

FILED

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ORDINANCE NO. 1378

ANA-MORALES, CLERK OF THE BOARD
BY Julie Dachs
DEPUTY

(An Ordinance Mandating Solid Waste Removal, Subject to Certain Exceptions, and Providing for the Granting of Related Exclusive and Non-Exclusive Franchises)

The Board of Supervisors of the County of Yolo hereby ordains as follows:

Section 1. Purpose and Findings.

The purposes of this Ordinance are to mandate the removal of solid waste from residential and commercial premises in the unincorporated area, to provide for the issuance of exclusive and non-exclusive franchises for the removal of solid waste, and to establish other regulatory requirements in connection with these purposes.

The County is committed to protecting public health, safety, welfare and the environment. To meet these goals, the County must promote the proper management of solid waste and recyclables. Under California law, as embodied in the California Waste Management Act (the "Act") (California Public Resources Code Sections 40000 *et seq.*), the State of California has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for solid waste management and disposal within their jurisdiction.

The State of California has found and declared that the amount of solid waste generated in California, coupled with diminishing landfill space and potential adverse environmental impacts from land filling and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of the Act, directed the responsible State agency, and all local agencies, to promote disposal site diversion and to maximize the use of feasible solid waste reduction, re-use, recycling, and composting options in order to reduce the amount of solid waste that must be disposed of in disposal sites

The County has found that, based on a survey of companies that collect solid waste and recyclable materials in the unincorporated area of the County, diversion programs are not routinely offered to residential and commercial premises. The County has also determined that residential and commercial customers appear to be paying more for service than similar customers in incorporated cities of the County.

The Board of Supervisors hereby finds that the frequency of collection, means of collection and transportation, level of services, and the nature, location, and extent of solid waste handling services provided in the County are all matters of local concern. Further, the Board of Supervisors finds that issuing franchises requiring the provision of solid waste collection and disposal services and diversion services to residential and commercial premises and obligating the franchisee to dispose of solid waste at the County's Landfill is in the best interest of the County, and its residents and businesses. In addition, the Board of Supervisors finds that the public health, safety, and well-being of County residents requires solid waste collection, disposal, and diversion services to be provided through exclusive franchise arrangements in certain areas, as set forth in this Ordinance. The Board of Supervisors further finds that this Ordinance is consistent with, and tends to promote, the policy objectives set forth in this Section

1 and in the Act. Finally, for reasons set forth above, the Board of Supervisors finds that the adoption of this Ordinance will promote public health, safety, and welfare.

Section 2. Addition of Chapter 17 to Title 6 of the Yolo County Code.

Chapter 17 is hereby added to Title 6 of the Yolo County Code, and shall read in full as follows:

CHAPTER 17 WASTE AND RECYCLABLES.

Article 1. Title and Purpose.

Section 6-16.101. Title and Purpose.

This Chapter shall be known as the “Waste and Recyclables Regulations.” Its purpose is to regulate the Collection and Disposal of Solid Waste, Recyclables, and other materials from Residential and Commercial Premises in the unincorporated area, to provide for the issuance of exclusive and non-exclusive franchises for the removal of Solid Waste and Recyclables, and to establish other regulatory requirements in connection with these purposes.

Section 6.16.102. Enforcement.

The Director of the Planning and Public Works Department or designee shall be the primary enforcement officer for the enforcement of the provisions of this Chapter.

Article 2. Definitions.

Section 6-17.201 Definitions.

As used in this Chapter, the following words and phrases shall be defined as follows:

- (a) **“Bin”** means a Container with capacity of approximately one to six cubic yards, with a hinged lid, and with wheels where appropriate, that is serviced by a front end-loading Collection vehicle.
- (b) **“Cart”** means a plastic Container with a hinged lid and wheels that is serviced by an automated or semi-automated Collection vehicle. A Cart has capacity of 64 or 95 gallons (or similar volumes).
- (c) **“Collection”** means the act of collecting Solid Waste, Recyclable Materials, Yard Trimmings, and C&D and other material at the place of generation in the County.
- (d) **“Commercial”** shall mean of, from or pertaining to non-Residential Premises where business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding businesses conducted upon Residential property which are permitted under applicable zoning regulations and are not the primary use of the property.

- (e) **“Compactor”** means a mechanical apparatus that compresses materials together with the Container that holds the compressed materials or the Container that holds the compressed materials if it is detached from the mechanical compaction apparatus. Compactors include two to four cubic yard Bin Compactors serviced by front-end loader Collection vehicles and 10 to 50 cubic yard Drop Box Compactors serviced by roll-off Collection vehicles.
- (f) **“Construction and Demolition Debris, or C&D Debris”** includes discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair or demolition operations on any pavements, excavation projects, houses, Commercial buildings, or other structures, excluding Excluded Waste.
- (g) **“Containers”** mean Bins, Carts, Compactors, and Drop Boxes.
- (h) **“Curb (or Curbside)”** means the location of a Container for pick-up, where such Container is placed on the street or alley against the face of the Curb, or where no Curb exists, the Container is placed not more than five feet from the outside edge of the street or alley nearest the property’s entrance.
- (i) **“Customer”** means the Person whom Contactor submits billing invoice to and collects payment from for Collection services provided to a Premises. The Customer may be either the Occupant or Owner of the Premises.
- (j) **“Densely Populated Area(s)”** means the highly populated unincorporated areas of the County, as established by the Board of Supervisors, where this Chapter requires weekly removal of Discarded Materials in accordance with requirements of this Chapter (unless the frequency of removal is otherwise specified, as for Recyclables). A Densely Populated Area is an area that, under this Chapter, includes an Exclusive Single-Family Collection Area.
- (k) **“Designated Waste”** means non-Hazardous Waste which may pose special Disposal problems because of its potential to contaminate the environment and which may be Disposed of only in Class II Disposal Sites or Class III Disposal Sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as Designated Waste by the State of California, in California Code of Regulations Title 23, Section 2522 as may be amended from time to time.
- (l) **“Discarded Materials”** means Solid Waste, Recyclable Materials, Yard Trimmings, and C&D placed by a Generator in a Container or other receptacle and/or at a location for the purposes of Collection, excluding Excluded Waste.
- (m) **“Disposal or Dispose (or variation thereof)”** means the final disposition of Solid Waste at a Disposal Site. Disposal does not include the use of Yard Trimmings as

Alternative Daily Cover so long as County and State regulations consider Alternative Daily Cover (ADC) use of Yard Trimmings as Diversion under the Act.

- (n) **“Disposal Site”** means a facility for ultimate Disposal of Solid Waste.
- (o) **“Drop Box”** means an open-top Container with a capacity of 10 to 50 cubic yards that is serviced by a roll-off Collection vehicle.
- (p) **“Excluded Waste”** means Hazardous Substance, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material. It also includes waste that a Franchisee or other authorized Collection enterprise reasonably believes would, as a result of or upon Disposal, be a violation of local, state or federal law, regulation or ordinance, including land use restrictions or conditions, waste that cannot be Disposed of in Class III landfills, waste that in the opinion of the Franchisee or other authorized Collection enterprise would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose such enterprise or County to potential liability. It does not, however, include de minimis volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe Collection, recycling, treatment and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.
- (q) **“Exclusive Single-Family Collection Area”** is the geographic region(s) designated by the Board of Supervisors, which are shown on maps maintained by the Yolo County Planning and Public Works Department. Such region(s) may be expanded into contiguous or adjacent areas upon direction of the Board of Supervisors. The Exclusive Single-Family Collection Area is within area(s) the County has established as the Densely Populated Area(s).
- (r) **“Franchise(es)”** mean the party or parties that have entered into a franchise agreement with the County that remains in effect for Discarded Materials, Recyclable Materials, Yard Trimmings, or C&D Debris Collection services in the unincorporated area of the County.
- (s) **“Generator”** means any “Person” as defined by the Public Resources Code, whose act or process produces Solid Waste, Recyclable Materials, Yard Trimmings, or C&D Debris as defined herein, or whose act first causes any such material to become subject to regulation.
- (t) **“Hazardous Substance”** means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response,

Compensation and Liability Act (CERCLA) of 1980, 42 USC §9601 *et seq.* (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, *et seq.*; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 *et seq.*; (iv) the Clean Water Act, 33 USC §1251 *et seq.*; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 *et seq.*; and (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated there under to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

- (u) **“Hazardous Waste”** means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code Sections 25110.02, 25115, and 25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 *et seq.*), all future amendments thereto, and all rules and regulations promulgated thereunder.
- (v) **“Household Hazardous Waste”** means Hazardous Waste generated at Residential Premises within the County.
- (w) **“Infectious Waste”** means biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities and other similar establishments that are identified in Health and Safety Code Section 25117.5 as may be amended from time to time.
- (x) **“Multi-Family”** means any Residential Premises, other than a Single-Family Premises, with four or more dwelling units used for Residential purposes (regardless of whether residence therein is temporary or permanent) and which receive centralized Collection service for all units on the Premises with billing to one Customer at one address.
- (y) **“Non-Exclusive Collection Area”** means all unincorporated areas of the County excluding Single-Family Customers in the Densely Populated Area.
- (z) **“Occupant”** means the Person who occupies a Premises.
- (aa) **“Owner”** means the Person(s) holding legal title to real property and/or any improvements thereon, and shall include the Person(s) listed on the latest equalized assessment roll of the County Assessor.

- (bb) **“Person(s)”** means any individual, firm, association, organization, partnership, corporation, trust, joint venture, or public entity.
- (cc) **“Premises”** means any land or building in the County where Solid Waste, Recyclable Materials, Yard Trimmings, or C&D are generated or accumulated.
- (dd) **“Processing”** means to prepare, treat, or convert through some special method.
- (ee) **“Recyclable Materials or Recyclables”** means those Discarded Materials that the Generators set out in Recyclables Containers for Collection for the purpose of Recycling; that are at least ninety percent (90%) Recyclable; and that exclude Excluded Waste. No Discarded Materials shall be considered Recyclable Materials unless such material it is separated from Solid Waste Yard Trimmings, and C&D. Recyclable Materials shall include, but not be limited to: newspaper (including inserts, coupons, and store advertisements); mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, brown paper, paperboard, paper egg cartons, telephone books, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, cereal and other similar food boxes yet excluding paper tissues, paper towels, paper with plastic coating, paper contaminated with food, wax paper, foil-line paper, Tyvex non-tearing paper envelopes); chipboard; corrugated cardboard; glass containers of any color (including brown, clear, and green glass bottles and jars); aluminum (including beverage containers, small pieces of scrap metal); steel, tin or bi-metal cans; mixed plastics such as plastic containers (no. 1 to 7) and bottles including containers made of HDPE, LDPE, or PET.
- (ff) **“Recycle or Recycling”** means the process of sorting, cleansing, treating and reconstituting at a Recyclable Materials Processing Site materials that would otherwise be Disposed of at a landfill for the purpose of returning such materials to the economy in the form of raw materials for new, reused, or reconstituted products.
- (gg) **“Residential”** shall mean of, from, or pertaining to a Single-Family Premises or Multi-Family Premises including single-family homes, apartments, condominiums, townhouse complexes, mobile home parks, cooperative apartments, and yacht harbors and marinas where residents live aboard boats.
- (hh) **“Single-Family”** means, notwithstanding any contrary definition in the County Code, any detached or attached house or residence designed or used for occupancy by one family, provided that Collection service feasibly can be provided to such Premises as an independent unit, and the Owner or Occupant of such independent unit is billed directly for the Collection service. Single-Family also includes Residential units of a duplex or tri-plex Residential structure.
- (ii) **“Solid Waste”** means Solid Waste as defined in California Public Resources Code Section 40191 and regulations promulgated thereunder. Excluded from the

definition of Solid Waste are Excluded Waste, C&D Debris, source separated (i.e., separated by the Generator) Recyclable Materials, source separated Yard Trimmings, and radioactive waste. Notwithstanding any provision to the contrary, "Solid Waste" may include de minimis volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe Collection, recycling, treatment and Disposal of Household Hazardous Waste in compliance with Sections 41500 and 41802 of the California Public Resources Code as may be amended from time to time.

- (jj) **"Transportation"** means the act of transporting or state of being transported.
- (kk) **"Yard Trimmings"** means those Discarded Materials that will decompose and/or putrefy, including but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, and small pieces of unpainted and untreated wood (limbs, branches, trees and small pieces of wood material are limited to 3 inches in diameter and 36 inches in length), excluding Excluded Waste.

Article 3. Waste Collection in Densely Populated Areas.

Section 6-17.301. Mandatory Service in Densely Populated Area; Exemptions.

- (a) Unless exempted pursuant to this Section, the Owners or Occupants of all Single-Family, Multi-Family and Commercial Premises in a Densely Populated area shall subscribe to weekly Discarded Materials Collection services provided by an authorized County Franchisee. In addition, unless exempted pursuant to this Section, all Owners or Occupants of Single-Family Premises in a Densely Populated Area shall subscribe to bi-weekly Recyclables Collection services provided by an authorized County Franchisee. If no County Franchisee with exclusive rights exists in a Densely Populated Area, the Owners and Occupants subject to this subsection (a) may subscribe to Collection services provided by an enterprise that is eligible to provide such services under Section 6-17.501.
- (b) All Owners and Occupants of Single-Family Premises in a Densely Populated Area are considered subscribers, without the need for a signed contract or similar arrangement with an authorized County Franchisee. The Owners and Occupants of Multi-Family or Commercial Premises are considered subscribers only if they enter into a contract for Discarded Materials Collection services with a County Franchisee or such other, similar arrangement with a County Franchisee for Collection services as may be mutually satisfactory.
- (c) The Owner, or by special arrangement approved by the Department, the Occupant, of any Single-Family, Multi-Family, or Commercial Premises within a Densely Populated Area may apply to the Department to be exempt from the mandatory service requirement set forth in subsection (a) above. Such application

shall be made on a form supplied by the Department, and shall be granted provided the Owner or Occupant can demonstrate one or more of the following:

- (1) The Owner or Occupant will personally haul away all Discarded Materials at least as frequently once per week to an approved facility. The method of collecting and hauling away such materials must be consistent with the intent of this Chapter and any conditions imposed by the Department, including the requirement that such activities occur in a manner that will not create unsanitary conditions, potential public health threat, environmental contamination or nuisance;
 - (2) The Premises are presently undeveloped, such that no Discarded Materials are generated thereon; or
 - (3) The Premises are vacant for a period in excess of two months such that no Discarded Materials will be generated thereon.
- (d) The mandatory service requirement set forth in subsection (a), above, also shall not apply to any Premises owned by a school district, city or county, or by the State of California or the federal government.
- (e) The Department may for good cause permit additional exemptions provided that such exemptions will not create an unsanitary condition, potential public health threat, environmental contamination or nuisance. Any Owner or Occupant that is granted an exemption under subsections (c) or (e) shall, at such intervals as are reasonably established by the Department, provide proof to the Department of compliance with the requirements set forth herein and any additional requirements or conditions imposed by the Department.
- (f) An exemption may be revoked by the Director of the Planning and Public Works Department or designee upon a finding that there is a violation of any of the requirements of this Section or the exemption, or that an unsanitary condition, potential public health threat, environmental contamination or nuisance condition is being created.
- (g) Any exemption issued shall be valid for a period of one year and is non-transferable. The exemption may be renewed at the end of one year upon reapplication and demonstration that the terms and condition of the exemption(s) still exists.

Section 6-17.302. Containers—Requirement and Use in Densely Populated Areas.

Within Densely Populated Areas, all Discarded Materials shall be placed in acceptable Containers, with the exception of Yard Trimmings that will be Disposed of by the Generator or collected by a Franchisee that has not provided a Container for Yard Trimmings. The following Containers are acceptable for the deposit of such materials:

- (a) Containers supplied by a County Franchisee or other enterprise eligible to provide Collection services under this Chapter, generally referred to as "Carts." The Owner or Occupant shall maintain such Carts in a reasonably clean condition. Upon the Owner or Occupant's request, such Carts may either be steam cleaned or replaced by the Franchisee, and the Franchisee will remove any graffiti. There will generally be no charge for such services unless, in the case of steam cleaning, such cleaning is requested by an Owner or Occupant more frequently than reasonably necessary to maintain a clean appearance.
- (b) Other Bin-type Containers, adequate in capacity and, if Owner or Occupant receives Collection services provided for in this Chapter, structurally designed so as to be compatible with the Collection equipment used by County Franchisees or other enterprise eligible to provide Collection services under this Chapter.

Carts or Bins shall be kept continuously closed, except when Discarded Materials are being placed therein or removed therefrom, and shall at all times be closed against the access of flies, rodents and other animals. Such Carts or Bins shall be of a size approved by the Department as being adequate for the particular use or occupancy of the Premises using the Carts or Bins. The Owner or Occupant of the Premises shall keep all Carts or Bins closed or covered at all times, sanitary, and emptied on a regular schedule as required by this Chapter in Densely Populated Areas.

Section 6-17.303. Containers—Size and Number in Densely Populated Areas.

The Owner or Occupant of any Single-Family, Multi-Family, or Commercial Premises within a Densely Populated Area shall maintain a sufficient number of acceptable Containers for receiving and holding, with the Cart or Container lid fully closed, all Discarded Materials produced, created, deposited, or accumulated upon their Premises, and all such Discarded Materials shall be deposited in such Containers with the exception of Yard Trimmings that will be Disposed of by the Generator or collected by a Franchisee that has not provided a Container for Yard Trimmings. In determining the sufficiency of the number of Containers required, the following minimum standards shall apply:

- (a) *Single-Family Residential Units.* A minimum of one 64-gallon Container for Discarded Materials and one 96-gallon Cart for Recyclables. Unless otherwise requested by an Owner or Occupant, a County Franchisee will provide separate Containers for Discarded Materials and Recyclables.
- (b) *Multi-Family Residential Units, Motels, Hotels, and Trailer or Mobile Home Parks.* A minimum of one 64-gallon Container per dwelling unit, unless a lesser number or alternative arrangement, such as the use of Bins or Drop Boxes, is negotiated with a County Franchisee providing such services. Premises receiving Collection service from a County Franchisee will receive 64-gallon Containers for each unit.

- (c) *Commercial Premises.* No minimum standards other than those set forth in the introduction to this section. Commercial Premises are to make appropriate Container, Bin, Drop Box, or Compactor arrangements with County Franchisees to enable compliance with the provisions of this Chapter requiring the weekly removal and Disposal of Discarded Materials.

Section 6-17.304. Containers—Placement for Collection in Densely Populated Areas.

- (a) *Single Family Residences.* Discarded Materials Containers shall be placed at the Curb for Collection unless a County Franchisee agrees to collect such Containers from an alternative location due to the disability of a Customer. Curb placement shall occur no earlier than 5:00 p.m. on the day prior to Collection, and emptied Containers shall be removed from the Curb by 7:00 a.m. on the day after Collection. Except for Containers placed at the Curb for Collection, Discarded Materials Containers, including any Recyclables Containers, shall not be placed or allowed to remain in or on any street or alley right-of-way unless authorized by the Department.
- (b) *All Other Premises.* Carts, Bins, Containers, Drop Boxes or Compactors, as applicable, shall be placed in a location that is easily accessible for Collection, to be decided between the Owner or Occupant and an authorized County Franchisee.

Article 4. Waste Transportation and Disposal Requirements, Generally.

Section 6-17.401. Transportation, Generally.

No Person shall Transport Discarded Materials, of any type, upon or across any public property, public rights-of-way, watercourses, or bank of any watercourse, or upon the Premises of any other Person, except at a Solid Waste or Recycling facility approved by the Department, without covering or enclosing the Discarded Materials and taking effective measures to prevent any Discarded Materials from blowing, leaking, or dropping from the vehicle during Transport. Adequacy of load covers and control measures shall be determined by the Department.

Section 6-17.402. Responsibility for Discarded Materials, Generally.

All Discarded Materials shall be the property and responsibility of the Person that produced them. In the event the Generator of Discarded Materials is unknown, such materials shall be the property and responsibility of the Owner of the parcel upon which they have been deposited. Once legally deposited in a Container that is placed and at the Collection location, with the exception of Excluded Waste, all Discarded Materials shall become the responsibility of the authorized County Franchisee or other entity that is responsible for their Collection. If such County Franchisee or other entity can identify the Person or business that produced Excluded Waste inadvertently collected by that enterprise, responsibility for Excluded Waste shall remain with said Person. If such Person cannot be identified, the County Franchisee or other entity shall

be responsible for proper Disposal of the Excluded Waste and shall assume responsibility for its Disposal and related costs.

Section 6-17.403. Containers—Deposit of Excluded Waste Prohibited, Generally.

No Person shall deposit any Excluded Waste in a Discarded Materials Container. The storage and Disposal of Excluded Waste shall be subject to all applicable local, state, and federal laws.

Section 6-17.404. Containers – Interfering With, Generally.

No Person, except for the Owner or Occupant of the Premises, shall Dispose of, place or deposit Discarded Materials in Containers stored on public or private property without the express written permission of the Owner or Occupant. In addition, except in connection with the Collection and related activities authorized in this Chapter, no Person shall tamper with or interfere in any manner with any Discarded Materials Container or the contents thereof. Further, no Person shall by any means hinder, obstruct or interfere with the Collection or Transportation of Discarded Materials by an authorized County Franchisee or other enterprise eligible to provide Collection services under this Chapter.

Article 5. Franchises.

Section 6-17.501. Franchise Required; Exceptions.

- (a) *Requirement.* No Person shall collect, handle, transfer, store, process, Transport or use Discarded Materials (including Recyclable Materials and C&D) in the unincorporated area of the County without first receiving a franchise to engage in such activity from the County.
- (b) *Exceptions.* The provisions of this Section shall not apply to any of the following:
 - (i) To any Solid Waste enterprise that the County has authorized, by franchise, contract, license, or permit, to provide Solid Waste handling services, so long as those services have been lawfully provided for more than three previous years. If the exception set forth in this subsection (i) is applicable, the qualifying enterprise shall comply with all of the requirements of this Chapter, including but not limited to those provisions relating to the frequency and quality of Collection service, as they may be amended from time to time. Any such enterprise shall have no right to expand its services to include, or to contract to expand its services to include, additional Single Family, Multi-Family, or Commercial Premises following receipt of the notice provided for in Public Resources Code Section 49520 unless otherwise stated therein. This exception shall expire upon the date set forth in any such notice, which shall be no sooner than as provided in Public Resources Code Section 49520.

- (ii) Any Persons Transporting Discarded Materials from their Premises in a manner that is exempt from this Chapter, as provided by Section 6-17.301.
- (iii) Any Person Transporting Discarded Materials, but not including garbage, from his own Premises to the County Landfill or other appropriate Disposal area on an occasional basis. By way of example, this may include occasional trips to Dispose of Yard Trimmings or other bulky household items too large to be placed in a Discarded Materials Container for Collection.
- (iv) The removal of Discarded Materials (including C&D Debris) by a contractor whose removal thereof is incidental to other services being performed for the Owner or Occupant, provided such removal is performed for no additional or separate fee using equipment belonging to the contractor.
- (v) The removal of any materials generated by public schools, cities, the County, or federal facilities (with the exception of those facilities subject to 42 U.S.C. section 6961(a)).

Section 6-17.502. Franchises – Exclusivity and Non-Exclusivity.

- (a) *Generally.* Within the Densely Populated Area, all Single-Family residences are included in an exclusive franchise area that is referred to at times in the Chapter as the Exclusive Single Family Collection Area. Within an Exclusive Single-Family Collection Area, only a Franchisee with exclusive rights or, if none exists, other enterprise that is authorized to provide Collection services under Section 6-17.501 may provide Discarded Materials Collection services to Single-Family residences. The County will not grant exclusive franchise rights to serve any other Residential (i.e., Multi-Family) and Commercial Premises in the unincorporated area, regardless of whether such Residential or Commercial Premises are located in a Densely Populated Area. Accordingly, all areas other than the Exclusive Single-Family Collection Area are considered Non-Exclusive franchise Areas, which may be served by any entity with a County franchise or other enterprise that is eligible to provide Collection services under this Chapter.
- (b) *Maps.* The Department of Planning and Public Works shall maintain a map or maps of the unincorporated are that reflect the boundaries of the Densely Populated Area and all Exclusive Single Family Collection Areas. Such map or maps shall be provided to any Person for review upon request, and may be posted on the internet other otherwise made readily available for public review.
- (c) *Alterations.* The Board of Supervisors reserves the right to adjust the boundaries of the Densely Populated Area(s) and the Exclusive Single-Family Collection Area(s) from time to time, in its sole discretion.

Section 6-17.503. Franchise Application Process.

Franchises shall be granted by the Board of Supervisors in the following manner. These requirements may be waived or modified by the Board of Supervisors in appropriate circumstances, in its sole discretion:

- (a) The Department of Planning and Public Works shall prepare a request for proposals and submit it to the Board of Supervisors for approval. The request for proposals shall include, at a minimum:
 - (i) A detailed specification of the scope of services to be provided;
 - (ii) A detailed cost proposal form;
 - (iii) A request for background and qualifications relevant to the type of services to be provided;
 - (iv) A request for detailed criminal history of (1) each Person, firm or entity that submits a response to the request for proposals; and (b) where the responding party is a firm or entity, of each Person who owns 10 percent or more of the shares of stock, assets, or other interest in the entity. If requested by the County, the applicant shall also submit such additional information, including consent to a background check and agreement of the applicant to pay all related costs, as may be necessary to fully investigate the potential criminal history of those Persons and entities subject to this subsection;
 - (v) Requirements for compliance with all relevant County policies, including but not limited to polices relating to non-discrimination;
 - (vi) A list of all permits or franchise authorizing similar Collection and Disposal services in other jurisdictions, together with a detailed description of the nature of the applicant's business activities and such other information as the applicant deems relevant for consideration
 - (vii) A copy of a draft franchise agreement, as approved by the County Counsel, with the terms stated in Section 6-17.504 below, and such additional terms and provisions as may be appropriate;
 - (viii) The time, date, and place for the opening of sealed proposals;
 - (ix) The criteria that will be used to evaluate proposals; and
 - (x) Any other relevant information, including but not limited to a request for a plan of operations.
- (b) Once approved by the Board of Supervisors, the request for proposals shall be published one a week for two successive weeks in a newspaper of general

circulation in the County. The first such publication shall be at least four weeks prior to the date given for the opening of sealed proposals. In addition, the Department may take any other reasonable steps to advertise the availability of the request for proposals, including internet postings, publication of notice in trade journals and publications, and similar methods.

- (c) Proposals shall be opened by the Director of Planning and Public Works or designee, in public, at the time and place designated in the notice to proposers. Proposals received after the time so specified shall not be accepted and shall be returned unopened to the Person, firm or entity submitting such late proposal.
- (d) In evaluating proposals, the Department shall convene a panel of evaluators, which shall at a minimum include the Director or designee. Utilizing criteria specified in the request for proposals, the panel shall evaluate and score the proposals, and shall upon completion of the evaluation process provide a written recommendation to the Board of Supervisors as to the responsible and qualified proposer whose proposal provides Collection service at the lowest cost. A written notice of the panel's recommendation shall be provided to all proposers. Except as provided otherwise in this section, the Board of Supervisors shall, within the time specified in the request for proposals, select as the Franchisee the responsible and qualified proposer whose proposal provides Collection service at the lowest cost.
- (e) The Board of Supervisors may reject all proposals, and may thereafter instruct the Director to take such further action as the Board may direct, including but not limited to engaging in negotiations with one or more firms, Persons or entities, or issuing a revised request for proposals in accordance with the procedures specified in this article. The Board of Supervisors may also, in its discretion, waive any minor irregularities contained in a proposal.
- (f) Notwithstanding any other provision of this section, the Board of Supervisors may, upon finding that it is in the best interests of the county and upon a vote of two-thirds of the Board, waive the competitive process required by this Section and may instruct the Director to take such further action as the Board may direct, including but not limited to engaging in negotiations with one or more firms, Persons or entities, or engaging in such other process as the Board may specify.

Section 6-17.504. Franchise Agreements – Required Terms.

All franchise agreements shall include the following terms, which are the basic terms on which the County is willing to enter into a franchise agreement under this Chapter:

- (a) *Grant and Acceptance of Franchise.* Each franchise agreement shall contain provisions that set forth the offer a franchise for Discarded Materials, Recyclables, C&D, or similar services, and the acceptance thereof by the Franchisee, together with all geographic and other limitations on the exercise of franchise rights.

- (b) *Term.* The duration of each franchise agreement shall be stated.
- (c) *Scope of Agreement.* Each franchise agreement shall identify the scope of the services to be provided by the Franchisee, including whether such services are to be provided on an exclusive or non-exclusive basis, the materials covered by such services (i.e., Discarded Materials, Recyclables, C&D, and other materials), the Collection area or areas of the franchisee, appropriate Disposal locations, and other similar matters relating to the Collection, Transportation, and Disposal services to be provided by the Franchisee.
- (d) *Public Education and Billing.* At a minimum, each franchise agreement shall provide for the Franchisee to prepare and distributed information to its Customers describing how to prepare material covered by the franchise for Collection, materials that are excluded from Collection, and related matters.
- (e) *Performance Standards.* Each franchise agreement shall specify the hours of Collection, the manner in which Containers, Carts, bins, Drop Boxes, or Compactors will be serviced, employee training, Franchisee responsibility for vehicle appearance, leaks, and related matters, and Hazardous Waste inspection and handling.
- (f) *Record Keeping and Reporting.* Each franchise agreement shall require the Franchisee to maintain accurate accounting, statistical, and other records relating to services provided under the franchise, report submittal requirements, and related matters.
- (g) *Franchise Fees and Administrative Charges.* Each franchise agreement shall state the amount of the franchise fee to be paid by the Franchisee as consideration for the contractual right to provide the services covered by the franchise agreement in the unincorporated area. In addition, each franchise agreement shall state the amount of the administrative fee to be paid by the Franchisee to compensate the County for its costs and expenses relating to the administration of the franchise. All franchise agreements shall also contain procedures for the adjustment of these fees from time to time.
- (h) *Indemnity, Insurance, and Bonding Requirements.* Each franchise agreement shall contain appropriate indemnity and defense provisions, insurance requirements, and performance bond requirements.
- (i) *Default.* Each franchise agreement shall identify the events that constitute a default thereunder, as well as the remedies available to the non-defaulting party.

Section 6-17.505. Rates for Services.

Rates and charges for Discarded Materials, Recyclables, and other services performed pursuant to this Chapter shall be as prescribed in the contracts between the County and authorized Franchisees for services provided in Exclusive Single-Family Collection Areas. In all other areas, authorized Franchisees may charge any reasonable amount for services provided to

subscribers, so long as such rates and charges do not exceed maximum rates established by the Board of Supervisors.

Section 6-17.506. Billing Procedures and Practices.

All subscribers of services provided by a County Franchisee will be billed directly by that Franchisee. Such bills may be paid by check, cash, or credit card. For periods of vacancy when a subscriber will not require any services from a County Franchisee, the subscriber may request a temporary discontinuation of service and related charges. Any such discontinuation will take effect after an initial vacancy period of 30 days and, unless the Franchisee agrees otherwise, will be for a minimum period of 30 days.

Section 6-17.507. Delinquent Accounts; Liens.

Any account with unpaid charges for one year or longer shall be considered a delinquent account. At the request of a County Franchisee, and upon the submission to the County of appropriate information demonstrating that an account is delinquent, the County will send a letter to the Owner of the property with the delinquent account and request payment within 30 days. If complete payment is not received by the County within 30 days, the County shall place a lien on the property in accordance with Government Code Section 25828, and proceed to collect any unpaid amounts in the manner set forth therein. All amounts collected by the County pursuant to this Section shall be remitted in full to the Franchisee, less any offset for amounts due the County from that Franchisee.

Section 3. Severability.


If any section, sub-section, sentence, clause, or phrase of this ordinance is held by a court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance, and each section, sub-section, sentence, clause, and phrase hereof, irrespective of the fact that one or more sections, sub-sections, sentences, clauses, and phrases be declared invalid.

Section 4. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days after its passage, and prior to expiration of fifteen (15) days after its passage thereof, shall be published by title and summary only in the Davis Enterprise together with the names of members of the Board of Supervisors voting for and against the same.


PASSED AND ADOPTED by the Board of Supervisors of the County of Yolo, State of California, this 5th day of August, 2008, by the following vote:

AYES: **McGowan, Thomson, Rexroad, Yamada.**
NOES: **Chamberlain.**
ABSENT: **None.**
ABSTAIN: **None.**



Duane Chamberlain, Chairman
Yolo County Board of Supervisors

Approved as to Form:
Robyn Truitt Drivon, County Counsel

Attest
Ana Morales, Clerk
Board of Supervisors
By: 

Deputy Seal
BOARD OF SUPERVISORS
YOLO COUNTY, CALIF.

By: 

Philip J. Pogledich, Senior Deputy