

## **CHAPTER THREE: ENVIRONMENTAL PROTECTIONS**

### **Subchapter 3.05: Collection and Disposal of Solid Waste**

#### **DIVISION ONE: GENERAL**

##### **3.05.010 Findings; Purposes.**

- (a) The City Council finds and determines that:
- (1) It is in the public interest to:
    - (A) maximize waste reduction, recycling and composting options;
    - (B) reduce the amount of Solid Waste disposed to landfills;
    - (C) recycle paper, aluminum, metal containers, glass, corrugated cardboard, certain plastic containers, and other Recyclable materials as may be determined from time to time by the City Council;
    - (D) grant franchises and permits to persons and businesses engaged in the collection of Recyclable material therein; and
    - (E) require comprehensive reporting of the collection of Recyclable material by all haulers in the Town to assist in compliance with the California Department of Resources Recycling and Recovery (CalRecycle) Electronic Annual Report (EAR).
  - (2) The Town's recycling program may be negatively impacted by unauthorized scavengers taking Recyclable materials before those materials can be picked up by a Franchisee or Permittee.
- (b) The purpose of this ordinance is to comply with the recycling and reporting requirements of the California Integrated Waste Management Act of 1989 (hereafter, the "Waste Management Act"). as amended from time to time, including amendments made by AB 939, SB 1016 and AB 341 Specifically, but without limitation, this ordinance was adopted to:
- (1) increase recycling participation rates;
  - (2) improve Recyclable material recovery rates;
  - (3) improve reporting capabilities to CalRecycle;
  - (4) comply with state recycling laws;
  - (5) reduce waste to landfill; and
  - (6) maintain a cost effective, garbage and recycling collection program for the residents, businesses and institutions of the Town.

[History: New, ORD. 708, 5/9/12]

### **3.05.020 Definitions.**

For the purpose of this subchapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular include the plural number.

- (a) *Approved E-Waste Recycler or Collector* means a collector or recycler of certain electronic wastes approved by CalRecycle to participate in a funding system for the collection and recycling of certain electronic wastes and holding a valid Covered Electronic Waste Identification (CEWID) number.
- (b) *Charitable entity* means any not-for-profit organization or entity maintained for community service, education or the public good, including service clubs, scouting organizations, religious and educational organizations and recognized charities.
- (c) *Collect or Collection* means the operation of gathering together and transporting Solid Waste to a point of disposal and/or recycling or composting.
- (d) *Collector or Authorized Collector* means a person or the agents or employees thereof, whom the Town shall have duly licensed, franchised, granted a permit to, or contracted with, to collect, carry, transport, compost, and/or recycle Solid Waste and Recyclables within the Town.
- (e) *Commercial entity* means any business, retail, office, professional or industrial premises or site including but not limited to motels, hotels and automobile courts. Such definition includes nonprofit activities such as churches, synagogues, charitable organizations, fraternal, service and social clubs.
- (f) *Commercial location* means the premises or site of a commercial entity.
- (g) *Construction and Demolition materials* means materials resulting from construction, renovation, remodeling, repair or demolition operations and which has been segregated for recycling, reuse or remanufacture. Materials include but are not limited to wood, asphalt, concrete, drywall, steel rebar, roofing material and other materials resulting construction, renovation, remodeling, repair or demolition operations.
- (h) *Designated collection location* means the place where the Franchisee or Permittee is to pick up segregated, Recyclable materials. The location is identified by contract between the Franchisee or Permittee and the Town and will customarily be the curbside of a residential neighborhood or the service alley of a commercial or institutional entity.
- (i) *Donate or donation* means the act of a generator of Recyclable materials giving or conveying items or materials to another person or company, without paying the recipient or providing any other form of consideration for taking and/or hauling away the donated materials.
- (j) *E-waste* means electronic equipment nearing the end of its useful life and determined by the Department of Toxic Substances Control to be covered by the Electronic Waste Recycling

Act of 2003. Computers, televisions, VCRs, stereos, copiers, and fax machines are common E-waste products.

(k) *Franchise Agreement* means an agreement between the Town and an individual, association or firm, organization or other business entity for the collection of Solid Waste, including Recyclables.

(l) *Franchisee* means an individual, association, firm, organization or other business entity who has entered into a franchise agreement with the Town, whether or not said entity is operated for profit, for the collection of Solid Waste , including Recyclables, within the Town.

(m) *Hazardous Waste* means any material, which by reason of its quality, concentration, composition or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious illness or pose a substantial threat or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise mismanaged or any waste which is defined or regulated as a hazardous waste, toxic waste, hazardous chemical substance or mixture, or asbestos under Applicable Law. If two or more governmental agencies having concurrent or overlapping jurisdiction over hazardous waste adopt conflicting definitions of "hazardous waste", for purposes of collection, transportation, processing and/or disposal, the broader, more expansive definition shall be employed for purposes of this subchapter. *Hazardous Waste* includes, but is not limited to any of the following:

- (1) Materials regulated by section 40141 of the California Public Resources Code, sections 25110.02, 25115, 25117, 25281 or 25316 of the California Health and Safety Code (the California Hazardous Waste Control Act), and section 13050 of the California Water Code;
- (2) Low-level radioactive waste regulated under Chapter 7.6 (commencing with § 28500) of Division 20 of the Health and Safety Code or under Chapter 6.1 (commencing with § 25015) of Division 20 of the Health and Safety Code);
- (3) Materials regulated under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended (including, but not limited to, amendments thereto made by the Solid Waste Disposal Act Amendments of 1980), and related federal, State and local laws and regulations;
- (4) Materials regulated under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended, and related federal State of California, and local laws and regulations, including the California Toxic Substances Account Act, California Health and Safety Code Section 25300 et seq.;
- (5) Materials regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq., as amended, and regulations promulgated thereunder; or
- (6) Materials regulated under any future amendments to or re-codification of these statutes or regulations promulgated thereunder and any future additional or substitute federal, State or local laws and regulations pertaining to the

identification, transportation, treatment, storage or disposal of toxic substances or hazardous waste.

(n) *Household Hazardous Waste* means latex paint, batteries, oil filters, fluorescent lamps and tubes including compact fluorescent light bulbs (CFLs), motor oil and other petroleum-based products, cleaning supplies, fire extinguishers, mercury products including thermometers, thermostats, oil based paints, thinners, stains, fertilizers, pesticides, aerosols and antifreeze commonly used in residences.

(o) *Institutional entity* means any location operated by a governmental entity, including city, county, state and/or federal buildings, public schools, colleges and public recreational sites.

(p) *Institutional location* means the premises or site of an institutional entity.

(q) *Multi-residential complex* means any residential building, boardinghouse, apartment building, condominium complex, stock cooperative complex, or flats consisting of more than three independent dwelling units. "Multi-residential complex" does not include motel, hotel or automobile court.

(r) *Nuisance* means anything which is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and affects at the same time an entire community or neighborhood or any considerable number of persons although the extent of annoyance or damage inflicted upon the individual may be unequal, and which occurs as a result of the storage, removal, transport, processing or disposal of Solid Waste;

(s) *Permittee* means an individual, association, firm, organization or other business entity person which has a valid permit from the Town to collect Recyclables within the Town.

(t) *Recycler* means a permitted enterprise that collects Recyclable Materials or other unused or under-used materials for recycling.

(u) *Recycle or recycling* means the process of collecting, sorting, cleansing, treating, and/or reconstituting materials that would otherwise become Solid Wastes, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Recycling does not include transformation, as defined in Public Resources Code section 40201.

(v) *Recyclable materials or Recyclables* means Solid Waste which may be reused or processed into a form suitable for reuse through reprocessing or remanufacture consistent with the requirements of the California Integrated Waste Management Act of 1989, as amended ("AB 939"), including, without limitation: paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass, aluminum, PET, HDPE, and other plastics, metal, food and beverage containers, compostable materials (including food waste, yard waste and other organic materials); wood, brick and stone in reusable size and condition; and Construction Debris and Demolition Debris, as defined in section 5.05.020 of this Code.

(w) *Refuse* means all putrescible and non-putrescible Solid Wastes (except body wastes), whether combustible or non-combustible, including garbage, rubbish, ashes, street cleanings, dead animals, and solid industrial wastes.

(x) *Responsible person* means an individual, association, firm, organization or other business entity, whether or not said entity is operated for profit, determined by the Town to be qualified and capable of performing each and every obligation imposed by this ordinance.

(y) *Roll-off containers or pull-on containers* means any large detachable containers, eight cubic yards or more in capacity, employed in a system of materials handling in which the loaded container is pulled onto the service vehicle mechanically and transported to an approved site for emptying.

(z) *Scavenge* means the act of removing Solid Waste and/or Recyclable materials from a can, bin, or other container into which the Solid Waste and/or Recyclable materials have been placed for collection by an Authorized Collector. Removal by an Authorized Collector shall not constitute scavenging.

(aa) *Sharps* means medical devices that have needles or other sharp implements as component parts, including but not limited to sharps and sharps used in animal or human patient care, medical research, or clinical or pharmaceutical laboratories, hypodermic, intravenous syringes to which a needle or other sharp is still attached, Pasteur pipettes, scalpel blades, blood vials, other types of broken or unbroken glass (including slides and cover slips) that has been in contact with infectious agents. "Sharps" shall not include those parts of syringes from which sharps are specifically designed to be easily removed and from which sharps have actually been removed, and which are intended for recycling or other disposal, so long as such syringes have not come in contact with infectious agents.

(bb) *Solid Waste*. means all putrescible and non-putrescible solid, semisolid, and liquid wastes, and all Recyclables, including but not limited to garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-Solid Wastes, and other discarded solid and semi-solid Wastes, except that Solid Waste does not mean or include any of the following wastes:

- (1) Hazardous waste, as defined in Public Resources Code, section 40141;
- (2) Special waste, as defined in this ordinance;
- (3) Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code); and
- (4) Medical waste regulated pursuant to the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to this division.

(cc) *Special Waste* means any waste matter which is a Hazardous Waste or which requires special handling or processing, including any of the following: flammable waste; waste transported in a bulk tanker; liquid waste; sewage sludge; waste from a septic system or other wastewater treatment or pollution control process; residue and debris from the cleanup of a spill or release of any chemical substance; any soil, waste, residue, debris or other material contaminated by any hazardous material or hazardous waste; dead animals; manure; explosive substances or substances or materials that have been exposed to highly infectious or contagious diseases.

(dd) *Universal waste* means materials that are hazardous wastes and are generated by several sectors of society, rather than a single source or industry. Beginning February 2006, Universal wastes are not to be disposed of in the trash but are to be properly recycled and or handled in accordance with laws regarding Universal Waste. Universal waste include batteries, cell phones, computers, computer monitors, fluorescent light bulbs, televisions, non-empty aerosol cans, items containing mercury, electronic devices, or any other material, device or item meeting the definitions of "universal waste" or "electronic device" in sections 66273.9 or 66261.9 of Title 22 of the California Code of Regulations, as they may be amended.

(ee) *Vector* means any insect or other arthropod, rodent or other animal capable of transmitting the causative agents of human disease, or disrupting the normal enjoyment of life by adversely affecting the public health and well being.

[History: formerly § 3.102; ORD. 256, 1/14/81; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12]

### **3.05.030 Minimum Standards.**

The provisions of this subchapter shall be the minimum requirements for compliance with state recycling mandates, and for protecting the, public health, safety, convenience and general welfare. Higher standards may be imposed by a franchise agreement or a permit.

[History: New, ORD. 708, 5/9/12]

### **3.05.040 No Hauling without a Franchise or Permit.**

Except as expressly provided in this subchapter, it is unlawful for any person to collect, transport over any of the streets of the Town, or dispose of, any Solid Waste generated or accumulated in the Town of Colma, including Recyclables, unless such person has entered into a franchise agreement with or has obtained a permit issued by the Town to collect and dispose of one or more types of Solid Waste or Recyclables.

[History: formerly § 3.05.050(a) and (b), and before that, § 3.405; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12]

### **3.05.050 Illegal Dumping.**

It is unlawful to dump or place Solid Waste, including Recyclables, Special Waste or Hazardous Waste materials on any lot, land, street, avenue, alley, creek or highway within the Town, except to the extent that a temporary accumulation of such materials is allowed in a particular

place under the provisions of a permit issued by the Town.

[*History*: formerly § 3.05.040, and before that, § 3.404; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 708, 5/9/12]

### **3.05.060 Duty to Properly Store or Dispose of Solid Waste.**

(a) It is unlawful to keep, deposit, bury or dispose of any Solid Waste (including Recyclables), Special Waste and Hazardous Waste materials in or upon any public property, street, alley, sidewalk, gutter, park or upon the banks of any stream or creek in the Town, or in or upon any of the waters thereof, except as provided in this subchapter, and every person in the Town who disposes of Solid Waste materials shall dispose of same only in the manner provided in this chapter.

(b) It is unlawful to keep, deposit, bury or dispose of any Solid Waste (including Recyclables), Special Waste and Hazardous Waste materials in or upon any private property without the permission of the owner or occupant of that property. Each person who disposes of Solid Waste materials on private property shall dispose of same only in the manner provided in this chapter.

(c) It is unlawful to store Solid Waste in such a manner so as to promote the propagation, harborage, attraction of vectors, or the creation of a nuisance, or dispose of refuse except as provided in this subchapter.

(d) Each person owning, operating, occupying or in charge of any vacant or occupied premises, business establishment, industry or other property in the Town shall be responsible for the safe and sanitary storage and disposal of Solid Waste (including Recyclables), special waste and hazardous waste accumulated on the property.

[*History*: formerly 3.05.010, and before that, § 3.401; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12]

### **3.05.070 Duty to Subscribe to Solid Waste Collection Services.**

(a) Each person owning, operating, occupying or in charge of any vacant or occupied premises, business establishment, industry or other property in the Town shall subscribe to Solid Waste materials collection service provided by an Franchisee or Permittee in compliance with the provisions of this subchapter.

(b) It is unlawful to arrange for Solid Waste collection services provided by any Franchisee or Permittee not holding a valid franchise or permit issued by the Town, whether such services are provided on an ongoing basis, as needed, or with any other frequency.

[*History*: formerly § 3.05.010, and before that, § 3.100; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 708, 5/9/12]

### **3.05.080 Design Requirements.**

The design of any new, substantially remodeled, or expanded building or other facility shall provide for the proper storage and collection of Solid Waste and Recyclable materials, and must be approved by the Town Building Official prior to commencement of construction.

[*History:* formerly § 3.05.030, and before that, § 3.403; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD 708, 5/9/12]

### **3.05.090 Maintenance and Use of Containers.**

(a) *Preparation of Solid Waste.* All Solid Waste, including Recyclables, shall be drained of free liquid before being deposited for collection.

(b) *Unlawful Use.*

(1) It is unlawful to use Solid Waste containers provided by a Franchisee or Permittee for any purpose other than to facilitate collection by such Franchisee or Permittee.

(2) It is unlawful to use Solid Waste containers provided by the owner or occupant of property for any purpose other than to facilitate collection of Solid Waste by the owner or occupant of the property or by persons authorized by the owner or occupant to use such containers.

(c) *Maintaining Solid Waste Containers.* Unless Solid Waste containers are provided by the Franchisee or Permittee, the owner of the premises is responsible to provide and maintain Solid Waste containers that meet the requirements of this ordinance for the storage and disposal of such Solid Waste, unless the tenant, lessee or occupant agrees in writing to provide or maintain Solid Waste containers. Any container that does not conform to the provisions of this subchapter shall be promptly replaced by the responsible party upon receipt of notice from the Town's Code Enforcement Officer. It is the duty of each person subscribing to services for the collection and handling of Solid Waste to maintain receptacles in a reasonably safe and secure manner; and all such receptacles shall be so placed and kept at the designated collection location so as to be readily accessible for removal and collection therefrom and placed such that they will not be a public nuisance or in any degree offensive.

(d) *Containers.* All Solid Waste containers for residents or businesses must be non-absorbent, water-tight, vector-resistant, durable, easily cleanable, and designed for safe handling. Containers should be of an adequate size and in sufficient numbers to contain, without overflowing, all the Solid Waste that a residence, business or other establishment generates within the designated removal period. Containers when filled shall not exceed reasonable lifting weights for an average physically fit individual except where mechanical loading systems are used. Containers shall be maintained in a clean, safe, sound condition, free from putrescible residue, and may not have ragged or sharp edges, or have any other defect liable to hamper or injure any person collecting the contents thereof.



(e) *Separation of Solid Waste.* Except as provided in section 3.05.150(b), Solid Wastes are to be separated from Recyclable materials and are to be placed in separate containers. Solid Waste shall not be commingled with Recyclable material.

(f) *Points of Collection.* Containers shall be placed for collection at ground level on the property, not within the right-of-way of a street or alley, and accessible to not more than forty feet from the side of the street or alley from which collection is made, provided that containers may be placed for collection at other than ground level and at a distance of more than forty feet when an additional payment for the extra service is agreed upon with the operator. Notwithstanding the provisions of this subsection, containers used in automated collection service may be placed in a street or alley as directed by the Collector.

[History: formerly § 3.05.060, and before that § 3.406; Ord. 277, 09/08/82; Ord. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 708, 5/9/12]

### **3.05.100 Unauthorized Removal of Solid Waste or Recyclables from Containers.**

No person, other than the owner or occupant of premises generating the Solid Waste that has been placed for collection in a container, or an employee or agent of the Franchisee or Permittee, shall tamper with any container or remove or scavenge its contents. Among other things, this section prohibits the scavenging of Recyclable materials from any container in which they have been placed for collection, but shall not be deemed to prohibit the generator of Recyclable materials from selling or donating such materials to a buyer or donee other than an Authorized Collector.

[History: formerly 3.05.100; Ord. 658, 06/13/07; ORD 708, 5/9/12]

### **3.05.110 Disposal and Handling of Special Waste.**

(a) *Contagious Disease Refuse.* The removal of clothing, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed should be performed under the supervision and direction of the County Health Officer. Such refuse shall not be placed in containers for regular collection.

(b) *Inflammable or Explosive Refuse.* Highly inflammable or explosive material shall not be placed in containers for regular collection or refuse, but shall be disposed of as directed by the Colma Fire District Chief at the expense of the owner or processor thereof.

(c) *Special Waste and Universal Waste.* Notwithstanding any other provision of this subchapter, it shall be unlawful for any person, firm or corporation to dispose of, discard or place any special waste or universal waste in any receptacle or container placed and intended for collection and disposal by an Authorized Collector, unless otherwise authorized by the Collector. All special waste and universal waste shall be disposed of in compliance with applicable state laws and regulations.

[History: formerly § 3.05.070, and before that, § 3.407; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 682, 10/14/09; Ord. 708, 5/9/12]

### **3.05.120 Frequency of Collection.**

(a) No person owning, operating, occupying, or in charge of any premises, business establishment, industry or other property, vacant or occupied, in the Town shall permit, allow or suffer any garbage to be, remain, or accumulate on any such premises for any period longer than one week.

(b) Each person engaged in selling or furnishing food or drink to members of the public, whether as a primary business or incidental to another business, such as but not limited to bars, soda fountains, restaurants, and theaters, shall remove, or cause to be removed, all garbage accumulated in connection therewith as often as necessary as directed by the County Health Officer, but not less than one time each week.

[*History:* formerly § 3.05.020, and before that, § 3.402; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 708, 5/9/12]

## **DIVISION TWO: RECYCLING**

### **3.05.130 Mandatory Recycling.**

(a) On and after July 1, 2012, each owner or operator of a business that generates more than four cubic yards of Solid Waste per week and or of a multifamily residential dwelling of five units or more shall arrange for recycling services from a Franchisee or Permittee, and shall either:

- (1) Source-separate Recyclable materials from Solid Waste and subscribe to recycling service that includes collection, self-hauling, or other arrangements for the pick-up of Recyclable materials; or
- (2) Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation.

(b) A property owner of a multifamily residential dwelling may require tenants to source separate their Recyclable materials to aid in compliance with this section.

[*History:* New, Ord. 708, 5/9/12]

[Reference: Pub. Res. Code § 42649.2]

### **3.05.140 Preparation and Ownership of Recyclables.**

(a) Receptacles containing Recyclable materials for residential units shall be placed at curbside for collection by the Franchisee or Permittee, but shall not be placed at curbside earlier than twelve hours prior to the date and time for scheduled collection, nor left remaining at curbside longer than twelve hours following the date and time for scheduled collection.

(b) Receptacles containing Recyclable materials for a multi-residential complex, commercial and/or institutional locations shall be of a size and serviceability agreed to by the Franchisee or Permittee and thereafter placed at the designated collection location.

(c) From the time of placement of Recyclable materials at a designated location for collection of Recyclable materials, or in any container used for recycling provided by a Franchisee or Permittee, those Recyclable materials shall be and become the property of the Franchisee or Permittee.

[History: New, Ord. 708, 5/9/12]

### **3.05.150 Collection of Recyclables By Unauthorized Persons Prohibited.**

(a) It is unlawful for any person, business or other entity to collect Recyclable materials in the Town, except as otherwise provided in this subchapter or by subchapter 5.05.

(b) Any person engaged in the unauthorized collection of Recyclable materials is guilty of an infraction. Any such unauthorized collections from one or more locations within the Town shall constitute a separate and distinct offense.

(c) As an alternative to criminal enforcement, both the Town and the Franchisee or Permittee have the independent authority to civilly enforce any provisions of this chapter, to and including the authority to seek treble damages pursuant to California Government Code Section 66764. The City Manager may invoke these remedies, or any of them, whenever he or she deems it appropriate.

[History: New, Ord. 708, 5/9/12]

### **3.05.160 Duty to Properly Use Recycling Containers.**

(a) Each person subscribing to refuse and recycling collection service shall, to the greatest extent practical, make use of the Recyclable materials collection service provided by the Franchisee or Permittee, by separating Recyclable materials from refuse and placing the Recyclable materials in the container provided by the Franchisee or Permittee for this purpose.

(b) Recyclable materials for donation, sale, or collection by or to any person or entity, other than a Franchisee or Permittee, may not be stored or transferred by use of the recycling receptacles described in this chapter, or any other containers used for recycling provided by the Franchisee or Permittee. Storage of Recyclable materials at the designated collection location other than for pickup by the Authorized Franchisee or Permittee as defined herein, is prohibited.

[History: New, Ord. 708, 5/9/12]

### **3.05.170 Sale or Donation of Recyclable Materials.**

Nothing in this subchapter or subchapter 5.05 shall prohibit the generator of Recyclable materials from selling or donating such materials to a buyer or donee, provided that, if the Town has awarded an exclusive franchise for the collection and disposal of Solid Waste, a generator may not pay any other person other than a Franchisee for collecting, recycling, or disposing of Recyclable materials.

[History: formerly 3.05.010(f), and before that, § 3.401; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12]

## **DIVISION THREE: REGULATION OF FRANCHISEES AND PERMITTEES, AND COLLECTION PRACTICES**

### **3.05.180 Franchise to Collect Solid Waste.**

The City Council may, with or without having invited bids therefor, enter into an exclusive contract with any responsible person to collect and handle any or all Solid Waste, including Recyclables, within the Town. The Franchisee with whom the Town has entered into an exclusive franchise agreement shall have the exclusive right to collect, convey, and transport Solid Waste, including Recyclables, in, along, or over the public streets, alleys, and highways in the Town, or to designated properties or areas in the Town, for so long as the Franchisee is not in material breach of any term of the franchise agreement. A Franchisee with a franchise agreement shall pay the Town the franchise fee required under the franchise agreement; no permit fee shall be required of such Franchisee.

*[History: formerly § 3.05.050(a), and before that, § 3.405; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12]*

### **3.05.190 Permit to Collect Solid Waste.**

Upon finding that it is in the best interests of the Town to do so, the City Council may grant a permit, good for one year, to any responsible person to collect and handle any or all Solid Waste, including Recyclables, from such properties or areas in the Town that are not eligible for service by a Franchisee operating under an exclusive franchise agreement, and to convey, and transport such Solid Waste in, along, or over the public streets, alleys, and highways in the Town. The City Council may renew the permit each year if the Permittee is not in material default of any provisions in its existing permit and renewal is in the best interests of the Town. The Permittee shall pay the Town an annual permit fee set forth in the Master Fee Schedule.

*[History: formerly § 3.05.050(b), and before that, § 3.405; Ord. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12]*

### **3.05.200 Permit to Collect Recyclables.**

Upon finding that it is in the best interests of the Town to do so, the City Council may grant a permit, good for one year, to any responsible person to provide collect Recyclables only from any properties or areas in the Town, and to convey, and transport such Recyclables in, along, or over the public streets, alleys, and highways in the Town. Thereafter, the City Manager may renew the permit each year if the Permittee is not in material default of any provisions in its existing permit and renewal is in the best interests of the Town. A denial of a request to renew a Permit to Collect Recyclables may be appealed to the City Council in accordance with Colma Municipal Code section 1.02.270. The Permittee shall pay the Town an annual permit fee set forth in the Master Fee Schedule.

*[History: New, Ord. 708, 5/9/12]*

### **3.05.210 Franchisee or Permittee with Continuation Rights.**

(a) Nothing in this subchapter shall affect the continuation rights granted by section 49520 of the California Public Resources Code to any Franchisee or Permittee, provided that the

Franchisee or Permittee shall have paid all required fees and is not in material breach of any term of the permit or franchise under which the Franchisee or Permittee is operating. Any Franchisee or Permittee claiming continuation rights shall be responsible for demonstrating to the Town how those rights have been acquired, and shall provide to the Town a list of that Collector's customers as of the date upon which continuation rights are first claimed.

(b) To the extent that a Collector is operating under continuation rights granted by section 49520 of the California Public Resources Code, and the Town gave such Collector notice of termination of continuation rights prior to November 9, 2010, such Collector may not commence service to any new customers from and after the effective date of any new Solid Waste collection franchise granted by the Town.

[*History:* formerly § 3.05.050(c) and before that, § 3.405; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12]

### **3.05.220 Authorization for Collectors of Electronics Waste (E-waste).**

An approved E-Waste Recycler or Collector may, without obtaining a permit, collect e-waste, including computers, televisions, copiers, fax machines, stereos and VCRs, that has been left at either the curbside in a marked container or a drop-off site, provided that such Recycler or Collector has provided to the City Clerk its Covered Electronic Waste Identification (CEWID) number prior to collection of any e-waste.

[*History:* New, Ord. 708, 5/9/12]

### **3.05.230 Self-Haulers and Other Exemptions.**

(a) Nothing in this subchapter shall prohibit a self-hauler from personally collecting, conveying, recycling, or disposing of such Solid Waste or Recyclables without obtaining the permit required herein, provided that the self-hauler complies with other provisions of this subchapter and any other applicable law or ordinances.

(b) Nothing herein contained shall prevent any person, business or other entity from allowing Recyclable materials to be picked up, dropped off, or otherwise donated to any charitable entity.

(c) Nothing herein contained shall inhibit, regulate or restrict any recycling center, nonprofit dropoff program or recycling processor as permitted by the Solid Waste Management Resource and Recovery Act of 1972 or the California Beverage Container Recycling and Litter Reduction Act of 1986.

(d) Nothing herein shall prohibit a contractor from recycling, re-using, or disposing of demolition and construction debris, provided that such contractor shall comply with all Town diversion, recordkeeping and reporting requirements set forth in subchapter 5.05 of the Colma Municipal Code.

[*History:* formerly § 3.05.050(f) and before that, § 3.405; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 682, 10/14/09; Ord. 708, 5/9/12]

### **3.05.240 Terms of a Franchise or Permit.**

(a) A Franchise agreement or permit shall be in writing, naming the holder of the franchise or permit, and shall include such terms and conditions as the City Council shall establish to further the purposes of this ordinance, which may include but are not limited to:

- (1) Requirements pertaining to the manner, time and frequency of collection;
- (2) Requirements pertaining to collecting and handling Recyclable materials;
- (3) Indemnification and insurance provisions satisfactory to the Town;
- (4) Provisions requiring the Franchisee or Permittee to provide requested Solid Waste and recycling reports to the Town, cooperate with the city in reporting requirements, Solid Waste generation studies and the preparation of waste stream audits, and to implement measures to reach the recycling targets mandated by the Waste Management Act (California Public Resources Code Section 40000 et seq.), SB 1016 and AB 341 as it may be amended from time to time; and
- (5) Reporting Requirements, as more fully described elsewhere in this ordinance.

[*History*: formerly § 3.05.050(a) and (b), and before that, § 3.405; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12]

### **3.05.250 Records and Reporting.**

(a) Each Franchisee shall prepare the following reports and submit them to the City Manager within 45 days after the close of the reporting period:

- (1) A monthly *Service Complaints Report* containing all complaints by residents or businesses in the Town of Colma relating to service, including missed pickups, and a description of how each complaint was handled.
- (2) A biannual *AB 341 Report* on the implementation and monitoring of AB 341, which shall include:
  - (A) The number of businesses that generate four or more cubic yards per week, the number of businesses subscribing to recycling service, modifications to service compared to the prior reporting period, and the related disposal and recycling generated from each account and each account's address.
  - (B) Information about the businesses that are out of AB 341 compliance.
- (3) A quarterly *Recycling and Disposal - by Sector - Report*, which shall include the amount of disposed and recycled materials from each of the three sectors: commercial, residential, and debris box service, the recycling rate for the commercial, residential sectors and debris box service and the total recycling rate for the Town.

- (4) An annual *Recycling and Disposal by Sector-Cumulative Annual Report* that includes the residential, commercial and rolloff/debris box disposed and diverted amounts in a year to year comparison.
  - (5) An annual *Household Hazardous Waste Report* to be sent to the Town prior to August 30 of each year that details the amount and type of Household Hazardous Waste that was collected in the Town.
- (b) Each Permittee shall prepare the following reports and submit them to the City Manager within 45 days after the close of the reporting period:
- (1) A monthly *Service Complaints Report* containing all complaints by residents or businesses in the Town of Colma relating to service, including missed pickups, and a description of how each complaint was handled.
  - (2) A quarterly *Recyclable Materials Report*, which shall be submitted by the Permittee 45 days after the close of the reporting period, and which shall state for the reporting period:
    - (A) Each location name and address serviced by permittee, and the Monthly Solid Waste and recycling subscription level for each customer;
    - (B) Type and quantity of Recyclable material collected monthly, e.g., cardboard, paper, beverage containers, mixed Recyclables, green waste, wood waste and scrap metal, collected;
    - (C) The name of the Material Recovery Facility or authorized recycling facility where the Recyclable material was delivered and processed; and
    - (D) Colma Permit number, address, phone number, contact person, email of Permittee.

[History: formerly 3.05.090; ORD. 658, 06/13/07; ORD. 708, 5/9/12]

### **3.05.260 Collection Practices.**

- (a) *Collection of Solid Waste.* No person may convey Solid Waste, including Recyclables, over the streets of the Town except in equipment that is water-tight, vector-resistant, durable, easily cleanable and designed for safe hauling, and so operated as to prevent offensive odors escaping there from and garbage from being blown, dropped or spilled.
- (b) *Collector vehicles.* No Collector shall collect, convey over the streets and alleys of the Town, dispose of any refuse except in equipment that is water-tight, vector-resistant, durable, easily cleanable and designed for safe hauling, and so operated as to prevent offensive odors escaping there from and garbage from being blown, dropped or spilled.
- (c) *Disposal.* Disposal of Solid Waste shall be made outside the Town limits, at a transfer station or disposal facility that is operating in compliance with all applicable laws and holds all permits and other authorizations required for its operations.

(d) *Equipment Safety.* Vehicles and equipment used in the transport of Solid Waste shall be constructed and maintained in such a manner to minimize the health and safety hazards to collection personnel and the public.

(e) *Equipment Parking.* For reasons of nuisance and vector problems, uncleaned Solid Waste collection vehicles containing putrescible material shall not be stored on public streets or roads except under emergency conditions. The Collector must designate a location where the vehicles will be parked when not in service.

(f) *Identification of Collector.* Each vehicle used for the collection and transport of Solid Waste shall be clearly marked with the name of the agency or firm operating the vehicle.

(g) *Time of Collection.* No person shall remove any Solid Waste between the hours of 5:00 p.m. and 2:30 a.m. the following date. A Collector shall provide regular collection service, in compliance with any schedule established by the franchise between the Collector and the Town, or permit issued by the Town, and the requirements of this subchapter.

[*History:* formerly § 3.05.080, and before that, § 3.408; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 708, 5/9/12]

### **3.05.270 Delivery and Recycling and Disposal Requirements.**

(a) Solid Waste other than Recyclables may only be delivered to a licensed landfill site or licensed transfer station for disposal.

(b) Recyclable materials may only be delivered, after having been separated from other Solid Wastes, to a material recovery facility (MRF) or other authorized Recyclable collection facility.

(c) Organic material may only be delivered to a composting facility or a facility that allows diversion credit for the delivered organics materials.

(d) Demolition and construction debris may only be delivered to certified construction and demolition recycling facility or other authorized collection site. The Town of Colma's Construction and Demolition ordinance reporting requirements for projects in Colma remain in full effect and the reporting requirements in the ordinance are not modified.

[*History:* formerly § 3.05.050(e) and before that, § 3.405; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 682, 10/14/09; ORD. 708, 5/9/12]

### **3.05.280 Modification or Revocation.**

The City Council may modify or revoke a Permit to collect Solid Waste or Recyclables for failure to comply with any provision of this ordinance.

[*History:* New, Ord. 708, 5/9/12]



### **3.05.290 Franchisee's Existing Rights.**

Nothing in this subchapter shall modify, limit, or abrogate in any manner any franchise or permit previously granted or extended by the Town; or the existing right of a person or business to sell or donate its Recyclable materials.

[*History: New, Ord. 708, 5/9/12*]

## **DIVISION FOUR: MISCELLANEOUS**

### **3.05.300 Violation.**

(a) Any person violating any of the provisions of this subchapter shall be guilty of a misdemeanor, which shall be punishable as set forth in section 1.05.010 *et seq.* of the Colma Municipal Code.

(b) Keeping or maintaining any property or condition in violation of this subchapter is declared to be a public nuisance, which may be abated pursuant to the procedures set forth in the Property Maintenance and Nuisance Abatement Ordinance of the Town of Colma (Colma Municipal Code, subchapter 2.01).

[*History: formerly § 3.05.110, and before that, § 3.411; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 708, 5/9/12*]

### **3.05.310 Severability.**

If any section, subsection, sentence, clause or phrase of this subchapter or the application thereof to any person or circumstances is, for any reason, held to be unconstitutional or invalid, such definition shall not affect the validity of the remaining portions of this subchapter or the application of such provision to other persons or circumstances. The Town Council hereby declares that it would have passed this subchapter or any section, subsection, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared to be unconstitutional.

[*History: formerly § 3.05.120, and before that, § 3.412; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 708, 5/9/12*]