within 400 feet of any dwelling unit or commercial building, for more than four weeks if beyond such distance, nor for any period of time if such solid waste is determined by the department to constitute a nuisance and is directed to be removed.

SECTION 16. Amendment. Section 74-43 is hereby amended to read as set forth below:

Sec. 74-43. - Construction and demolition solid waste.

Solid waste from building construction or demolition may be stored on site and in the open for a period of not more than four weeks, provided that such waste is not hazardous or noxious and does not constitute a public nuisance. Solid waste which may be transported by the wind shall be placed in suitable containers daily and removed as necessary. Adequate storage capacity shall be provided to prevent littering of surrounding areas.

SECTION 17. Amendment. Section 74-44 is hereby amended to read as set forth below:

Sec. 74-44. - Public agency exemption.

Sections 74-38, 74-39 and 74-41 shall not be applicable to the United States, the state, the county, this city, a special district or any other local public agency with respect to the accumulation, collection or transportation of solid waste resulting from operations of such agency.

SECTION 18. Amendment. Section 74-44 is hereby amended to read as set forth below:

Sec. 74-45. - Departmental exemption

The department shall, upon application, grant a written exemption from the mandatory collection service requirements established by section 74-39 and 74-40 for any commercial or mixed use premise which does not generate solid waste, and may grant such an exemption for any residential premise if it determines that the occupant has adequate and appropriate arrangements for the disposal of solid waste and required subscription to collection service would constitute an unreasonable hardship or impractical burden.

SECTION 19. Amendment. Section 74-46 is hereby amended to read as set forth below:

Sec. 74-46. - Use of containers.

Under this chapter, no person, other than the customer who has contracted for service with a franchisee or a person with such customer's consent, shall deposit solid waste into a commercial solid waste bin, drop box or compactor placed in the city by a franchisee for the purpose of receiving solid waste.

SECTION 20. Amendment. Section 74-47 is hereby amended to read as set forth below:

Sec. 74-47. - Ownership of solid waste and salvageable materials.

It shall be unlawful for any person within the city, other than the franchisee to collect or remove solid waste placed by any person at a curb or in a container for collection.

SECTION 21. Amendment. Section 74-48 is hereby amended to read as set forth below:

Sec. 74-48. - Enforcement.

Sections 74-36, 74-37, 74-39, 74-40, 74-41, 74-42, 74-43, 74-44, 74-45, 74-46 and 74-47 shall be enforced by the general services director, and/or his or her designee.

SECTION 22. Amendment. Article III– Reserved is hereby amended to read as set forth below:

ARTICLE III. - RESERVED

SECTION 23. Amendment. Article IV. Business and Multifamily Recycling and Organics Recycling is hereby amended to read as set forth below:

ARTICLE IV. - RECYCLING AND ORGANICS RECYCLING

SECTION 24. Amendment. Section 74-126 is hereby amended to read as set forth below:

Sec. 74-126. Purpose and Declarations

- (a) It is the intent and purpose of this chapter to promote recycling and organics recycling by:
 - (1) Requiring commercial premise, mixed use premise or residential premise in the City of Citrus Heights to keep designated recyclable materials and/or designated organic recyclable materials separate from all other solid waste;
 - (2) Requiring commercial premise and mixed use premise to provide signs and labeled containers for the storage and collection of designated recyclable materials and/or designated organic recyclable materials;
 - (3) Requiring commercial premise and mixed use premise to either self-haul or enter into a written service agreement for the collection and subsequent recycling of designated recyclable materials and/or designated organic recyclable materials at an authorized or permitted processing facility; and
 - (4) Prohibiting the collection of solid waste to commercial premise and mixed use premise that are not subscribed to designated recyclable materials and/or designated organic recyclable materials collection with the same franchisee without written approval from the City for an alternative compliance and exemption form set forth in section 74-129(a)(3).

SECTION 25. Amendment. Section 74-128 is hereby amended to read as set forth below:

Sec. 74-128. – Recycling requirements.

- (a) Each commercial premise, mixed use premise or residential premise that generates more than the applicable amount of weekly solid waste established under the Act must make arrangements for the diversion of designated recyclable materials and/or organic recyclable materials, either through a collection service with a franchisee or by receiving an approval for an alternative compliance and exemption form from the City.

SECTION 26. Amendment. Section 74-129 is hereby amended to read as set forth below:

Sec. 74-129. - Requirements for designated recyclable material collection and designated organic recyclable material collection.

- (a) Each commercial premise, mixed use premise or residential premise subject to the requirements of section 74-128 must comply with the following requirements as applicable:
 - (1) Source separate designated recyclable materials and/or designated organic recyclable materials from solid waste.

- (2) Provide for a basic level of recycling service and/or organics recycling service that includes, at a minimum, the collection of designated recyclable materials and/or designated organic recyclable materials.
 - (3) Commercial premises shall:
 - (i) Enter into a written service agreement with a franchisee for the collection of garbage, designated recyclable materials and/or designated organic recyclable materials; or
 - (ii) Complete and submit a copy of an alternative compliance form to the City for approval. A copy of the approved alternative compliance and exemption form shall be maintained and made available to the general services director, and/or his or her designee, upon request; or
 - (iii) Complete and retain on-site an alternative compliance and exemption form certifying that all self-hauling activities will be completed in accordance with the provisions of this chapter or any other applicable law or regulation. A copy of such form shall be made available to the general services director, and/or his or her designee, upon request.
 - (4) Provide appropriate containers with prominent signage for designated recyclable materials and designated organic recyclable materials.
 - (5) Notify and instruct employees and tenants, in writing, of applicable source separation requirements, including a list of designated recyclable materials that are required to be source separated for designated recyclable materials and/or designated organic recyclable materials that are required to be source separated for recycling.
- (b) Each commercial premise shall provide recyclable materials containers for designated recyclable materials and/or designated organic recyclable materials in maintenance and work areas where designated recyclable materials and/or designated organic recyclable materials may be collected and/or stored.
 - (c) Each commercial premise and mixed use premise shall prominently post and maintain one or more signs where designated recyclable materials and/or designated organic recyclable materials are collected and/or stored that set forth what materials are required to be source separated, in addition to collection procedures for such materials.
 - (d) Each commercial premise and mixed use premise shall ensure that designated recyclable materials and/or designated organic recyclable materials generated at their site will be taken only to a recycling facility, and not to a landfill for disposal, by complying with all requirements under this chapter.
 - (e) The service agreement or other documents pertaining to this chapter, shall be available for inspection by the general services director, and/or his or her designee, at the principal location of the commercial premise or mixed use premise during normal business hours.
 - (f) Nothing in this chapter shall abridge the right of any commercial premise or mixed use premise, or any other person, to sell or exchange at fair market value its own designated recyclable materials and/or designated organic recyclable materials which are source separated for reuse and recycling.
 - (g) No franchisee shall be held liable for the failure of its customers to comply with such regulations.

- (h) No responsible person shall be liable for the failure of their franchisee to deliver designated recyclable materials and/or designated organic recyclable materials to a recycling or organics recycling facility.

SECTION 27. Amendment. Section 74-131 is hereby amended to read as set forth below:

Sec. 74-131. - Designation of recyclable materials and organic recyclable materials.

- (a) Designated recyclable materials and/or designated organic recyclable materials shall be source separated from solid waste before collection, removal, transportation or disposal pursuant to this chapter. The general services director, and/or his or her designee, shall specify designated recyclable materials and designated organic recyclable materials that must be source separated by all covered generators pursuant to section 74-129. The specifications for designated recyclable materials and designated organic recyclable materials shall consider materials market conditions and the availability of a cost-effective system for recycling such materials.
- (b) Furthermore, all franchisees are encouraged to recycle additional materials, whether or not they have been specified as designated recyclable materials and designated organic recyclable materials.

SECTION 28. Amendment. Section 74-132 is hereby amended to read as set forth below:

Sec. 74-132. - Ownership of recyclable materials and organic recyclable materials.

- (a) All designated recyclable materials and designated organic recyclable materials placed in automatic lift containers, bins or roll-off bins shall be considered owned by and be the responsibility of the franchised waste hauler. Without permission of either the general services director, and/or his or her designee or the franchised waste hauler, no person shall collect designated recyclable materials and/or designated organic recyclable materials placed in automatic lift containers, bins or roll-off bins for recyclable materials and/or organic recyclable materials by customers.
- (b) Except as authorized by section 74-138 (self-hauling) below, it shall be unlawful for any person to engage in the business of collecting, removing or transporting, or to otherwise organize, direct or sponsor the collection, removal or transportation of designated recyclable materials and/or designated organic recyclable materials who is not a franchisee.

SECTION 29. Amendment. Section 74-133 is hereby amended to read as set forth below:

Sec. 74-133. - Requirements for franchisees.

- (a) Solid waste haulers shall be "franchised" pursuant to the provisions of chapter 74 of this Code, and such "franchise agreement" shall be in full force and effect.
- (b) Franchisees shall offer collection service and automatic lift containers, bins or roll-off bins for designated recyclable materials and/or designated organic recyclable materials sufficient

to accommodate the quantity and types of designated recyclable materials and designated organic recyclable materials to all its solid waste customers.

- (c) Franchisees shall equip and provide automatic lift containers, bins and roll off bins for designated recyclable materials and/or designated organic recyclable materials with locks and/or other suitable features to prevent theft of recyclable materials.
- (d) Franchisees may subcontract for collection of designated recyclable materials and/or designated organic recyclable materials, so long as the subcontractor holds a current franchise agreement.
- (e) Franchisees shall conduct all activities in accordance with all applicable state and local laws and best management practices. Vehicles, equipment and containers shall be kept in a clean and well-maintained condition.
- (f) Franchisees shall not take a customer's designated recyclable materials to a landfill or other disposal site, but to a recycling facility or designated organic recyclable materials to a landfill or other disposal site, but to an organics recycling facility.
- (g) Franchisees, upon request, shall provide the general services director, and/or his or her designee, with a copy of a service agreement or other document (e.g., receipt from a recycling facility) demonstrating that the commercial premise, mixed use premise or residential premise designated recyclable materials and/or designated organic recyclable materials are being taken to a recycling facility. The service agreement or other documents shall be available for inspection by the general services director, and/or his or her designee, at the franchisee's place of business during normal business hours.
- (h) City staff may audit all franchisees' records.
- (i) Franchisee shall not provide garbage collection services to commercial premise or mixed use premise that are not subscribed to designated recyclable materials and designated organic recyclable materials collection with the same franchisee or without written approval from the city for alternative compliance and exemption form set forth in section 74-129(a)(3).

SECTION 30. Amendment. Section 74-134 is hereby amended to read as set forth below:

Sec. 74-134. - Requirements for service agreements.

- (a) Franchisees shall execute a written service agreement each commercial, mixed use premise and residential premise, as required in section 74-129 of this chapter, before the franchisee begins to collect garbage and/or designated recyclable materials and/or designated organic recyclable materials.
- (b) Service agreements shall incorporate, but are not limited to, the following terms and conditions:
 - (1) Be clearly labeled as a service agreement;
 - (2) Describe the garbage and/or designated recyclable materials and/or designated organic recyclable material collection services and/or designated organics recyclable materials

collection services to be provided by the franchisee, and the cost for providing such services to the customer;

- (3) Clearly state the initial term and renewal terms;
 - (4) Include the condition, as applicable, that the franchised waste hauler cannot provide garbage collection services to a commercial premise or mixed use premise unless:
 - The commercial premise or mixed use premise is also receiving both recyclable materials and organics recyclable waste collection services from the franchised waste hauler; or
 - The city has received and provided the commercial premise or mixed use premise with written approval of its alternative compliance and exemption form request.
 - (5) May contain automatic renewal for successive periods of no longer than one year, unless either party gives written notice of termination by certified or registered mail at least 60 days prior to termination date of the current agreement;
 - (6) May be amended as mutually agreed upon by the customer and the franchisee;
 - (7) Customers are to receive a written notice of price increases not less than 30 days prior to the effective date of such price increase;
 - (8) Franchisees shall respond to customer inquiries regarding the service agreement within 30 days;
 - (9) Include language stating that collection containers will be removed from the property of a customer within 30 days of final termination of services to the customer;
 - (10) Not require customers to pay over three months' liquidated damages during the renewal term and over six months' liquidated damages during the initial term of the service agreement;
 - (11) Not require a customer to give a franchisee the exclusive right to provide designated recyclable materials collection and/or designated organic recyclable materials collection services as a condition of a service agreement, unless the customer affirmatively indicates that is its desire;
 - (12) Not require customers to give notice of any offer by a competitor or require customers to give franchised waste haulers the right to respond to such an offer;
 - (13) Franchise agreements must be in full force and effect for the service agreement to be effective.
 - (14) The franchisee cannot provide garbage collection services unless the commercial premise or mixed use premise is also receiving both designated recyclable materials and designated organics recyclable waste collection without written approval from the city for an exemption or waiver set forth in section 74-129(a)(3).
- (c) The requirements for service agreements contained in this section shall be incorporated into all new service agreements upon enactment of this chapter. Existing service agreements between a franchisee and a customer executed before the effective date of this chapter shall remain in force for the remainder of the existing contract and shall be governed by the terms and conditions specified in the existing service agreement, provided that such existing

service agreements shall comply, to the extent allowable by law, with the new recycling and organics recycling programs established by this chapter.

- (d) National contracts or agreements are exempt from the requirements of contract length and renewal terms.

SECTION 31. Amendment. Section 74-135 is hereby amended to read as set forth below:

Sec. 74-135. - RESERVED

SECTION 32. Amendment. Section 74-136 is hereby amended to read as set forth below:

Sec. 74-136. - RESERVED

SECTION 33. Amendment. Section 74-137 is hereby amended to read as set forth below:

Sec. 74-137. - Requirements for multi-family residential properties.

- (a) Multi-family residential tenants shall be responsible for compliance with the requirement to source-separate designated recyclable materials and/or designated organic materials from solid waste pursuant to subsection 74-129(a)(1).
- (b) No multi-family residential property owner pursuant to this chapter shall be cited for noncompliance with this chapter as a result of the failure of his or her rental property tenants to source separate designated recyclable materials and/or designated organic materials from solid waste pursuant to subsection 74-129(a)(1).
- (c) Multi-family residential property owners who are covered generators pursuant to this chapter shall be responsible for compliance with subsections 74-129(a)(2), (3), (4), and (5), as well as subsections 74-129(b), (c), (d), and (e).
- (d) Every multi-family residential unit shall have a designated recyclable material and/or designated organic recyclable materials container provided by either the multi-family residential property owner or by the multi-family residential tenant as part of their rental agreement.

SECTION 34. Amendment. Section 74-138 is hereby amended to read as set forth below:

Sec. 74-138. - Requirements for self-hauling.

- (a) A responsible person may self-haul or transport designated recyclable materials and/or designated organic recyclable materials generated and collected at its commercial premise, mixed use premise, or residential premise to a recycling facility that diverts designated materials from disposal, rather than hiring a franchised waste hauler, only if a responsible person of the entity completes this activity by utilizing a vehicle owned by either an

employee or the entity and has submitted an alternative compliance form to the City and received written approval for self-hauling activities.

- (b) A responsible person that self-hauls or transports designated recyclable materials and/or designated organic recyclable materials under the provisions of this chapter shall follow established provisions pursuant to section 74-129.
- (c) A responsible person that self-hauls or transports designated recyclable materials and/or designated organic recyclable materials generated and collected at its commercial premise, mixed use premise or residential premise to a recycling facility without the utilization of a franchisee must complete and retain on-site an approved alternative exemption and compliance form that certifies that all self-hauling activities will be completed in accordance with the provisions of this chapter and all applicable laws or regulations. The alternative compliance and exemption form shall be made available to the general services director, and/or his or her designee, upon request. At a minimum, the responsible person shall provide the following information on the alternative compliance and exemption form:
 - 1) The name, address and telephone number of the responsible person that is signing the alternative compliance and exemption form.
 - 2) A list of the types of designated recyclable materials and/or designated organic recyclable materials being self-hauled.
 - 3) For each type of designated recyclable material and/or designated organic recyclable material, the amount that is being taken from the commercial premise, mixed use premise or residential premise to a recycling and/or organics facility quarterly.
 - 4. The name and address of the recycling and/or organic recycling facility(ies).
 - (5) A written statement signed by the responsible person certifying that the responsible person at the commercial premise, mixed use premise or residential premise agrees to comply with the requirements of this chapter.
- (d) The alternative compliance and exemption form shall contain a written statement signed by the responsible person at the commercial premise, mixed use premise or residential premise certifying that the owner or generator is in compliance with the requirements of this chapter.
- (e) The general services director, and/or his or her designee, may restrict or prohibit self-hauling by a if the general services director, and/or his or her designee, determines, after providing 30-day written notice and an opportunity for a hearing, that the self-hauling activities violate the provisions of this chapter or any other applicable law or regulation.
- (f) The general services director, and/or his or her designee, will notify the responsible person at the commercial premise, mixed use premise or residential premise if the alternative compliance and exemption form has been approved within 14 days of receiving the submitted request.

SECTION 35. Amendment. Section 74-139 is hereby amended to read as set forth below:

Sec. 74-139. - Appeal upon denial of certificate of operation or self-haul certificate.

- (a) Within 30 days of written notification of denial, or within 60 days of general services director's and/or his or her designee's failure to act on the certificate, applicant has the right

to meet with the general services director, and/or his or her designee, to review the items cited in the written notice and provide any additional evidence to support an approval. Within 15 days of such meeting, the general services director, and/or his or her designee, will make a final, written determination of the application based on the reviews of additional evidence, together with the original application. The general services director, and/or his or her designee, will send a copy via mail or email of all final, written determinations, including reasons for denial, if any, to both applicant and the city manager.

- (b) Applicant may, within ten days after receiving the final denial from the general services director, and/or his or her designees, request a public hearing before the city council by submitting to the city clerk a written petition for an appeal hearing. If a public hearing is requested, the city clerk shall set the matter for hearing at the next possible regularly scheduled city council meeting or any later date as agreed upon by the applicant and city clerk. At such hearing, applicant may present evidence in writing and through testimony of its employees and others relevant to the application. During such hearing, the city council may demand from the applicant such additional information as the city council may deem relevant and necessary. Standard rules of evidence are not in effect at such public hearing, and the applicant shall have the burden of proof to show facts demonstrating that the applicant does, in fact, meet the requirements of this chapter. Any hearing may be continued or adjourned to a stated time and place without the giving of further notice. The city council will provide applicant with a written explanation of its determination on the application within 30 days of such hearing. The city council's decision is final.

SECTION 36. Amendment. Section 74-140 is hereby amended to read as set forth below:

Sec. 74-140. - Reporting.

- (a) Franchisees shall provide the following reports to the city, no later than the last day of the month for the preceding reporting period. Reporting shall occur on a quarterly basis, or as requested by the general services director and/or his or her designee. Reports shall include, at a minimum, the following information:
 - (1) The total number of commercial premise, mixed use premise and residential premises in the city that are in compliance with the Act;
 - (2) The total number of commercial premise, mixed use premise and residential premises that are customers of the franchisee in the city;
 - (3) The total number of commercial premise, mixed use premise and residential premises that remain in violation of the Act for any reason;
 - (4) The total weekly cubic yards of garbage collection service, designated recyclable materials, and/or designated organic recyclable materials collection service provided to commercial premise, mixed use premise and residential premises during the reporting period.

Due dates for reporting are:

Reporting Period	Due Date
January 1—March 31	April 30

April 1—June 30	July 31
July 1—September 30	October 31
October 1—December 31	February 1

- (b) If the quarterly report is not filed by the due dates above, the report shall be deemed delinquent and the franchisee shall pay to the city a delinquent report charge in the amount of \$50.00 per day. If the report remains delinquent for more than 15 days, the franchisee shall pay to the city a delinquent report charge in the amount of \$100.00 per day.
- (c) Franchisee’s failure to file the reports required by this chapter shall constitute cause for termination or suspension the franchisee's franchise pursuant to chapter 74 of the city Municipal Code.
- (d) Self-haulers shall prepare quarterly reports to be kept on site identifying, at a minimum, the following:
 - (1) The designated recyclable materials and/or designated organic recyclable materials tonnage collected and removed within the city limits during the previous quarter.
 - (2) The location of the recycling facility(s) to which the recyclable materials were taken and/or the location of the organics recycling facility(s) to which the organic recyclable materials were taken during the previous quarter.
- (e) The general services director, and/or his or her designee, shall provide and establish guidelines, forms and other appropriate material to assist franchisees and self-haulers in preparing the reports required by this chapter.

SECTION 37. Amendment. Section 74-141 is hereby amended to read as set forth below:

Sec. 74-141. - Exemptions from recycling standards.

- (a) Notwithstanding any other provision herein, a commercial premise or mixed use premise shall be exempt from the recycling requirements of this chapter if the owner or generator subscribes to less than the applicable amount of weekly solid waste established under the Act..
- (b) Notwithstanding any other provision herein, a commercial, mixed use premise or residential premise shall not be required to source separate recyclable materials and/or organic recyclable materials if the responsible person , demonstrates to the general services director and/or his or her designee that there is no collection service or other system available for recycling and/or organics recycling of such material.
- (c) Notwithstanding any other provision herein, a commercial premise, mixed use premise or residential premise shall be exempt from the designated recyclable materials and/or designated organics recyclable materials requirements in section 74-129 if all of the generators on the commercial premise, mixed use premise or residential are exempt from or

not required to comply with the provisions of section 74-129, or if designated recyclable materials and/or designated organics recyclable materials are not being generated by any activities occurring on the property.

- (d) Commercial premise, mixed use premise or mixed use premise may be exempted by the general services director, and/or his or her designee, if it is determined through a site visit that:
 - (1) that there is not adequate storage space for automatic lift containers, rolling carts, bins or roll-off bins for designated recyclable materials and/or designated organic recyclable materials on site and that it is infeasible for the premise to share automatic lift containers, rolling carts, bins or roll-off bins for designated recyclable materials and/or designated organic recyclable materials with another premise on an adjoining property; or
 - (2) that compliance with this chapter results in a violation of the city's zoning code, including city zoning regulations for minimum parking spaces. If the general services director, and/or his or her designee, determines that it is feasible for recycling containers to be placed on site or shared with an adjoining generator, the responsible person at the premise will be responsible for compliance with this chapter.
- (e) An application for an exemption shall be submitted to the general services director, and/or his or her designee, on a form prescribed by the general services director, and/or his or her designee. After reviewing the request, the general services director, and/or his or her designee, shall either approve or disapprove the exemption request.
- (f) The following persons shall automatically be exempt from the requirements of this chapter:
 - (1) The United States, State of California, a city, the county, a special district or other local public agency, or any employee or member of the Armed Forces thereof, when collecting or transporting designated recyclable materials and/or designated organic recyclable materials produced by operation of the public entity under a system of recyclable materials' collection and transportation operated and maintained by the public agency within the city limits as specified herein and in this chapter.
 - (2) Municipal corporations and other governmental agencies using their own vehicles and employees engaged in the collection, transportation or disposal of designated recyclable materials and/or designated organic recyclable materials within the city.

SECTION 38. Amendment. Section 74-142 is hereby amended to read as set forth below:

Sec. 74-142. - City rules and regulations.

- (a) The general services director, and/or his or her designee, is authorized to make and enforce administrative rules and regulations governing designated recyclable materials and designated organics recyclable materials at residential premises, commercial premises or mixed use premises, and all related activities including recycling, organics recycling, and commercial solid waste generation, storage, recovery, accumulation, collection, removal, transportation and disposal; the manner in which commercial garbage, designated recyclable material, and designated organic recyclable material services are provided; types of commercial garbage, recycling, and organics containers and vehicles used for the operation and maintenance of sanitary methods of commercial garbage, recycling, and organics

recycling disposal; reporting requirements for franchised waste haulers and self-haulers; and for the effective administration of this chapter. All such rules and regulations shall be consistent with the provisions of the city Municipal Code and shall be effective on the thirtieth day following the filing of any such rules and regulations with the city clerk.

- (b) The city council may, and is hereby empowered to, grant to a qualified applicant a non-exclusive franchise to engage in the business of collecting, transporting or disposing of commercial solid waste or designated recyclable materials or designated organic recyclable materials kept, accumulated or generated in the city limits.
- (c) The city council may, directly or by delegating such authority by ordinance or resolution, grant franchises based on compliance with this chapter. Any grant of a franchise by the city council may be subject to such terms, conditions, rules, regulations, restrictions, and limitations, as the city council deems necessary to protect the public health, safety, or welfare.
- (d) The city council hereby empowers and grants to the general services director, and/or his or her designee, the authority to enter into commercial non-exclusive collection service agreements (commercial non-exclusive franchises) with franchisees, to make administrative and non-substantive changes to certificates of operation forms, to specify designated recyclable materials and designated organic recyclable materials, and make administrative rules and regulations governing covered generators.
- (e) The city council hereby empowers and grants to the general services director, and/or his or her designee, the authority to administer, implement and enforce this chapter and administrative rules and regulations governing commercial premises, mixed use premise and residential premise designated recyclable materials collection and/or designated organics recyclable material collection thereafter.
- (f) It shall be unlawful and constitute a violation of this chapter for any person to violate or otherwise fail to comply with any rule or regulation issued pursuant to this chapter.

SECTION 39. Amendment. Section 74-143 is hereby amended to read as set forth below:

Sec. 74-143. - Rights reserved to city.

In addition to all other rights reserved to the city, the following shall apply:

- (1) There is hereby reserved to the city every right and power, and the exercise thereof, which is reserved or authorized by any provision of any lawful code, title or resolution of the city, whether enacted before or after the effective date of this chapter.
- (2) Neither the granting of any franchise or authorization, nor any provision of any franchise or authorization, shall constitute a waiver of or a bar to exercise of any governmental right or power of the city.
- (3) The grantee receiving any type of franchise agreement, license or certificate to collect recyclable materials and/or organic recyclable materials shall have no recourse whatsoever against the city, its officers, employees or agents, or any of the city member entities, their officers, employees, or agents for any loss, cost, expense or damage arising out of any provision or requirement of this chapter, commercial or residential

franchise agreement issued under this chapter or because of the enforcement of this chapter.

- (4) There is hereby expressly reserved to the city council the power and authority to amend any section of this chapter so as to require additional or greater standards on the part of the franchisee, commercial premise, mixed use premise or residential premise.

SECTION 40. Amendment. Section 74-144 is hereby amended to read as set forth below:

Sec. 74-144. - Administration and costs.

- (a) The administration of this chapter is the duty of the general services director, and/or his or her designee. The general services director, and/or his or her designee, is authorized and directed by the city council to administer this chapter.
- (b) Commercial franchise fees may be used to fund solid waste related activities, including, but not limited to, administration, implementation and enforcement costs, road maintenance, and capital costs as programmed and adopted in the city budget

SECTION 41. Amendment. Section 74-145 is hereby amended to read as set forth below:

Sec. 74-145. - Unlawful acts.

- (a) It shall be unlawful to combine designated recyclable materials and designated organic recyclable materials with garbage. Failure of a residential premise, commercial premise or mixed use premise to source separate designated recyclable materials and/or designated organic recyclable materials for recycling or organics recycling is a violation of this chapter.
- (b) It shall be unlawful for franchisees to commingle materials in garbage bins or carts with materials in recycling bins or carts and/or organics recycling bins or carts in one collection vehicle.
- (c) It shall be the responsibility of the responsible person whose garbage was not removed because it contained designated recyclable materials and/or designated organic recyclable materials to properly separate designated recyclable materials and/or designated organic recyclable materials from the uncollected garbage for proper recycling and/or organics recycling. Allowing such unseparated garbage to accumulate will be considered a violation of this chapter.

SECTION 42. Amendment. Section 74-146 is hereby amended to read as set forth below:

Sec. 74-146. - Implementation and enforcement.

The implementation and enforcement of chapter IV is the duty of the general services director, and/or his or her designee, of the city's general services department. The general services director, and/or his or her designee, is authorized and directed by the city council to implement and enforce this chapter.

SECTION 43. Amendment. Section 74-147 is hereby amended to read as set forth below:

Sec. 74-147. - Posting of notices.

- (a) The general services director, and/or his or her designee, may post notices on automatic lift containers, bins and roll-off bins that are used for solid waste collection and the collection of designated recyclable materials, and the collection of designated organic recyclable materials within the city limits if the owner of the automatic lift containers, bins and roll-off bins is in violation of this chapter, including, but not limited to, any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that the general services director, and/or his or her designee, is authorized to enforce or implement pursuant to this chapter.
- (b) A notice shall remain on automatic lift containers, bins and roll-off bins that are used for solid waste collection and the collection of designated recyclable materials, and the collection of designated organic recyclable materials within the city so long as the owner of the automatic lift containers, bins and roll-off bins is in violation of this chapter. The notice shall be posted on the automatic lift container, bin, and/or roll-off bin so as to be clearly visible to the general public and include all of the following information:
 - (1) The date the notice was posted on the container.
 - (2) The address or location of the property, including the identification of any dwelling unit, room number, apartment number, business or multi-family residential property.
 - (3) The name and contact telephone number of the agency posting the notice on the property.
 - (4) The city Municipal Code section that has been violated.
 - (5) A statement that it is unlawful for any person to engage in the business of collecting, transporting or disposing of commercial solid waste kept, accumulated or generated in the city, or to engage in the business of soliciting accounts or invoicing customers for commercial solid waste service in the city unless a franchise has first been granted pursuant to the provisions of this chapter and such a franchise is in full force and effect.
- (c) A statement that a person violating the posted notice is subject to criminal penalties pursuant to city code and administrative civil penalties in an amount of up to \$1,000.00 per day for each violation.
- (d) A statement that a person disturbing or destroying the posted notice is subject to administrative civil penalties in an amount of up to \$1,000.00, in addition to any other remedies provided by this chapter.

SECTION 44. Amendment. Section 74-148 is hereby amended to read as set forth below:

Sec. 74-148. - Notice of violation.

The general services director, and/or his or her designee, may issue a notice of violation to any person found to be in violation of a provision of this chapter, including, but not limited to,

any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that the general services director, and/or his or her designee, is authorized to enforce or implement pursuant to this chapter. Issuance of a notice of violation may also result in the issuance of a notice of administrative enforcement order pursuant to this chapter.

SECTION 45. Amendment. Section 74-149 is hereby amended to read as set forth below:

Sec. 74-149. - Notice of violation—Content.

- (a) In addition to any other content, a notice of violation shall contain the following elements:
 - (1) A statement of the general services director, and/or his or her designee, that indicates a violation has occurred.
 - (2) A citation of the provision of this chapter, including any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that has been violated.
 - (3) A date by which any person must be in compliance with this chapter including any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement, or a date by which an action plan must be submitted by the person to propose a means and time frame by which to correct violations. The general services director, and/or his or her designee, may extend the compliance date when good cause exists for such an extension.
 - (4) Notification that continued non-compliance may result in additional enforcement action being taken against the business, facility, or any responsible persons.
 - (5) Notification that the city may recover any costs incurred by the city as a result of the violation.
 - (6) Notification that a violation of this chapter may result in an administrative civil penalty or in criminal penalties.
 - (7) Notification that the correction of any alleged violation(s) within the specified deadline date(s) will not necessarily prevent the general services director, and/or his or her designee, from issuing an administrative enforcement order and imposing administrative civil penalties relating to the alleged violation(s).
- (b) In addition to any other content, a notice of violation may establish required corrective actions, including the following:
 - (1) Terms, conditions, and requirements reasonably related to the provisions of this chapter, including the following:
 - a. Cessation of prohibited actions.
 - b. Correction of prohibited conditions.
 - c. A requirement for submittal of a written action plan for achieving and maintaining compliance with this chapter.
 - d. Reporting requirements to demonstrate ongoing compliance.

- (2) A requirement that the person receiving same shall submit written certification to the general services director, and/or his or her designee, that the necessary corrective actions have been completed. As appropriate for the type of correction action taken, the notice of violation may require documentation that substantiates the certification, including but not limited to, receipts, contracts, or photographs.
 - (3) Any other terms or conditions reasonably calculated to prevent additional violations of this chapter.
- (c) An administrative enforcement order may be issued separately, but only after issuance of a notice of violation, or in combination with a notice and order, for the same violations or set of related violations.

SECTION 46. Amendment. Section 74-150 is hereby amended to read as set forth below:

Sec. 74-150. - Administrative enforcement order.

- (a) If the general services director, and/or his or her designee, determines that a responsible person or franchisee, has committed or is committing, a violation of any provision of this chapter, the general services director, and/or his or her designee, may issue an administrative enforcement order, after issuing a notice of violation or in combination with a notice of violation, requiring that the violation be corrected and imposing an administrative penalty.
- (b) Pursuant to this chapter, the violator shall be liable for a penalty consistent with the requirements of the Act or of not more than \$1,000.00 for each day on which each violation occurs and/or continues, whichever is greater.

SECTION 47. Amendment. Section 74-151 is hereby amended to read as set forth below:

Sec. 74-151. - Administrative enforcement order—Content.

- (a) In addition to any other content, an administrative enforcement order shall contain the following elements:
 - (1) A statement of the general services director, and/or his or her designee's, that indicates a violation has occurred.
 - (2) A citation of the provision of this chapter including any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that has been violated.
 - (3) A date by which any person must be in compliance with this chapter, or a date by which an action plan must be submitted by the person to propose a means and time frame by which to correct violations. The general services director, and/or his or her designee, may extend in writing the compliance date when good cause exists for such an extension.
 - (4) Notification that continued non-compliance may result in additional enforcement action being taken against the business, facility, or any responsible persons.

- (5) Notification that the city may recover any costs incurred by the city as a result of the violation.
 - (6) Notification as to whether an administrative civil penalty is imposed and the terms and conditions of payment, if any. In establishing the penalty amount, the general services director, and/or his or her designee, shall take into consideration:
 - a. The nature, circumstances, extent, and gravity of the violation;
 - b. The violator's past and present efforts towards compliant behavior;
 - c. The violator's ability to pay the penalty;
 - d. The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
 - (7) Notification that the correction of any alleged violation(s) within the specified deadline date(s) will not necessarily prevent the general services director, and/or his or her designee, from issuing an administrative enforcement order and imposing administrative civil penalties relating to the alleged violation(s).
 - (8) Notification that the recipient has a right to a hearing on the matter as set forth in this chapter to appeal any findings or required corrective actions established by the general services director, and/or his or her designee.
 - (9) Notification of procedures for requesting a hearing under in this chapter.
- (b) In addition to any other content, an administrative enforcement order may establish required corrective actions, including the following:
- (1) Terms, conditions, and requirements reasonably related to the provisions of this chapter, including the following:
 - a. Cessation of prohibited actions.
 - b. Correction of prohibited conditions.
 - c. A requirement for submittal of a written action plan for achieving and maintaining compliance with this chapter.
 - d. Reporting requirements to demonstrate ongoing compliance.
 - (2) A requirement that the person receiving same shall submit written certification to the general services director, and/or his or her designee, that the necessary corrective actions have been completed. As appropriate for the type of correction action taken, the notice of violation may require documentation that substantiates the certification, including, but not limited to, receipts, contracts, or photographs.
 - (3) Any other terms or conditions reasonably calculated to prevent additional or on-going violations of this chapter.
- (c) A notice of violation or an administrative enforcement order may be issued separately or in combination with another notice or order for the same violations or set of related violations.

SECTION 48. Amendment. Section 74-152 is hereby amended to read as set forth below:

Sec. 74-152. - Delivery of notice or order.

Any notice of violation, franchise agreement revocation, administrative enforcement order or other enforcement action pursuant to the requirements of this chapter shall be subject to the following requirements:

- (1) Delivery shall be deemed complete upon either personal delivery to the recipient or by certified mail.
- (2) Where the recipient of the notice or order is the responsible person of the premises, the address for notice or order shall be the address from the most recently issued equalized assessment roll for the premises.
- (3) Where the responsible person of any premises cannot be located after reasonable efforts of the general services director, and/or his or her designee, the notice or order shall be deemed delivered after posting on the premises for a period of ten business days.

SECTION 49. Amendment. Section 74-153 is hereby amended to read as set forth below:

Sec. 74-153. - Administrative appeals.

- (a) *Hearing request.* Any responsible person served with an administrative enforcement order issued pursuant to this chapter may contest the order on the basis that there was no violation of this chapter or that he or she is not the responsible party. To contest the order, the person shall submit a request for hearing form to the city within 15 days from the date of the administrative enforcement order. Directions on how to obtain the request form will be provided on the order.
- (b) *Filing fee.* The completed request must be submitted together with a filing fee, established and amended from time to time by the general services director, and/or his or her designee, based on actual expense to conduct the hearing by the hearing officer.
- (c) *Notice of hearing.* The responsible person requesting the hearing shall be notified of the time and place set for the hearing at least ten days before the date of the hearing.
- (d) *Additional reports.* If the general services director, and/or his or her designee, submits an additional written report concerning the administrative enforcement order to the hearing officer for consideration at the hearing, then a copy of this report also shall be provided to the person requesting the hearing at least five days before the date of the hearing.

SECTION 50. Amendment. Section 74-155 is hereby amended to read as set forth below:

Sec. 74-155. - Hearing procedure.

- (a) *Setting the hearing.* A hearing before the hearing officer shall be set for a date that is not less than 15 days nor more than 60 days from the date that the request for hearing is filed. The person requesting the hearing shall be notified of the time and place set for the hearing as soon as it is set, and at least ten days before the hearing. If the general services director,

and/or his or her designee, submits a written report concerning the citation to the hearing officer for consideration at the hearing, then a copy of the report shall be served on the person requesting the hearing at least five days before the hearing. No hearing shall be held unless the filing fee has been paid in advance as required in this chapter.

- (b) *Failure to appear.* The failure of the person requesting the hearing to appear at the hearing shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.
- (c) *At the hearing.* The administrative enforcement order and any additional report submitted by the general services director, and/or his or her designee, shall constitute prima facie evidence of the respective facts contained in those documents. At the hearing, the party contesting the citation shall be given the opportunity to testify and to present evidence concerning the citation.
- (d) *Continuances.* The hearing officer may continue the hearing and may request additional information from the general services director, and/or his or her designee, or the person receiving the administrative enforcement order before issuing the decision.

SECTION 51. Amendment. Section 74-156 is hereby amended to read as set forth below:

Sec. 74-156. - Form and contents of decision—Finality of decision.

- (a) Following the hearing, the hearing officer shall issue an order in writing no later than 30 days from the date of the hearing, unless the time is waived by the parties. The order shall contain findings of fact and rationale appropriate to the violation and result, and a resolution of the essential issues raised, including the following:
 - (1) Confirmation or denial of the occurrence of violations of this chapter that are alleged by the general services director, and/or his or her designee;
 - (2) Confirmation or rejection of any administrative civil penalty sought by the general services director, and/or his or her designee, and establishment of the monetary amount of any administrative civil penalty to be enforced; and
 - (3) Confirmation, amendment, or rejection of required corrective actions related to compliance with this chapter that are imposed by the general services director, and/or his or her designee, but only if those requirements are appealed by the person.
- (b) The hearing officer's order shall uphold required corrective actions if the responsible person fails to show clear and convincing evidence that the required corrective actions are unreasonable or unnecessary for achieving or demonstrating ongoing compliance with this chapter. The hearing officer's order may amend or reject required corrective actions provided that compliance with this chapter will be achieved.
- (c) The hearing officer's order shall inform the responsible person that failure to comply with the hearing officer's order shall constitute a misdemeanor and is subject to additional enforcement action, including criminal penalties and additional civil and administrative penalties.

- (d) The hearing officer's order shall inform the responsible person that the time and manner by which a person may file a challenge to the Hearing Officer's order is governed by Government Code § 53069.4, or any successor provision thereto.
- (e) The order issued by the hearing officer pursuant to this chapter shall be effective upon issuance. The decision of the hearing officer is final and may not be appealed.

SECTION 52. Amendment. Section 74-157 is hereby amended to read as set forth below:

Sec. 74-157. - Procedures for collection of administrative civil penalty.

- (a) Any administrative penalty due shall be paid to the city within 30 days after the hearing officer's decision is issued. If the penalty is not timely paid, the general services director, and/or his or her designee, may pursue all reasonable and legal means in collecting those sums authorized and due.
- (b) All administrative civil penalties collected from actions brought pursuant to this chapter shall be paid to the general services director and/or his or her designee, enforcing this chapter, and shall be expended to fund the activities of the department to implement the applicable provisions of this chapter.

SECTION 53. Amendment. Section 74-158 is hereby amended to read as set forth below:

Sec. 74-158. - Actions not prohibited.

This chapter does not do any of the following:

- (1) Otherwise affect the authority of the general services director, and/or his or her designee, to take any other action authorized by any other provision of law.
- (2) Restrict the power of a city attorney, district attorney, or the attorney general to bring, in the name of the people of California, any criminal proceeding otherwise authorized by law.
- (3) Prevent the general services director, and/or his or her designee, from cooperating with, or participating in, proceedings specified in subsection 74-157(b) above.

SECTION 54. Amendment. Section 74-159 is hereby amended to read as set forth below:

Sec. 74-159. - Penalties.

In addition to the administrative penalties imposed by section 74-149 of this chapter, the city may seek all other legal remedies available under state law and under this Code, including, but not limited to, criminal sanctions.

SECTION 55. Amendment. ARTICLE V SOLID WASTE COLLECTION is hereby amended to read as set forth below:

ARTICLE V. - SOLID WASTE COLLECTION

SECTION 56. Amendment. Section 74-166 is hereby amended to read as set forth below:

Sec. 74-166. - Award of franchise.

The city council may, at its sole discretion and upon such terms as it may prescribe, consistent with state law, award an exclusive or non-exclusive franchise to any qualified person to provide collection of solid waste and salvageable material for commercial premise, mixed use premise and residential premise in the city.

SECTION 57. Amendment. Section 74-167 is hereby amended to read as set forth below:

Sec. 74-167. - Fee for provision of service by city's franchisees.

- (a) Every responsible person who receives collection services from the city's franchisee shall pay a fee for the service. Maximum rates of compensation for residential collection services under the franchise agreement shall be established by a resolution adopted by the city council or in the franchise agreement.
- (b) The city's franchisee shall bill customers directly for refuse collection service. Except as provided herein, the refuse service charge for residential collection services shall be billed no less frequently than bimonthly. The residential solid waste collection service charge bill shall be due and payable 30 days after the date of billing and shall become delinquent 60 days after the date of billing. At the city's request, the franchisee shall make customer billing information available to the city for inspection.
- (c) The city's franchisee shall reconcile payments by customers against amounts billed to verify any delinquency in payment by customers. The franchisee shall make good faith efforts to collect on delinquent accounts.

SECTION 58. Amendment. Section 74-168 is hereby amended to read as set forth below:

Sec. 74-168. - Residential delinquency penalty.

Any residential solid waste collection service fee unpaid at the end of 60 days, when it becomes delinquent as designated in section 74-167, shall incur an added penalty charge of up to ten percent of the amount that has become delinquent. The delinquent amount, including the ten-percent penalty charge, shall thereafter incur an added penalty charge of up to 0.5 percent per month until paid or placed on the annual tax bill.

SECTION 59. Amendment. Section 74-169 is hereby amended to read as set forth below:

Sec. 74-169. - Lien.

- (a) Each customer service charge for residential solid waste collection service provided to a parcel located within the city, as described in section 74-40, and provided by the franchisee, together with any penalties levied on any such charges pursuant to resolution or ordinance adopted by the council or rules filed by the department pursuant to section 74-2 of this chapter, is made a lien upon any such parcel receiving such solid waste collection services, and any proceedings authorized by law to enforce payment of such liens may be taken by the city to enforce payment of such charges and penalties.
- (b) For five-acre and larger parcels wherein the owner has voluntarily subscribed to solid waste collection service, the parcel shall be lienable under this section.

SECTION 60. Amendment. Section 74-170 is hereby amended to read as set forth below:

Sec. 74-170. - Owner responsibility.

All charges for residential solid waste collection service for any parcel located within the city, as described in section 74-40, shall be billed to the owner of record of any such parcel as shown upon the county assessor's roll as of the date that solid waste collection service is commenced for the parcel. Alternatively, with the prior written consent of the owner of record the charges may be billed to his/her successor in interest to such person, such person's designee, or to any person requesting that such charges be billed to him or her; but in all cases the owner shall be liable for the charges and shall receive a copy of the bill. This section shall apply to all parcels receiving residential solid waste collection service.

SECTION 61. Amendment. Section 74-171 is hereby amended to read as set forth below:

Sec. 74-171. - Opening bills.

Billing for residential solid waste collection services shall commence on the date the dwelling units are suitable for occupancy. This shall normally be considered to be 90 days after the dwelling units are connected to the public sewer system; however, the department is empowered to vary the date that the dwelling units are considered suitable for occupancy, based on a reasonable interpretation of information obtained from public records or field inspection. The department may also initiate billing based upon a request for other utility services to the premises or notification from owners or occupants that the structure is completed. In all cases, opening bills shall be to the owner of record of the property as of the date the property is considered suitable for occupancy unless otherwise requested by the owner in writing.

SECTION 62. Amendment. Section 74-172 Reserved is hereby amended to read as set forth below:

Secs. 74-172.—74-179. - Reserved.

SECTION 63. Amendment. ARTICLE VI. EDIBLE FOOD RECOVERY REQUIREMENTS Section 74-180 is hereby ADDED to read as set forth below:

ARTICLE VI. – EDIBLE FOOD RECOVERY REQUIREMENTS

Sec. 74-180. – Edible food recovery requirements.

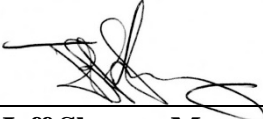
- A. Tier one commercial edible food generators must comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations commencing January 1, 2022, or as amended in the Act.
- B. Tier two commercial edible food generators must comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations commencing January 1, 2024, or as amended in the Act.
- C. A large venue or large event operator (each as defined under the Act) that does not provide food services, but allows for food to be provided, must require food facilities operating at the large venue or large event to comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations.

SECTION 64. Severability. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 65. Effective Date and Notice. This ordinance shall take effect thirty (30) days after its adoption, provided it is published in full or in summary within fifteen (15) days of its adoption, in a newspaper of general circulation published and circulated in the City of Citrus Heights.

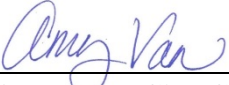
PASSED AND ADOPTED by the City Council of the City of Citrus Heights this 10th day of September, 2020 by the following vote:

AYES:	Council Members:	Bruins, Daniels, Middleton, Miller, Slowey
NOES:	Council Members:	None
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None



Jeff Slowey, Mayor

ATTEST:



Amy Van, City Clerk