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8.28.010 Purpose and policy.

The city, in order to promote and protect the public and refuse worker health and safety and to reduce the danger and hazards of fires and conflagrations, reserves unto itself the exclusive right and power to collect, transport, and dispose of, or to authorize, regulate, permit and control said collections, transportation and disposition of all refuse and rubble produced or found within the corporate limits of said city. (Prior code § 4030)

8.28.020 Authorization.

The city manager is authorized to delegate authority and expend all necessary resources in order to carry out the provisions of this chapter. The city manager and/or his or her designee is also authorized to:

- A. Establish minimum service required to prevent accumulations of refuse and rubble which would lead to a threat to the health and safety of the citizens of the city;
- B. Set policies and standards for efficient and effective refuse and rubble collection services;
- C. Recommend to the city council revisions to fees and charges for regular service which are needed to insure that all refuse and rubble collection, transport, and disposal costs, both direct and indirect, are covered;
- D. Set charges for service not specified in the rates adopted by resolution by the city council;
- E. Enforce the rules and regulations contained in this chapter;
- F. Commercial accommodations or units under this chapter, the Director shall have the authority to establish any variances in applying this chapter to alleviate such inequities. (Prior code § 4031)

8.28.030 Definitions.

For the purpose of this chapter certain words and terms are defined as follows:

“Automated lift container” means a container with a hinged lid that is designed to be lifted, dumped, and returned by refuse collection vehicles that have a mechanical lifting device.

Authorized Containers. Where automated service is not, or cannot be provided, authorized containers which are sturdy, leak-proof, metal, rubber or plastic containers with lids, ten to thirty-two (32) gallons capacity, loaded weight not exceeding fifty (50) pounds and approved by the director, may be used for refuse collection. Oil or other drums or containers with sharp edges are not acceptable. Cardboard boxes, when in sturdy condition, are acceptable only for dry materials loaded weight not exceeding twenty-five (25) pounds and not having sharp edges.

“Bin” means a metal container supplied by the city for a rental fee, approved by the director for the deposit of refuse (loose or compacted) which shall:

1. Have a close-fitting cover where required by the director;
2. Be leak-proof and fly-proof;
3. Be free of sharp, rough, or jagged surfaces or edges likely to cause injury;
4. Uses casters or other means for easy movement (for bins up to four cubic yards in size);

5. Be designed in a manner to be emptied mechanically.

“Box” (roll-off) means a large metal container approved by the director for the deposit of refuse or rubble which shall:

1. Be leak-proof if carrying wet wastes;
2. Be free of sharp, rough, or jagged surfaces or edges likely to cause injury;
3. Have the ability to be covered with a tarpaulin, lid, or other suitable covering;
4. Be compatible to be safely lifted onto city roll-off trucks.

“Bulky wastes” means and includes large items of solid waste such as appliances, furniture, large auto parts, trees, large branches, stumps, asphalt, concrete, large rock, and other oversize wastes of large size which precludes or complicates handling by normal collection or disposal methods.

“Bundle” means a package containing rubbish only, not exceeding four feet in its longest dimension, two feet in diameter nor twenty-five (25) pounds in weight, securely tied with cord or rope of sufficient strength to permit lifting and carrying of the full weight thereof without spillage or leakage, and placed for collection immediately adjacent to a standard or authorized container including, but not limited to, the following:

1. Tree limbs;
2. Brush and prunings;
3. Magazines and newspapers.

“City” means the city of Visalia, California.

“City council” means the city council of the city of Visalia.

“City manager” means the city manager of the city or the manager's authorized deputy, agent, or representative.

“Commercial solid wastes” means and includes refuse generated by stores, offices, and other commercial sources, excluding residential and industrial wastes.

“Construction and demolition wastes” means and includes the waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements and structures.

“County” means the county of Tulare, California.

“Delinquent balance” means fees which are not paid in accordance with the schedule established by the director as required by Section 4044(F). At the time the fees become delinquent, they shall constitute an unrecorded lien against the property.

“Director” means the director(s) of the department(s) responsible for carrying out the provisions of this chapter.

“Dwelling unit” means a building or portion of a building arranged, intended or designed to be occupied by not more than one family and having facilities for sleeping, eating, cooking and sanitary purposes.

“Garbage:”

1. Includes all kitchen and table food waste and animal, fruit or vegetable waste that attends or results from the storage, sale, preparation, cooking or handling of food stuffs;
2. Uncleaned containers originally used for foodstuffs;
3. Consists of every accumulation of animal, vegetable, and other matter that attends the sale, preparation, consumption, dealing in or storage of meats, fish, fowl, birds, fruits or vegetables;
4. All other abandoned putrescible organic matter. The term garbage does not include dishwater or wastewater;
5. The term garbage does not include dead animals, which the city will not collect.

Hazardous Wastes. “Hazardous wastes” shall have the same meaning as is defined in the state of California statutes or regulations.

“Industrial wastes” means and includes all types of solid wastes and semi-solid wastes that result from industrial processes and manufacturing operations. Industrial wastes do not include wastes discharged to the sanitary sewer system.

Infectious Wastes. “Infectious wastes” shall have the same meaning as defined in the state of California statutes and regulations.

“Lien” means the delinquent balance of billed fees which may be recorded or unrecorded.

“May” is permissive.

“Multiple family dwelling” means a dwelling complex, such as a duplex or apartment, consisting of more than one dwelling unit.

“Nuisance” means anything which is injurious to health or is offensive to the senses or an obstruction to the free use of property so as to interfere with a person's comfort or enjoyment of life or property, or which affects at the same time an entire community or neighborhood or any

considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

“Person” means any individual, partnership, corporation, association, or any other entity that owns, controls or occupies any property within the city.

“Property” means each individual commercial or industrial establishment or dwelling unit.

“Putrescible wastes” means and includes wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, gases, or other offensive conditions, and include materials such as food wastes and offal.

“Recyclable wastes” means residential, commercial or industrial solid waste, including compostable waste, which the director has determined can be separated for reprocessing, reuse or remanufacturing. Recyclable wastes are included within the definitions for refuse and rubble, as outlined in this section.

“Refuse” means garbage, rubbish or both, including recyclable materials hauled for a fee.

“Residential wastes” means and includes all types of domestic refuse which originate in dwelling units.

“Rubbish” means all organic or inorganic materials, not defined herein as garbage or rubble, which are rejected, abandoned or discarded by the owners or producers thereof, as offensive or useless or no longer desired by such owners or producers. These materials include, but are not limited to, corrugated cardboard, paper, wood, rags, used clothing; discarded or abandoned bedding; discarded or abandoned carpets; discarded or abandoned oil cloth and linoleum; sweepings, cuttings, or cleanings from buildings, yards, lawns or gardens; bottles, tin cans or containers which have no food residue; broken crockery, and glassware; old metal, wire packing or wrapping materials; ashes; trimmings from lawns, shrubs, plants or trees; rope, twine, jute, bagging or burlap.

“Rubble” means rocks, concrete, bricks and similar solid material; plaster, dirt and similar abandoned or discarded inorganic, noncombustible, non-putrescible materials; building construction or demolition waste materials; sod.

“Shall” is mandatory.

Standard containers. See “authorized containers.”

“Temporary service” means limited-term service for bins and roll-off boxes which may be requested from the director for a period not to exceed three months within a calendar year, except for construction sites where temporary service may be required for longer periods of time or where longer terms are authorized in writing by the director. (Prior code § 4032)

8.28.040 Collection service requirements.

A. Garbage Collection Service--Minimum Service Provided and Payment Required. Any and all person(s) as defined in this chapter in possession or control of all places and premises within the city shall be given the opportunity to use, and shall pay for, the regular refuse and rubble collection and disposal services provided by the city and found by the director to be necessary to allow for removal of all refuse and rubble normally created, accumulated or produced on the premises during the intervals between regular collections. It shall be the duty of every owner of any private dwelling unit, apartment house, flat, commercial establishment, restaurant, eating house, boarding house, or other building where meals are furnished and generating garbage as defined in Section 8.28.030 to provide, and at all times to keep within the building or on the lot on which the building is situated, sufficient automatic lift containers, standard containers, authorized containers, bins and/or roll-off boxes to allow storage of all refuse and rubble normally accumulated on the premises during the intervals between regular collections without spillage, escape of odors, fly breeding, or creation of any nuisance. The city reserves the right to require the exclusive use of city-provided automatic lift containers, other containers, bins, and/or roll-off boxes for all regular refuse and rubble collection services provided by the city.

B. Minimum Service.

1. The party paying for water service for all properties, dwelling units, and commercial establishments or business, or the owner upon written application, or, in the case of a residence on well water, the owner of the property is responsible for subscribing to and paying for minimum service as defined in this section.

2. One split container and/or one undivided container shall be the minimum refuse service for each dwelling unit, each unit of a multiple dwelling unit complex, and each commercial establishment or business, unless automatic lift service is not provided by the city, when one standard container shall be the minimum service. The director may authorize or require alternative automatic lift container service including, but not limited to, providing a ninety (90) gallon capacity container to be shared by the two units of a multiple dwelling unit complex, or mobile home park, or a three hundred fifty (350) gallon capacity container to be shared by up to four dwelling units. The director may also authorize commercial bin service for multiple dwelling complexes which have four or more dwelling units, or commercial bin or box service for commercial establishments or businesses. Any multiple dwelling complex, commercial establishment, or business which elects to use the commercial bin(s) shall provide an enclosure(s) according to design standards issued by the director. Commercial bins shall not be authorized for multiple dwelling units complexes with three or less dwelling units.

3. One split container or one undivided sixty (60) gallon container or an equivalent share into a bin or a box shall be the minimum refuse service for any commercial establishment or business.

4. Service to single dwelling units and multiple dwelling units complexes shall be at the rate of a minimum of two collections per week unless otherwise authorized by the director. Service to apartment complexes, boarding houses, hotels and motels, restaurants, and all other establishments generating garbage shall be at the rate of a minimum of two collections per week, unless otherwise authorized by the director.

5. Where a curbside recyclable waste collections program, or other special collection program as authorized by the city is implemented, the director has the authority to designate some of the collections identified in Section 8.28.040 to be used exclusively for such a program.

6. The owners of all premises upon which refuse or rubble is produced or accumulated shall subscribe for service as herein required and shall be given the type and frequency of service, according to the rates set forth by the city council, that will, in the opinion of the director, cause all refuse and rubble to be removed from the premises, so there will be no accumulation, collection and keeping of the same, on the premises to the detriment of public health and/or convenience.

C. Waste Not Accepted.

1. Wastes that will not be collected by the city, except as provided in subsection (C)(4) of this section, are as follows:

- a. Ammunition;
- b. Dead animals;
- c. Hazardous wastes;
- d. Hot ashes;
- e. Infectious wastes;
- f. Oil.

2. Wastes that will not be collected by the city, except as provided in subsection (C)(4) of this section, unless placed in roll-off boxes or bins are as follows:

- a. Axles;
- b. Brick;
- c. Building blocks;
- d. Concrete;
- e. Heavy machinery parts;
- f. Large appliances;
- g. Rocks;
- h. Sod.

3. The city shall not collect hazardous wastes or infectious wastes, either alone or mixed with other matter which would normally be collected, unless the city establishes specific collection services for such wastes that meets all applicable state and federal rules and regulations.

4. Certain waste listed under subsections (C)(1) and (C)(2) of this section may be collected as part of special collection services as established by the city.

D. Disabled Exemption. Notwithstanding any other provisions of this chapter or any other provisions of the city code to the contrary, an exemption from placing a container at the curb or alley as described in Section 8.28.070 may be made, upon approval of an application to the director, to certain service users. The requester must attest that they are physically unable to place a full waste container at the curb or alley, and that they are financially unable to subscribe for assistance in moving a container to the curb/alley. The director is authorized to set standards, terms and conditions for said exemptions. The exemption provided for in this section shall be applied for on a form provided by the city and will allow the recipient to receive in-yard service for the applicable curbside fee as established by resolution of the city council. (Prior code § 4033)

8.28.050 Container--Usage.

A. The city has determined that automatic lift container service will be the regular service for all single dwelling units and multiple dwelling unit complexes (three units or less), except where such service, in the opinion of the director, is impracticable or not feasible. The director has the authority to require automatic lift container service at any refuse collection service account within the city, where such designation will benefit the city through more efficient and economic collection services. The city will provide automatic lift containers, unless otherwise authorized by the director, to all accounts where such service is required.

B. Residential and commercial accounts where automatic lift container service is not required or provided, must place all refuse and rubble in standard or authorized containers, except at commercial establishments, multiple family dwellings and institutional premises where commercial bins or roll-off box service is provided.

C. Containers, including automatic lift containers, bins and boxes provided by the city, and container/bin enclosures shall be kept in a sanitary condition by property owners and persons in possession or control thereof.

D. Ashes in containers shall be wet down thoroughly by owners on the day prior to collection as a protection to city employees and city equipment.

E. All wet refuse must be bagged.

F. Any boxes, barrels, packing or wrapping materials, or empty cardboard containers left upon any public street, alley or sidewalk within the city continuously for a period of six hours or more shall be deemed to be abandoned by the owners and constitute rubble within the meaning

of the term rubbish as used in this chapter and shall be subject to be collected and disposed of by the city pursuant to the provisions of this chapter.

G. The director may permit containers of different capacity when, in his or her opinion, it is impossible or impracticable, because of location, construction or other physical characteristics of the premises, to comply with the capacity limitations outlined in this chapter; provided further, that in the event the director so determines, the director may impose such conditions as he or she may deem necessary to, or convenient upon the use, location, collection, and physical characteristics of any such containers.

H. It is unlawful to have, store, deposit, or keep garbage or swill where rats or any other disease vector can have access thereto or feed thereon. (Prior code § 4034)

8.28.060 Containers--Types.

A. It is unlawful to keep, place, or deposit garbage on any private grounds or premises whatsoever, except in containers as designated in this section.

B. Standard Containers. Single dwelling units and multiple dwelling unit complexes or commercial establishments not using automatic lift containers, commercial bins or roll-off boxes shall provide containers for refuse, each having a capacity of not less than ten gallons nor more than thirty-two (32) gallons in any one container.

C. Automatic Lift Containers.

1. Only the city-authorized automatic lift containers may be used in automatic lift container service areas.

2. Automatic lift containers will not be provided in nonautomatic lift container service areas.

D. Bins.

1. The city will collect appropriately designed commercial bins which have a capacity not exceeding six cubic yards.

2. Noncity provided bins must be compatible with city collection equipment and their use must be approved in writing by the director.

3. The city will provide noncompactor bins with a capacity of two, three and six cubic yards for an appropriate rental fee. Additional bin sizes may be available with director approval.

4. Bins, except for six cubic yard capacity bins, must be on rolling casters for easy mobility unless, upon approval of the director, they are located where city collections equipment can easily access the bins. Bin locations shall be as directed by the city.

5. For collection, the area surrounding the bins must be cleared of obstacles that may block the bin. The bin must not be overfull or overweight. In addition, any gates that would prevent servicing the bin must be opened. The bin shall be placed such that a minimum of four feet of space is available on all sides.

6. If the bin was scheduled for collection and it could not be collected due to noncompliance with the provisions of this section, a collection fee shall be charged. The customer must call to schedule additional service, if required. The fees for additional service shall be determined by the director.

E. Boxes (Roll-Off).

1. The city will provide regular collection service to customers who own or rent commercial roll-off boxes compatible with city collection equipment. All boxes not rented from the city must be approved by the director prior to obtaining service.

2. All locations for boxes must be approved by the director.

3. Boxes shall not be filled above the top, so that they can be easily tarped. Overfull boxes will not be collected.

4. Boxes which, when filled, exceed the weight limits for gross vehicle weight and individual axle weights established by the state, will not be collected.

5. For collection, the area surrounding the box must be cleared of any obstacles that may block the box, and the rear doors of the box must be securely closed. In addition, any gates that would prevent servicing of the box must be opened. A clearance of forty (40) feet is needed in front of the box to enable collection.

6. If the box was scheduled for collection and it could not be collected due to noncompliance with the provisions of this section, a collection fee shall be charged. The customer must call to schedule additional service, if required. The fees for additional service shall be determined by the director. (Prior code § 4035)

8.28.070 Placing containers for collection.

A. The director has the authority to designate whether regular collection will be provided from the curb or from the alley. Alley service will only be provided if criteria developed by the director is met, and such service is compatible with overall collection service objectives. Certain commercial bin and roll-off box service may be authorized by the director to be collected at other locations.

B. Container(s) for receiving garbage, rubbish or waste matter may be placed on or in any street, alley, sidewalk, footpath or other public place only in accordance with rules and regulations established under this chapter for the collection of same.

C. Unless otherwise specifically provided in this chapter, any person occupying property upon which refuse or rubble is produced shall place the refuse and/or rubble out for collection in an approved container, bin or roll-off box. Any container(s) placed for curbside collection shall be placed on the sidewalk or in the gutter so as to minimize interference with traffic.

D. The handles of automatic lift containers shall be placed with the handles away from the truck for collection. For collection, automatic lift containers shall be within one foot of the curb, two feet from obstructions such as fences, posts and mailboxes, and ten feet from parked cars, boats, trailers, and similar obstructions. If there is more than one automatic lift container, the containers shall be placed at least two feet apart. Any container(s) placed for alley collection shall be set next to the fence in a location and on one side of the alley as designated by the director. The automatic lift container handles shall face the fence.

E. Containers shall be placed at ground level and shall be located such that they will not be a public nuisance or in any degree offensive.

F. Automatic lift container(s), and other containers as authorized by the director shall be placed for collection no earlier than seven p.m. standard time or eight p.m. daylight savings time, the evening prior to the scheduled collection day, and must be available for collection at curbside or the alley no later than six a.m. on the day of collection. The container or containers shall be removed from the curb no later than six-thirty p.m. on the day of collection. Bins and roll-off boxes (except for temporary service) shall meet the time requirement as authorized above, except that they must be available for collection no later than four a.m. on the day of collection, unless otherwise authorized by the director. Temporary service bins and roll-off boxes may be left at the curb for the term of service.

G. The director has the authority to determine what sizes of automatic lift containers resident which have alley service may use.

H. All bins (except for temporary service), when not placed out for collection, must be kept in appropriate enclosures meeting design specifications issued by the director, and in locations approved by the director.

I. It shall be an infraction to have containers placed in such a manner that they are visible from public right-of-way on days of no scheduled collection. The director may extend a waiver of this provision upon application from the property owner. A violation of this section shall constitute an infraction. (Prior code § 4036)

8.28.080 Special collection services.

A. The city may establish a separate collection service for recyclable wastes, including compostable wastes, and establish specific guidelines for such service, which are consistent with the rules and regulations contained within this chapter. The city may also establish a recyclable waste processing franchise(s) to separate out and process separately collected recyclable wastes.

B. It is an infraction to place anything other than recyclable materials, as defined by the director, into recycling collection containers.

C. Recyclable Material. Unless otherwise provided by contract, recyclable materials, including but not limited to paper, glass, cardboard, plastics, ferrous metal, aluminum, other waste materials which are segregated for the purpose of recycling and placed at the designated collection location, may not be removed by anyone other than the city or authorized collection agent of the city.

D. The city may provide special collection services for collection of refuse in excess of amounts normally collected or at a time other than the normal scheduled route, and for special, hard-to-handle, and/or bulky wastes. The fees will be based on the cost of providing the services.

E. The city may provide refuse and rubble collection service outside the city limits according to service schedules and for fees as prepared by the director and approved by the city council and the county. (Prior code § 4037)

8.28.090 Special hauling.

Except as provided in D. below, any owner of any premises may contract only with the city for special haul service for the removal of refuse or rubble except that of construction, demolition, tree trimming and yard maintenance contractors may remove rubble and/or recyclables produced as a result of their contract service if transported in equipment owned by the contractor, and only upon receiving authorization in writing from the director for removal of construction rubble and recyclables.

A. An owner or occupant of any premises may haul refuse and rubble generated on their premises to the county disposal site or other city-designated sanitary fill areas. The owner or occupant is, however, responsible for payment of minimum service charges, as established by the city.

B. All refuse and rubble hauled by any person (or firm) over public streets in the city shall be securely covered during hauling thereof so as to prevent leakage, spillage, or blowing. No person shall allow refuse or rubble of any kind whatsoever to leak, spill, blow or drop from any vehicle onto any public street within the city. The cost of cleanup associated with any such spillage shall be borne by the owner of the vehicle transporting the material.

C. Any owner or occupant of any premises may contract only with the city for special haul service for the removal of refuse or rubble except that construction, demolition, tree trimming and yard maintenance contractors may remove refuse and/or rubble produced as a part of their contract service if transported in equipment owned by the contractor, and only upon receiving authorization in writing from the director for removal of construction refuse and rubble.

D. Any owner of any premises may contract with a permitted contractor for special haul services for removal of construction and demolition and or recyclable materials. Additionally, any provider of construction, demolition, tree trimming and yard maintenance services may contract for roll off boxeservices with a permitted contractor for removal of construction and demolition and/or recyclables provided as result of their services. The director may issue a franchise permit to contractors to provide services pursuant to this section subject to the following conditions and limitations:

1. A franchise permit must be acquired before any roll-off bin services can be provided within the city limits. The franchise permit shall be for the duration of one year. It may be renewed annually provided the permit holder has complied with all terms and conditions of this section.

2. All franchise permittees will be required to pay a quarterly franchise fee. The private contractor will pay twenty-five dollars (\$25.00) per roll off box per empty. In January of every year there will be an increase in the franchise fee per empty based on the consumer price index. (U.S. C.P.I.U.) Fees are due to the city by the fifteenth of April, July, October and January.

3. All franchise permittee equipment utilized to perform the services authorized by the franchise permit shall be subject to inspection by the director or the director's delegated representative. All such equipment shall meet state regulations and requirements and be inspected as required by such regulations. It shall be maintained in good working order. Such equipment, other inspection reports and maintenance records shall be subject to inspection by the director or the director's representative at any time upon reasonable notice.

4. All roll-off containers utilized to provide the services authorized by the franchise permit shall meet city specifications and be numbered in numerical sequence. The city shall be provided all vehicle identification license plate numbers for vehicles used to transport construction, demolition and recyclable waste. Roll-off boxes must be covered while transporting to prevent materials from blowing out along public streets or otherwise escaping from such vehicle.

5. The contractor shall provide copies of required vehicle insurance, worker's compensation insurance, comprehensive general liability insurance and evidence of business license.

6. The contractor shall maintain records of all demolition, construction and/or recyclable materials hauled pursuant to the permits granted under this section. Such records shall indicate where such demolition, construction, and/or recyclable materials were disposed. Records must be kept for a period of at least five years and shall, upon reasonable request, be made available to the director or director's delegated representative for inspection.

7. The director or director's delegated representative may conduct an audit of the permit holder's records upon reasonable notice. The purpose of such audit will be to determine that the permittee has complied with all the provisions of this section with respect to hauling demolition, construction and/or recyclable materials. Such audit may also be for the purpose whether the permit holder has paid the requisite franchise fees as mandated by the provisions of this section.

8. The director may revoke the franchise permit provided under this section for failure of the permit holder to comply with the terms and conditions of this section or make required payments to the city of the franchisee fees. In the event the director determines that the permit holder has failed to comply with the terms of this ordinance or to make the requisite franchise fee payments, the director shall notify the permit holder of his intention to revoke the permit in writing at least fifteen (15) days prior to such revocation. The permit holder may request a hearing before the director to contest the proposed revocation of the permit and present evidence to support his position. After the conduct of such hearing the director shall make a written finding with respect to the revocation of the permit which determination shall be final. The director may also determine not to renew a permit if he finds that the permit holder has been in

violation of the terms and conditions of this section or has failed to pay the franchise fees as required by this section.

(Ord. 2003-16 (part), 2003; Prior code § 4038)

8.28.100 Temporary service.

A. The city may provide temporary bin and roll-off box service upon application for such service, and upon a finding by the director that regular service would not be appropriate. Temporary service may be authorized for short-term, intermittent refuse and/or rubble collection needs. Temporary service shall not be authorized to replace regular, minimum service.

B. Temporary bin or roll-off service will not be authorized for a period longer than three months, within a calendar year, unless authorized in writing by the director.

C. Temporary service requests are accepted on a first-call, first-service basis.

D. Bins provided by the city for temporary service shall be placed for curbside collection no later than four a.m. on the morning of scheduled collection. The bin shall be placed such that a minimum of four feet of space is available on all sides of the bin so the bin may be serviced. The bin shall not be overfull or overweight. If the bin was scheduled for collection and it could not be collected due to noncompliance with the provisions of this section, a minimum collection fee shall be charged to the account of the customer. The customer must call to reschedule collection service.

E. Temporary Roll-off Boxes. For collection, the area surrounding the box must be cleared of any obstacles that may block the box, and the rear doors of the box must be securely closed. The box shall not be overfull or overweight. In addition, any gates that would prevent servicing of the box must be opened. A clearance of forty (40) feet is needed in front of the box to enable collection. If the box was scheduled for collection and it could not be collected due to noncompliance with the provisions of this section, a minimum collection fee will be charged to the account of the customer. The customer must call to reschedule collection service. (Prior code § 4039)

8.28.110 Restrictions.

A. It is a misdemeanor for any person to bury refuse at any place within the city, or to keep, place or deposit refuse on any public or private grounds or premises whatsoever, except in containers or receptacles for collection upon premises owned, occupied or under possession and control of such person; provided, however, that lawn and garden trimmings may be composted.

B. It is an infraction to create, cause or add to any refuse accumulation not placed for regular or special collection, or to cause the attraction or collection of insects or rodents.

C. It is an infraction to use more service, or cause the city to provide more service than is subscribed to.

- D. It is an infraction for any person to burn garbage or rubbish at any time within the city.
- E. It is a misdemeanor to deposit refuse or rubble into containers, bins, or roll-off boxes which are not assigned to the property at which the refuse or rubble is generated.
- F. It is a misdemeanor to deposit or use refuse for lot filling or leveling purposes.
- G. It is an infraction for any person, firm, corporation or association to permit any manure to accumulate on premises under his or its control in such manner or such extent as to give rise to fly breeding conditions or objectionable odors upon any public highway, street or alley or upon any premises within the city.
- H. It is a misdemeanor for any person, firm, corporation or association or any agent or employee thereof, to hinder, threaten, impede or obstruct any City refuse collector in the performance of their duty as defined in this chapter.
- I. It is an infraction for any persons, other than the city or the city's designee, to collect or remove recyclable or salvageable materials placed by any person in a bag or container labeled for use in connection with a recycling program sponsored by the city.
- J. It is a misdemeanor for any person to collect refuse, waste paper refuse, or rubble within the city or transport same through the streets, alleys, and public ways in the city unless such person has been authorized in writing to do so by contract or otherwise by the director. Nothing herein shall be construed to prohibit any person from hauling refuse, waste paper refuse, or rubble which has been produced on the premises actually occupied by the persons in his own vehicle, by himself or an employee, or as outlined in Section 8.28.090(C).
- K. It is a misdemeanor to dispose of any waste prohibited in Section 8.28.040 into city collected containers, bins or boxes. It is the responsibility of the property owner to dispose of such waste properly. If prohibited waste is included in a city authorized container, automatic lift container, bin or box, it shall be deemed contaminated and shall not be collected. It shall be the responsibility of the property owner to properly dispose of the waste in containers, boxes or bins deemed contaminated. If an authorized container, automatic lift container, bin or box, including prohibited wastes is inadvertently collected by the city, at the time the city identifies the prohibited wastes, the city shall identify where the prohibited waste originated. The entire truck load shall be considered contaminated. It shall be the responsibility of the property owner and generator who disposed of the prohibited waste to properly dispose of the entire contaminated load of refuse and rubble and to cover any related costs including, but not limited to, ensuring that equipment that was in contact with the prohibited waste is safe and decontaminated.
- L. Any other violation of this chapter shall be an infraction. (Prior code § 4040)

8.28.120 Enforcement.

- A. This chapter shall be enforced as a health and safety measure to prevent the nuisances of refuse accumulations and disposition, including odors, insect or rodent attractions, smoke problems or odor problems. The city council finds that each and all of the above specified

conditions constitute a public nuisance, and are unlawful, in violation of this chapter and subject to immediate abatement by any officer of this city. Any costs associated with enforcement and abatement which the city incurs may be charged to the offending party or property owner for reimbursement.

B. Any person convicted of a **misdemeanor** under this Article shall be punished by: (1) a fine not to exceed five hundred dollars (\$500.00) and/or thirty (30) days in the county jail for a first violation; (2) a fine not exceeding one thousand dollars (\$1,000.00) and/or ninety (90) days in the county jail for a second violation of this chapter within one year; and (3) a fine and/or six months in the county jail for each additional violation of this chapter within one year. Each day that a violation continues shall be regarded as a new and separate offense.

C. Any person convicted of any **infraction** of this chapter shall be punished by: (1) a fine not exceeding fifty dollars (\$50.00) for a first violation; (2) a fine not exceeding one hundred dollars (\$100.00) for the second violation of this chapter within one year; and (3) a fine not exceeding two hundred fifty dollars (\$250.00) for each additional violation of this chapter within one year. Each day a violation continues shall be regarded as a new and separate offense. (Prior code § 4041)

8.28.130 Administration.

A. The administration of this chapter is the responsibility of the director or his or her designee.

B. The director shall have the authority to establish rules and regulations required to enforce or carry out provisions of this chapter.

C. The director, any of his or her staff authorized by the director and such other persons as may be authorized by the city manager, are authorized to enter any restaurant, hotel or other public place, or yard or out building to determine compliance with the provisions of this chapter. (Prior code § 4042)

8.28.140 Establishment of rates, charges and fees.

A. Notwithstanding any provision of this chapter or any other provision in the Municipal Code to the contrary, except as outlined in Section 8.28.020(C), the rates, charges and fees for regular service established or provided for in this chapter shall be established by resolution of the city council.

B. Fees for extra or special service shall be set by the director. (Prior code § 4043)

8.28.150 Fee collection.

A. Billing for refuse disposal service, and payment thereof, shall be to and by the person in whose name water service is rendered to the property. Upon written application by the property owner of tenant-occupied property, billing and payment may be to and by each property owner.

B. The date charges for service begin to accrue for refuse service is the date water billing is started. In the case of a residence using well water, instead of a water service, the date charges begin to accrue for refuse service is the date of occupancy, title change or annexation. The date charges for service end is the later of the date the water service or refuse service is terminated.

C. All service charges shall be retained by the city irrespective of any intra-billing termination date of water service, to defer service and administration costs.

D. If a prepayment or deposit is collected but not entirely used for service, the city may automatically prepare a refund; however, it shall be the responsibility of the billing party to apply for the refund.

E. Service charges shall be calculated on a monthly basis. Service missed as a result of non-compliance with this chapter can be rescheduled for a fee. Service missed as a result of an error by the city can be rescheduled by the customer; however, the monthly service charge will not be adjusted.

F. Schedules for billing, payment due dates and delinquency schedules shall be determined by the director. The schedule shall allow at least fifteen (15) days for payment prior to considering the unpaid balance delinquent.

G. At the discretion of the city, service on outside accounts may be stopped or reduced to a minimum as a result of delinquency. The total due on all accounts under the control of the party and a restart fee may be required prior to reinstatement of the necessary or desired service level.

H. Fees for service may be billed through more than one account on more than one billing system. Balances for each property or each billing period may be transferred within the city billing systems to ensure collections, or to defer the service and administration costs of billing.

I. The city will issue a residential vacancy credit if the water service is not terminated and the period of the vacancy is three months or longer. A written application for a vacancy must be submitted by the property owner or tenant a minimum of ten working days prior to the date of the actual vacancy. No vacancy credit will be allowed if an application is requested or received after the actual vacancy has occurred. The director shall have the authority to establish a fee for the actual cost of providing a vacancy credit. No vacancy credits are established for commercial or industrial businesses. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: Ord. 9615 § 2, 1996; prior code § 4044)

8.28.160 Late charges.

For refuse collection and disposal service charges, as defined in Section 8.28.140, remaining unpaid balances, which are deemed delinquent according to the schedule defined in Section 8.28.150(F), there may be added and collected herewith a late charge as set by resolution of the

city council, and any such unpaid charge, together with the late charge shall bear interest at the rate as set by resolution of the city council until paid. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4045)

8.28.170 Means of collection of delinquent fees including late charges.

A. At the time the fees for owner-occupied property become delinquent, until such time as they are fully paid, the delinquent account balance, including late charges, shall constitute an unrecorded lien against the property and, as such, may be identified during a title search. For commercial businesses, delinquent account balances, including late charges, may be considered an unrecorded lien against the business name and/or owner of the business.

B. Once a year the city council may cause to be prepared a report of delinquent fees including late charges. The council shall fix a time, date and place for hearing the report and receive any objections or protests thereto.

C. The council shall cause notice of hearing to be mailed to the landowners listed on the report not less than ten days prior to the date of the hearing.

D. At a hearing the council shall hear any objections or protests of landowners liable to be assessed for delinquent fees, including late charges and administrative fees, as set by resolution of the city council. The council may make revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed.

E. The delinquent fees set forth in the report as confirmed shall constitute special assessments against the respective parcels of land and are a lien on the property for the amount of such delinquent fees including late charges. A certified copy of the confirmed report shall be filed with the county auditor for the amounts or the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien(s) created attaches upon recordation, in the office of the county recorder of the county in which the property is situated, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary county ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of county ad valorem property taxes shall be applicable to such assessment; except, that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attached thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the delinquent fees, as confirmed, relating to such property shall be transferred to the unsecured roll for collection and recorded in the name of the prior property owner following city policies and procedures.

F. In addition to, or in lieu of other collection processes, the city may authorize a third party to discontinue water service as a means of collecting delinquent balances.

G. In addition to, or in lieu of other collection processes, delinquent balances may be processed through a collection bureau.

H. In addition or in the alternative, and at the option of the city, the city may file a civil action for the collection of any amounts due and unpaid. This remedy shall be cumulative and in addition to the remedy of means of enforcing payment of the sum required to be paid by this chapter stated in subsection (A) through (G) of this section. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4046)