

## **Title 8**

### **HEALTH AND SANITATION\***

#### **Chapters:**

- 8.04 Food Handling Law Generally**
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\* CROSS REFERENCES: Building and Construction, see CVMC Title 15. Water and Sewers, see CVMC Title 13. Environmental Quality, see CVMC Title 17. Performance Standards, see Ch. 19.66 CVMC.



## Chapter 8.04

### FOOD HANDLING LAW GENERALLY\*

#### Sections:

- 8.04.010 City and state provisions to be enforced.
- 8.04.020 Definitions.
- 8.04.030 Unlawful acts designated.
- 8.04.040 Violation deemed nuisance – Abatement authority.
- 8.04.050 Enforcement and inspection authority – Obstruction prohibited.

\* For statutory authority for cities to enact sanitation rules stricter than those promulgated by the state, see the California Restaurant Act at Health and Saf. Code § 28693.

#### **8.04.010 City and state provisions to be enforced.**

The city council enacts the following regulations and standards, under the authority of Section 28693 of the California Restaurant Act, and finds that they are more strict than those of the California Restaurant Act. The health officer shall enforce the provisions of this chapter as well as the California Restaurant Act. (Ord. 855 § 2, 1963; prior code § 15.1).

#### **8.04.020 Definitions.**

Any word or phrase hereinafter used and not herein defined shall be given the meaning established for such word or phrase by the California Restaurant Act or, if not there defined, the common and ordinary meaning required by the context in which it is used. Whenever in this chapter the following terms are used, they shall have the meaning ascribed to them in this section:

A. “Approve,” “approved” or “approval” means the approval of the health officer, or the State Department of Public Health, as a result of tests or investigations or by reason of accepted principles of public health and sanitation.

B. “California Restaurant Act” means Chapter 11 of Division 21 of the Health and Safety Code of the state of California.

C. “Establishment” means any restaurant; itinerant restaurant; food vending vehicle; vending machine, other than a vending machine which dispenses wrapped nonperishable solid foods or which dispenses bottled or canned liquid foods or beverages, or which exclusively dispenses peanuts, wrapped candy, chewing gum or ice; grocery; pet

shop; food market; meat or fish market; bakery; confectionery; delicatessen; food or potable liquid packing or bottling plant; plant or room used to prepare any food or beverage product whatsoever that is dispensed by machine, whether or not such food or beverage product is perishable and whether or not such dispensing machine is a “vending machine” as defined in the California Restaurant Act; temporary or permanent food beverage concession; winery; package liquor store; or any other place in the city where food or beverages are prepared for sale, sold, stored, distributed or displayed for sale.

“Establishment” does not include a wholesale delivery truck used exclusively to transport previously inspected and packaged, canned or bottled foods or beverages, or any combination thereof, and does not include a retail delivery truck used exclusively to transport previously inspected and packaged, canned or bottled milk, water or groceries, or any combination thereof; “establishment” does include any wholesale or retail delivery truck transporting any food or beverage product other than or in addition to the aforementioned types of products.

D. “Food or beverage” means “food,” as defined in Section 26450 of the California Health and Safety Code.

E. “Food vending vehicle” means any vehicle, as defined in Section 670 of the Vehicle Code, or any mobile unit howsoever propelled, upon or from which any food or beverage is vended, displayed or given away.

F. “Health officer” means the director of public health and any regularly appointed sanitarian or employee of the department of public health of the county of San Diego.

G. “Perishable” means, with respect to food and beverage products, those products which support or are conducive to the growth of pathogenic microorganisms; perishable food and beverage products include, but are not limited to, fresh, cured, prepared or packaged meat or meat products, seafood or seafood products, custard and/or cream pies and pastries, wrapped or unwrapped sandwiches, salads, and milk or milk products.

H. “Permit” means the public health permit.

I. “Provided by law” means authorized or required by this code, the rules of the board of health, the California Restaurant Act and other applicable state laws, and the rules or regulations of the State Department of Public Health.

J. “Retail delivery truck” means any vehicle used for the transportation of food or beverage

products which is not a wholesale delivery truck as defined herein, and includes a vehicle used to service vending machines.

K. "Rules of the board of health" means rules and regulations promulgated by the county board of health and approved by the board of supervisors and the city council.

L. "Wholesale delivery truck" means a vehicle that delivers food or beverage products from a producer or distributor to a consumer, retailer or wholesaler, pursuant to orders therefor previously obtained; "wholesale delivery truck" does not include a vehicle from which selling is done directly by a driver, salesman or other person. (Ord. 855 § 2, 1963; prior code § 15.2).

#### **8.04.030 Unlawful acts designated.**

It is unlawful for any person to do any act herein prohibited; to maintain any establishment contrary to the provisions of this chapter; or to sell, offer for sale, barter, trade or give away any food or beverage, or permit the same to be done, without complying with the requirements provided by law in connection therewith. (Ord. 855 § 2, 1963; prior code § 15.3).

#### **8.04.040 Violation deemed nuisance – Abatement authority.**

Any establishment or activity which is found by the health officer to be unsanitary or a menace to the public health or which is in violation of this chapter or of the California Restaurant Act is declared to be a public nuisance. The health officer is authorized and empowered to take such action as is necessary to preserve or protect the public health or safety; the health officer is authorized and empowered to summarily abate such nuisance; otherwise, the health officer shall request the city attorney to seek a court order abating the nuisance, or request the city manager to abate pursuant to Chapter 1.30 CVMC. Nothing contained in this code shall be deemed to limit the right and duty of the health officer to take immediate action in the interest of public health, safety and welfare.

The remedies authorized by this section are not exclusive, but are cumulative to other remedies provided by law. (Ord. 2718 § 1, 1998; Ord. 855 § 2, 1963; prior code § 15.4).

#### **8.04.050 Enforcement and inspection authority – Obstruction prohibited.**

The health officer is authorized and empowered to enforce the provisions of this chapter and to inspect such activities as are regulated in this chap-

ter for the purpose of determining health conditions of such activities. No person shall obstruct or interfere with the health officer in the performance of his duties. (Ord. 855 § 2, 1963; prior code § 15.5).

## Chapter 8.08

### FOOD HANDLERS' PERMITS\*

Sections:

- 8.08.010 Required.
- 8.08.020 Application – Contents required – Inspection fee.
- 8.08.030 Inspection of premises prerequisite – Notice of grant or denial.
- 8.08.040 Appeal from denial or revocation.
- 8.08.050 Conditions for granting.
- 8.08.060 Separate permit required for each place of business.
- 8.08.070 Annual inspection fees.
- 8.08.080 Expiration and renewal – Delinquency penalties imposed when.
- 8.08.082 Conversion to year-round licensing.
- 8.08.090 Nontransferability – Voidable when.
- 8.08.100 Score of 80 percent on grade card required – Notice of deficiency required – Grading and reinspection procedure.
- 8.08.110 Display of documents required.
- 8.08.120 Permit for sale of farm produce – Issuance conditions.
- 8.08.130 Special permits for rural areas – Issuance conditions.
- 8.08.140 –
- 8.08.300 *Repealed.*

\* For statutory authority for cities to license businesses for purposes of revenue and regulation, see Gov. Code § 37101; for statutory authority for localities to prescribe fees to pay for local enforcement of state health laws, see Health and Saf. Code § 510.

#### **8.08.010 Required.**

No person shall sell, offer for sale, barter, trade or give away any food or beverage, and no person shall permit the same to be done, from any establishment unless such establishment has a valid public health permit, which permit has not been revoked or suspended. (Ord. 855 § 2, 1963; prior code § 15.6).

#### **8.08.020 Application – Contents required – Inspection fee.**

Every person applying for a permit shall file with the health department a written application which shall set forth the name and address of the applicant; a description of the premises wherein or whereon it is proposed to conduct the establishment; the type and nature of the establishment pro-

posed; and such other information as the board of health by rule may require. Every applicant for a permit shall pay to the health officer the annual inspection fee established by this chapter at the time of making such an application. (Ord. 855 § 2, 1963; prior code § 15.7).

#### **8.08.030 Inspection of premises prerequisite – Notice of grant or denial.**

Upon the filing of the application and the payment of the required fee, it shall be the duty of the health officer to investigate the information contained in the application and the sanitary conditions of, in, and about the establishment, and to determine whether or not such establishment conforms to the requirements of this chapter, the California Restaurant Act, the rules of the board of health and the rules and regulations of the State Board of Health. The health officer shall grant the permit if such establishment is sanitary and does conform with such laws and such rules and regulations; otherwise, he shall deny such application. The health officer shall send, deliver or give written notice of such grant or denial to the applicant within five days following such grant or denial. A permit for which application is made pursuant to this chapter may be granted at any time during the year. (Ord. 855 § 2, 1963; prior code § 15.8).

#### **8.08.040 Appeal from denial or revocation.**

A person aggrieved by the denial to him of a permit or by the revocation of a permit pursuant to CVMC 8.08.050 may appeal from such denial to the city manager in the manner set forth in Chapter 1.40 CVMC. (Ord. 2718 § 1, 1998; Ord. 855 § 2, 1963; prior code § 15.9).

#### **8.08.050 Conditions for granting.**

A permit shall be granted only on the express condition that it is subject to revocation or suspension upon a showing satisfactory to the health officer of the violation by the permittee, his employee, servant or agent, or any other person acting with his consent or under his authority, of any provision of this chapter, the California Restaurant Act, rules of the board of health, or rule or regulation of the State Board of Health. (Ord. 855 § 2, 1963; prior code § 15.10).

#### **8.08.060 Separate permit required for each place of business.**

A separate permit shall be required for each place of business, concession or vehicle used by permittee. (Ord. 855 § 2, 1963; prior code § 15.11).

**8.08.070 Annual inspection fees.**

A. Except as otherwise specifically provided in this chapter, every person applying for a permit under the provisions of this chapter shall at the time of making application for such permit pay a fee, the exact amount which shall be determined by the county of San Diego and kept on record by the county department of health services and on file in the office of the city clerk of the city. In any case where the applicant has failed for a period of 30 days to file the application and obtain the required permit, license or registration, there shall be added to and collected with the required fee a penalty as established by the county of San Diego and kept on record by the county department of health services. The imposition or payment of the penalty imposed by this section shall not prohibit the imposition of any other penalty prescribed by this chapter or a criminal prosecution for violation of this chapter. Institutions exempt from real property assessments and taxation are exempt from paying the fees established by this section.

B. Establishment Plan Review. Every applicant for a permit or license required by this chapter shall, prior to obtaining a building permit, opening a new establishment, or upon remodeling an old establishment, submit to the health officer a plan of the proposed establishment, detailing all equipment, materials and facilities necessary to comply with the California Restaurant Act or Retail Marketing Act, whichever applies, and all applicable city ordinances or regulations, accompanied by the appropriate fee to cover the cost of review. The health officer shall review the plans and specifications and shall determine whether they are in accordance with the requirements of law. (Ord. 2218 § 1, 1987; Ord. 2042 § 1, 1983; Ord. 1996 § 1, 1982; Ord. 1930 § 1, 1981; Ord. 1638 § 1, 1975; Ord. 1236 § 1, 1969; Ord. 855 § 2, 1963; prior code § 15.12).

**8.08.080 Expiration and renewal – Delinquency penalties imposed when.**

A permit issued pursuant to this chapter shall expire on the one-year anniversary date of the date of issuance and each such permit shall be renewed annually. Application for the renewal shall be made, to the health officer. At the time application is made, there shall be paid to the health officer the annual fee prescribed by CVMC 8.08.070, which annual fee is due and payable each year. The annual fee, if unpaid, is delinquent 30 days following the date it is due and thereafter a penalty shall be imposed in the manner prescribed in CVMC

8.08.070. (Ord. 1767 § 1, 1977; Ord. 855 § 2, 1963; prior code § 15.13).

**8.08.082 Conversion to year-round licensing.**

Notwithstanding the provisions of CVMC 8.08.080, the health officer may issue permits pursuant to this chapter for less than a one-year period during the 1978 calendar year for purposes of conversion to year-round issuance. Such permits shall expire on the date assigned by the health officer and shall be renewed as provided in CVMC 8.08.080. The fee paid for a permit being converted to year-round issuance shall be reduced by an amount equal to one-twelfth of the total annual permit fee for each month less than one year for which the permit is issued. The reduction specified in this section shall be applicable; provided, the permit fee is paid prior to the date the penalties become due on such fee. (Ord. 1767 § 1, 1977).

**8.08.090 Nontransferability – Voidable when.**

A permit is not transferable from one person or one place to another, and shall be deemed voided if removed from the place or location specified in the written application and in the permit. (Ord. 855 § 2, 1963; prior code § 15.14).

**8.08.100 Score of 80 percent on grade card required – Notice of deficiency required – Grading and reinspection procedure.**

The board of health, by regulation, may adopt a scorecard for the grading of establishments undergoing inspection. No permit shall be issued to any establishment scoring less than 80 percent on the scorecard. Each establishment shall maintain standards of sanitation and health sufficient to score 80 percent on the scorecard at all times. If upon inspection any establishment shall fail to attain a score of 80 percent, due written notice shall be served on the applicant for the permit. The notice shall list the deficiencies and state that such deficiencies must be corrected within 30 days, at which time a reinspection will be made. An establishment failing to comply with the written notice, or failing to attain a score of 80 percent on the reinspection, shall immediately close and remain closed until a score of at least 80 percent is achieved on a reinspection by the department.

The health officer shall issue an alphabetical grade card to each restaurant inspected, which grade card shall be displayed at all times while the restaurant is open to the public. Restaurants scor-

ing 90 percent or more on the scorecard shall receive an “A” grade card; those scoring 80 to 89.5 percent shall receive a “B” scorecard; those scoring below 80 percent shall receive a “C” scorecard. (Ord. 855 § 2, 1963; prior code § 15.15).

**8.08.110 Display of documents required.**

Every health permit and/or alphabetical grade card issued shall be kept posted in a conspicuous place in the establishment for which the permit is issued. The health officer shall prescribe the location in or on the establishment where such permit shall be kept posted. Alphabetical grade cards shall be posted in the front window of the establishment so as to be clearly visible to patrons entering the establishment, or in a display case mounted on the outside of the front door, or in a display case mounted on the outside front wall of the establishment, within five feet of the front door, or in some other location clearly visible to patrons entering the establishment, which has been approved by the health officer. The alphabetical grade card shall be protected from damage by weather conditions and shall not be defaced, marred, or camouflaged or hidden so as to prevent the general public from observing it. (Ord. 1930 § 1, 1981; Ord. 855 § 2, 1963; prior code § 15.16).

**8.08.120 Permit for sale of farm produce – Issuance conditions.**

All farmers or ranchers may dispose of fruits, vegetables and farm produce actually produced on their ranches, farms or property; a permit will be issued therefor without charge; provided, that each and every provision of this code regulating the type of produce to be sold or distributed is complied with, that the sale or distribution of such produce or food is not made or done within the right-of-way of any public street or highway in the county, and that the produce is sold from the property on which it is grown. (Ord. 855 § 2, 1963; prior code § 15.17).

**8.08.130 Special permits for rural areas – Issuance conditions.**

In the isolated or rural districts where running water, electricity or other modern conveniences are not available, a special permit may be issued if in the opinion of the health officer such is advisable and is consistent with the preservation of the public health and safety. All such special permits shall be revocable for any cause which affects the public health and safety. (Ord. 855 § 2, 1963; prior code § 15.18).

**8.08.140 Suspension or revocation – Public hearing required.**

*Repealed by Ord. 2718 § 1, 1998.* (Ord. 855 § 2, 1963; prior code § 15.19).

**8.08.150 Public hearing – Notice required – Form.**

*Repealed by Ord. 2718 § 1, 1998.* (Ord. 855 § 2, 1963; prior code § 15.20).

**8.08.160 Public hearing – Rules and procedure generally.**

*Repealed by Ord. 2718 § 1, 1998.* (Ord. 855 § 2, 1963; prior code § 15.21).

**8.08.170 Public hearing – Hearing officer – Grounds for disqualification.**

*Repealed by Ord. 2718 § 1, 1998.* (Ord. 855 § 2, 1963; prior code § 15.21(A)).

**8.08.180 Public hearing – Time.**

*Repealed by Ord. 2718 § 1, 1998.* (Ord. 855 § 2, 1963; prior code § 15.21(B)).

**8.08.190 Public hearing – Continuance.**

*Repealed by Ord. 2718 § 1, 1998.* (Ord. 855 § 2, 1963; prior code § 15.21(C)).

**8.08.200 Public hearing – Transcripts.**

*Repealed by Ord. 2718 § 1, 1998.* (Ord. 855 § 2, 1963; prior code § 15.21(D)).

**8.08.210 Public hearing – Waiver of irregularities – Exception.**

*Repealed by Ord. 2718 § 1, 1998.* (Ord. 855 § 2, 1963; prior code § 15.21(E)).

**8.08.220 Public hearing – Findings.**

*Repealed by Ord. 2718 § 1, 1998.* (Ord. 855 § 2, 1963; prior code § 15.21(F)).

**8.08.230 Public hearing – Decision and order.**

*Repealed by Ord. 2718 § 1, 1998.* (Ord. 855 § 2, 1963; prior code § 15.21(G)).

**8.08.240 Public hearing – Petition for modification or rescission of order.**

*Repealed by Ord. 2718 § 1, 1998.* (Ord. 855 § 2, 1963; prior code § 15.21(H)).

**8.08.250 Public hearing – Probation procedure.**

*Repealed by Ord. 2718 § 1, 1998. (Ord. 855 § 2, 1963; prior code § 15.21(I)).*

**8.08.260 Appeal – Procedure generally.**

*Repealed by Ord. 2718 § 1, 1998. (Ord. 855 § 2, 1963; prior code § 15.22).*

**8.08.270 Appeal – Rules and regulations generally.**

*Repealed by Ord. 2718 § 1, 1998. (Ord. 855 § 2, 1963; prior code § 15.23).*

**8.08.280 Appeal – Effect of filing.**

*Repealed by Ord. 2718 § 1, 1998. (Ord. 855 § 2, 1963; prior code § 15.23(A)).*

**8.08.290 Appeal – Hearing by council.**

*Repealed by Ord. 2718 § 1, 1998. (Ord. 855 § 2, 1963; prior code § 15.23(B)).*

**8.08.300 Appeal – Applicable procedures.**

*Repealed by Ord. 2718 § 1, 1998. (Ord. 855 § 2, 1963; prior code § 15.23(C)).*

**Chapter 8.12****FOOD HANDLERS’  
REGISTRATION CARDS**

## Sections:

- 8.12.010 Food handler defined.
- 8.12.015 Food service manager defined.
- 8.12.020 Director defined.
- 8.12.030 Department defined.
- 8.12.040 Food handler training.
- 8.12.050 Employment of food handlers.
- 8.12.070 Transmissible disease.
- 8.12.080 Transmissible disease – Medical examination – Exclusion.
- 8.12.090 Food handler records.
- 8.12.100 Fees.
- 8.12.110 Licensed hospital employees.

**8.12.010 Food handler defined.**

For the purposes of this chapter, “food handler” means any person engaged or employed in a business, occupation or establishment for which a permit is required by this title, who handles food in such manner that some portion of his clothing or body or body discharges might come in contact with such food or with the utensils used in connection therewith. (Ord. 1656 § 2, 1975).

**8.12.015 Food service manager defined.**

For the purposes of this chapter, “food service manager” means the owner, operator, licensee, or any other person who supervises all or part of food service operations within a food service establishment and is responsible for the actions of employees under his or her charge. (Ord. 1957 § 2, 1981).

**8.12.020 Director defined.**

For the purposes of this chapter, “director” means the director of the San Diego County department of public health or his duly appointed deputy or representative. (Ord. 1656 § 2, 1975).

**8.12.030 Department defined.**

For the purposes of this chapter, “department” means the San Diego County department of public health. (Ord. 1656 § 2, 1975).

**8.12.040 Food handler training.**

No person shall act as or be engaged as a food handler unless such person: (1) possesses a valid food handler training certificate as described in subsection (A) of this section, or (2) is working in an establishment under the supervision of a food



service manager possessing a food service manager training certificate as described in subsection (B) of this section, and possess a food handler card as described in subsection (C) of this section; provided, however, that a person may act as or be engaged as a food handler under the supervision of such a food service manager for up to 10 calendar days without a food handler card.

A. Food Handler Training Certificate. Food handler training certificates or renewals thereof shall be issued by the health officer, or any other qualified person or agency as may be designated by the health officer, to persons who, immediately preceding such issuance, have successfully completed a food sanitation training course having a duration of at least three hours, taught by an instructor approved by the health officer. In order to successfully complete the course, a person must pass a proficiency test, approved by the health officer, with at least a 70 percent grade. The course of instruction shall include at least the following subjects:

1. Microorganisms;
2. Sources of foodborne disease microorganisms;
3. Foodborne diseases;
4. The means by which food is contaminated by microorganisms and toxic substances;
5. Methods for protection of food to prevent foodborne illnesses;
6. Control of the spread of disease through food;
7. Personal hygiene for food handlers;
8. The role of utensils and equipment in the transmission of diseases; and
9. Dishwashing procedures.

The health officer's designation of persons or agencies to issue food handler training certificates and the health officer's approval of instructors and course contents may be withdrawn by the health officer at any time. The food handler training certificate shall be valid for three years from the date of issuance.

B. Food Service Manager Training Certificate.

1. A food service manager training certificate shall be issued by the health officer, or by a person or agency authorized by the health officer, to any person who has (1) attended a food service manager's training course, having a duration of at least 16 hours, taught by an instructor approved by the health officer, and having a course content approved by the health officer, and (2) has passed a proficiency test, approved by the health officer, with at least a 70 percent grade. The course of

instruction shall include at least the following subjects:

- a. Microbiology of foodborne disease;
  - b. Methods of preventing foodborne diseases;
  - c. Personal sanitation practices;
  - d. Warewashing and sanitizing;
  - e. Housekeeping and waste disposal practices;
  - f. Food purchasing, transportation, receiving and storage;
  - g. Food preparation and use;
  - h. Sanitation of kitchens;
  - i. Dining service;
  - j. Legal regulations of the food industry;
- and
- k. Sanitation and safety management.

2. A food service manager training certificate may also be issued to persons with any one of the following combinations of academic preparation and work experience, providing they pass the proficiency test specified above with at least an 85 percent grade:

- a. A baccalaureate degree with at least a minor in food service occupations, environmental sanitation, biological sciences, hospitality services or related subjects and at least two years of occupational experience in said fields; or
- b. An associate degree or 60 semester units of course work in food service occupations, environmental sanitation, biological sciences, hospitality services or related subjects and at least four years of occupational experience in said fields; or
- c. A high school diploma or its equivalent or evidence of successful completion of secondary education and at least six years of occupational experience in the food service field; or
- d. A food service manager training certificate may be issued by the health officer to any person possessing formal education and practical experience in the application of food sanitation principles determined by the health officer to be equivalent to the formal education and practical experience to that of a registered sanitarian with 10 years' experience in food sanitation.

The health officer's designation of persons or agencies to issue food service manager training certificates and the health officer's approval of instructors, course contents and proficiency tests may be withdrawn by the health officer at any time. The food service manager training certificate shall not expire by passage of time.

C. Food Handler Card. A food handler card or a renewal thereof, in a form prescribed by the health

officer, may be issued by a food service manager possessing a food service manager training certificate to food handlers under the manager's supervision; provided, the food handlers pass a test relating to fundamental principles of sanitary food service practices, with at least a 70 percent grade. Such test shall be prepared by the health officer based on information contained in an informational booklet on sanitary food practices, which shall also be prepared by the health officer and which shall be distributed at cost by the health officer. Test records and records of the duration of the food handler's employment, including the date that the food handler began to perform food handling services, shall be maintained on the premises where the food handler is performing such services. The food handler card shall be valid for three years from the date of issuance, or until the food handler's performance of food handling services at the establishment where the card was issued ceases, or until the expiration of 60 days from the date that the establishment ceases to have a food service manager possessing a food service manager training certificate to supervise the food handler, whichever occurs the earliest. (Ord. 1957 § 2, 1981).

#### **8.12.050 Employment of food handlers.**

No person who owns or operates a business, occupation or establishment for which a permit is required by this title shall permit or authorize any person to act as or be engaged as a food handler in such business, occupation or establishment unless such person is legally permitted to act as or be engaged as a food handler pursuant to CVMC 8.12.040 or 8.12.110. (Ord. 1957 § 2, 1981).

#### **8.12.070 Transmissible disease.**

No person who has contracted or is afflicted with a disease or infection determined by the director to be a danger to public health, transmissible either directly or through food or drink to other persons, or who is known or suspected to be a carrier of organisms causing such disease, or who has come in contact with any person afflicted with such communicable disease or infection shall act or be engaged or employed as a food handler. (Ord. 1656 § 2, 1975).

#### **8.12.080 Transmissible disease – Medical examination – Exclusion.**

Whenever information that the possibility of transmission of disease determined by the director to be a danger to public health exists in a food handler or in any business, occupation or establish-

ment for which a permit is required by this title is presented to the director, he shall investigate conditions and take appropriate action. The director may, after investigation and for reasonable cause, require any of the following measures to be taken:

A. The immediate exclusion by the director of any food handler from the affected business or establishment;

B. The immediate closing of any affected business or establishment until, in the opinion of the director, no further danger of the outbreak of disease exists;

C. Medical examination of the owner, employee, and his coemployees with such laboratory examination as may be indicated; or should such examination or examinations be refused, then the immediate exclusion of the refusing owner, employee or coemployee from that or any other food establishment operation until a medical or laboratory examination shows that the person is not infected with or a carrier of any such disease in a communicable form. (Ord. 1656 § 2, 1975).

#### **8.12.090 Food handler records.**

The owner or operator of any business, occupation, or establishment employing food handlers shall maintain on the premises of such business, occupation, or establishment a list of all food handlers and food service managers employed therein. In addition, the owner or operator shall maintain copies of the food handler training certificates, food handler cards, and food service manager training certificates of each food handler or food service manager employed at the facility. All such records shall be made available to the health officer or his representative, upon request at all times the establishment is open for business. (Ord. 1957 § 2, 1981).

#### **8.12.100 Fees.**

No fee shall be charged for any test or examination made pursuant to this chapter by the department. The county and the city shall not be liable for any fee or charge made for any test, X-ray or examination required by this chapter that is not made by the department. (Ord. 1656 § 2, 1975).

#### **8.12.110 Licensed hospital employees.**

Persons engaged or employed as food handlers in acute care hospitals, acute psychiatric hospitals, skilled nursing facilities, intermediate care facilities, small intermediate care facilities, developmentally disabled habilitative facilities, special hospitals, and acute care rehabilitation hospitals licensed

by the state of California, who meet state requirements pertaining to food handler training, shall be deemed to be in compliance with the requirements of CVMC 8.12.040. (Ord. 1957 § 2, 1981).

## Chapter 8.16

### FOOD HANDLING REGULATIONS\*

#### Sections:

- 8.16.010 Inspection – By approved organization required.
- 8.16.020 Food to be kept covered – Exceptions.
- 8.16.025 Food handling establishments – Opening and replacing food or beverage packages prohibited.
- 8.16.030 Refrigeration of perishables – Labeling required.
- 8.16.040 Employees – To be free of communicable disease – Report duty.
- 8.16.050 Employees – Description and list of duties required.
- 8.16.060 Employees – Clothing requirements.
- 8.16.070 Lighting, ventilation and plumbing.
- 8.16.080 Floors, walls, ceilings and drainboards.
- 8.16.090 Toilets and washrooms.
- 8.16.100 Garbage cans and storage areas.
- 8.16.110 Sawdust prohibited – Exception.
- 8.16.120 Living and sleeping quarters prohibited where.
- 8.16.130 Locker rooms.
- 8.16.140 Rodent, vermin or pest infestation deemed nuisance – Abatement procedure – Penalty for noncompliance.
- 8.16.150 Common drinking cups prohibited.
- 8.16.160 Containers for drinking water.
- 8.16.170 Outdoor display of foods prohibited.
- 8.16.180 Keeping of foods subject to sun damage.
- 8.16.190 Wrapping paper – Newspaper prohibited when.
- 8.16.200 Removal of surplus crates and boxes.
- 8.16.210 Winery and cider mill regulations.
- 8.16.220 Pre-prepared sandwiches.
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- 8.16.330 Milk-dispensing devices – Use restrictions.
- 8.16.340 Malted milk and other milk drinks – Manufacture and serving regulations.

\* For statutory authority for cities to enforce state food handling sanitation laws and to require health permits for the operation of such establishments, see Health and Saf. Code §§ 28690, 28693.

#### **8.16.010 Inspection – By approved organization required.**

No person shall sell, distribute, offer for sale, vend or give away any manufactured or prepared food or beverage product in the county other than the product of an establishment that is regularly inspected by the health officer or some other health department inspection service recognized and approved by the director of public health. (Ord. 855 § 2, 1963; prior code § 15.24).

#### **8.16.020 Food to be kept covered – Exceptions.**

No person shall sell, expose, or offer for sale, or cause or permit to be sold, exposed, or offered for sale, in the city any article of food prepared or intended for human consumption, which article of food is smoked, cooked, dried or otherwise prepared and intended for human consumption without further cooking, washing or other preparation, unless such article of food is covered or enclosed by glass or some other approved substance or material in such a manner as to prevent the handling of such article of food by any person other than the person selling, offering or exposing such article of food for sale, and to prevent such article of food from coming in contact with any deleterious, unwholesome or unhealthy substance or material; provided, however, that the provisions of this section do not apply to food uncovered in the process of preparation, or to food uncovered for display for immediate consumption on the premises, where steam tables or other approved service tables are in use and are properly protected from unwholesome or unhealthy contamination as provided in this chapter and the California Restaurant Act. (Ord. 855 § 2, 1963; prior code § 15.25).

#### **8.16.025 Food handling establishments – Opening and replacing food or beverage packages prohibited.**

A. In a store where packaged food or beverages are offered for sale, it is unlawful for any unauthorized person to unwrap, unseal or open any food or beverage package. This section shall not apply to persons opening containers of fresh eggs or bulk foods.

B. Signs advising the public of the provisions of this section shall be clearly and conspicuously located at the main entrance to all grocery stores so as to be visible to all persons entering the store. Such sign shall read: “For everyone’s health and safety, it is unlawful to open or tamper with food containers prior to purchase. Municipal Code Section 8.16.025.” (Ord. 2061 § 1, 1984).

#### **8.16.030 Refrigeration of perishables – Labeling required.**

All perishable food and beverage products shall be refrigerated at a temperature of not more than 50 degrees Fahrenheit from the time such food or beverage products are manufactured, processed or otherwise made suitable for human consumption until such time as such food or beverage products are delivered or served to the consumer. All packages of perishable food or beverage shall be conspicuously labeled: “PERISHABLE – KEEP REFRIGERATED.” (Ord. 855 § 2, 1963; prior code § 15.26).

#### **8.16.040 Employees – To be free of communicable disease – Report duty.**

No person, proprietor, or manager of an establishment shall require or permit any person to work, nor shall any person work in any establishment, who is affected with any communicable disease. It shall be the duty of all owners, proprietors, or managers to report to the health officer any person afflicted with, or reasonably suspected of being afflicted with, venereal disease, smallpox, diphtheria, scarlet fever, dysentery, measles, mumps, German measles, tuberculosis, typhoid fever, chickenpox or any other infectious or contagious disease, whereupon it shall be the duty of the health officer to examine or cause to be examined any such person afflicted with, or reasonably suspected of being afflicted with, any of the abovementioned diseases and said person shall no longer be permitted to work in any establishment where food is handled, prepared, sold or distributed. (Ord. 855 § 2, 1963; prior code § 15.27).

**8.16.050 Employees – Description and list of duties required.**

All owners, proprietors or managers of establishments shall keep an accurate and complete list of all persons employed, indicating the physical description of, and the duties performed by, each employee. A copy of the list shall be furnished to the health officer and shall be kept constantly up-to-date by said owner, proprietor or manager. (Ord. 855 § 2, 1963; prior code § 15.28).

**8.16.060 Employees – Clothing requirements.**

Persons employed in an establishment for serving, preparing or handling food for human consumption, or handling food utensils, shall wear uniforms, clothing or aprons which are made of washable material and kept clean at all times. (Ord. 855 § 2, 1963; prior code § 15.29).

**8.16.070 Lighting, ventilation and plumbing.**

Every establishment shall be properly lighted, drained, ventilated and provided with adequate plumbing and sanitary drainage, as provided by law. (Ord. 855 § 2, 1963; prior code § 15.30).

**8.16.080 Floors, walls, ceilings and drainboards.**

The floors of every establishment shall be smooth and cleanable, shall be of good quality non-absorbent material and shall be kept in good repair and in a clean, sanitary condition at all times. The walls and ceilings shall be smooth, sound and cleanable and shall be kept painted with oil paint or other approved finishing material and maintained in good repair and in a clean and sanitary condition. In the proximity of sinks, mixers, stoves, ranges or other equipment where water, grease or other matter is likely to be splashed, walls shall be constructed of tile or other approved material to a sufficient height thoroughly to protect said walls; provided, the backs of stoves may be flashed with metal. Drainboards shall be made or constructed of metal, tile or approved substitutes. The use of wooden drainboards or wooden drainboards covered with metal is prohibited. Food preparation and utensil washing areas shall be painted with light-colored oil paint or enamel. (Ord. 855 § 2, 1963; prior code § 15.31).

**8.16.090 Toilets and washrooms.**

A. Floors of toilets and washrooms shall be of cement, tile laid in cement, or other nonabsorbent material. The interior area of a toilet room shall not

be less than 18 square feet. No door or other opening from a toilet room shall open directly into a kitchen, dining room or other place where food is served, cooked, stored or prepared; an anteroom not less than 18 square feet in interior area, with a solid door and ventilated to the outer air, shall be provided between the toilet and the other rooms of the establishment. The entrance to an anteroom shall be not less than four feet from the entrance to the toilet room. Every establishment shall be equipped with a water flush toilet, hand basin with hot and cold running water, hand soap, toilet tissue and single-use hand towels, all of which shall be located conveniently close to rooms used for food handling purposes. Whenever three or more employees work in the kitchen of a restaurant, there shall be provided a hand basin equipped with hot and cold running water, hand soap and single-use hand towels in such kitchen. Toilet facilities for employees shall be located conveniently on the premises; where there are five or more employees, not all of whom are the same sex, separate toilet facilities shall be provided for each sex.

B. Any establishment serving beer or other alcoholic beverages shall have separate toilet and wash room facilities for male guests and female guests and said facilities shall otherwise comply with all other applicable laws, statutes and ordinances. (Ord. 855 § 2, 1963; prior code § 15.32).

**8.16.100 Garbage cans and storage areas.**

Every establishment shall be provided with garbage and trash cans with fly-tight covers, made of metal or other approved material, for disposal of vegetable trimmings, food scraps and other refuse. A sufficient number of cans shall be available to prevent overloading, and tight-fitting covers shall be kept in place at all times. Garbage and trash cans shall be maintained in a sanitary condition and in good repair, and shall be cleaned at such intervals as the department may direct. Garbage and trash cans placed outside of the establishment shall be located on smooth, washable concrete or some other foundation approved by the health officer. Where there is an excess of vegetable trimmings or other waste material subject to decomposition, a fly-tight screened room shall be constructed of screen wire of not less than 14 meshes to the inch and all such excess waste material shall be kept in said screened room until removal from the premises. Where screened rooms are provided, the lower three feet of wall space shall be constructed of a smooth, washable material in a workmanlike

manner, and maintained in good repair. (Ord. 855 § 2, 1963; prior code § 15.33).

**8.16.110 Sawdust prohibited – Exception.**

No person shall use or permit to be used any sawdust or similar material on the floor of any room of an establishment, except that in butcher shops clean sawdust may be used on floors in a cooler or behind the counter. (Ord. 855 § 2, 1963; prior code § 15.34).

**8.16.120 Living and sleeping quarters prohibited where.**

Living and sleeping quarters shall be separated entirely with a solid partition from the establishment. No couch, cot, bed, bedding and/or articles used for living or sleeping purposes shall be maintained or kept in any room of the establishment where food is prepared, stored, served, or displayed. (Ord. 855 § 2, 1963; prior code § 15.35).

**8.16.130 Locker rooms.**

There shall be provided in all establishments a room or enclosure, separated from toilets or the food storage or preparation area, wherein employees may change and store outer garments; no person shall change or store clothes elsewhere in an establishment. (Ord. 855 § 2, 1963; prior code § 15.36).

**8.16.140 Rodent, vermin or pest infestation deemed nuisance – Abatement procedure – Penalty for noncompliance.**

The owner, operator or manager of every establishment shall take every precaution to keep the premises free and rid of rats, mice, roaches, ants and other vermin and pests. Whenever it shall appear to the health officer that any establishment is infested with rodents, vermin or pests, a written notice shall be given to the person owning, operating or managing the establishment that said infestation with rodents, vermin or pests constitutes a public nuisance and endangers the public health and safety, and that such infestation shall be abated within 30 days from the date of the written notice. Failure to comply with said written notice within 30 days shall constitute a violation of the provisions of this chapter, and the health officer shall suspend the permit summarily and close such establishment until said nuisance has been abated. (Ord. 855 § 2, 1963; prior code § 15.37).

**8.16.150 Common drinking cups prohibited.**

It is unlawful for any person conducting or having charge or control of any hotel, restaurant, saloon, soda fountain, theater, public hall, public or private school, church, hospital, club, office building, park, playground, lavatory or wash room, barber shop or any other public place, building, room or conveyance to provide or expose for common use, or permit to be so provided or exposed or to allow to be used in common, any cup, glass or other receptacle used for drinking purposes. (Ord. 855 § 2, 1963; prior code § 15.38).

**8.16.160 Containers for drinking water.**

No cask, water cooler or other receptacle shall be used for storing or supplying drinking water to the public or to employees unless it is covered and protected so as to prevent persons from dipping the water therefrom or from otherwise contaminating such water. All such containers shall be provided with a faucet or other approved device for drawing the water. (Ord. 855 § 2, 1963; prior code § 15.39).

**8.16.170 Outdoor display of foods prohibited.**

No food or food product, fruit or vegetable shall be displayed outside of any building or property line, or on any sidewalk, public street or highway, in any fruit stand or market. (Ord. 855 § 2, 1963; prior code § 15.40).

**8.16.180 Keeping of foods subject to sun damage.**

Deciduous fruits or other food subject to damage by the rays of the sun shall be kept at all times well inside of the building proper, and elevated not less than 18 inches above the floor level. (Ord. 855 § 2, 1963; prior code § 15.41).

**8.16.190 Wrapping paper – Newspaper prohibited when.**

No person shall use newspapers for wrapping fruits, vegetables or other food products unless such fruits, vegetables or other food first be wrapped in clean wrapping paper. (Ord. 855 § 2, 1963; prior code § 15.42).

**8.16.200 Removal of surplus crates and boxes.**

All surplus boxes, crates, lug boxes and similar containers in which fruits, vegetables and other products are delivered or received by an establishment shall be kept in a clean and sanitary condition and shall be removed from premises daily, unless

some other removal interval is established by the health officer. (Ord. 855 § 2, 1963; prior code § 15.43).

#### **8.16.210 Winery and cider mill regulations.**

All wineries or cider mills where wine or cider is manufactured, processed or bottled shall:

- A. Have properly drained cement floors and a properly installed sink with running water;
- B. Wash and sterilize thoroughly all bottles, jugs or receptacles used for bottling wine or cider;
- C. Use new corks or stoppers in all bottles, jugs or containers;
- D. Dispose of all pulp by a method approved by the health officer;
- E. Be equipped with a conveniently located water flush toilet in accordance with this code. (Ord. 855 § 2, 1963; prior code § 15.44).

#### **8.16.220 Pre-prepared sandwiches.**

As used in this section, a “pre-prepared sandwich” is a sandwich which is not intended for immediate consumption by the public. No person shall give away, trade or sell to the public within the city any pre-prepared sandwich unless such sandwich is made in conformity with the requirements of this section:

- A. The sandwich shall be prepared and wrapped at an establishment having in force a health permit issued pursuant to this title. If prepared elsewhere, it must be prepared at a regularly inspected location approved by the director of public health.
- B. The sandwich shall be clearly stamped or marked with the date of preparation and shall bear the name and address of the person or company that prepared it.
- C. From the time of preparation until delivery or service to the retail customer, the sandwich shall be refrigerated and maintained at a temperature of 50 degrees Fahrenheit or lower, or the growth of pathogenic microorganisms inhibited by a method approved in writing by the director of public health.
- D. Frozen pre-prepared sandwiches shall be frozen from the time of preparation until loaded for delivery to the retailer; thereafter, they shall be maintained at a temperature of not more than 42 degrees Fahrenheit until sold to the retail consumer. Frozen sandwich cartons shall show the date of preparation of the contents, and shall bear a legend reading: “KEEP FROZEN.”
- E. No pre-prepared sandwich shall be given away, traded or sold more than 72 hours after its preparation except as provided in this chapter, unless such sandwich is frozen immediately after

its preparation and kept frozen until loading for delivery to the retailer. Sandwiches so frozen may be loaded for delivery to the retailer within one year after preparation. If the delivery date is in excess of one year, such longer period must be approved in writing by the director of public health. (Ord. 954 § 1, 1965; Ord. 855 § 2, 1963; prior code § 15.45).

#### **8.16.230 Bottling of fruit juices, beverages, honey or other foods.**

All fruit juices, soft drinks, honey and/or other beverages, or foods, shall be bottled in a regularly inspected plant, and shall not be changed from one container to another except in said plant. (Ord. 855 § 2, 1963; prior code § 15.46).

#### **8.16.240 Custards and pastry fillings – Manufacturing and storage restrictions.**

All commercially prepared custards or cream fillings of pastries shall be prepared under the following conditions:

- A. They shall be manufactured under conditions of cleanliness;
- B. Only efficiently pasteurized Grade “A” milk or cream shall be used;
- C. The minimum temperature and minimum time of heating the mix is the equivalent of a temperature of 140 degrees Fahrenheit for a period of one hour; provided, however, that other temperatures and times may be used when specifically approved by the health officer;
- D. Upon completion of cooking, the custard shall be immediately transferred into properly covered, previously sterilized containers and chilled without delay to a temperature not higher than 50 degrees Fahrenheit;
- E. Custards shall be kept in a cooling room until used in making pastries;
- F. Filling apparatus shall be cleaned with hot water and sterilized brushes, or with a jet of live steam under pressure;
- G. Filling apparatus shall be sterilized before use, either by boiling for 10 minutes, by steaming in a steam sterilizer for one hour, or by some other method approved by the health officer;
- H. No pastries containing cream filling shall be displayed in windows or showcases unless chilled to and maintained at a temperature not higher than 50 degrees Fahrenheit;
- I. Pastries containing custard filling shall not be sold from vehicles unless such vehicles are equipped with a refrigerated compartment main-

taining a maximum temperature of 50 degrees Fahrenheit; provided, however, that pastries may be delivered from manufacturers to retail dealers or consumers, without continuous refrigeration, when it is possible to complete such delivery within two hours' time. (Ord. 855 § 2, 1963; prior code § 15.47).

**8.16.250 Special regulations for food handling establishments.**

No person shall operate or maintain any establishment without complying with the regulations set forth in CVMC 8.16.260 through 8.16.310. (Ord. 855 § 2, 1963; prior code § 15.48).

**8.16.260 Stoves and ranges – Ventilating hoods required.**

All stoves, ranges, cooking kettles, doughnut kettles, ovens and hot plates shall be equipped with a metal hood (canopy) of a size at least six inches greater on each side than the cooking surface of such cooking device or devices. The hood shall be ventilated to the outside air by a separate ventilating flue not less than 12 inches in diameter for an ordinary stove, or of such larger diameter as the health officer may deem necessary for effective operation. Hoods and mechanical ventilation shall be installed to accomplish air circulation in accordance with standard ventilation tables maintained by the department.

Approved grease filters or grease baffles shall be installed at the inlet of the exhaust system. (Ord. 855 § 2, 1963; prior code § 15.48(A)).

**8.16.270 Water supply and sinks.**

All sinks of an establishment shall have an adequate supply of running hot and cold water of a safe, sanitary quality available at all times. All sinks shall be of metal or approved impervious material. Number and type of sinks shall be regulated by rules of the health officer approved by the city council. (Ord. 855 § 2, 1963; prior code § 15.48(B)).

**8.16.280 Damaged dishes or utensils prohibited.**

Dishes, glasses, drinking glasses or other utensils that are cracked, chipped or damaged shall not be used, and may be confiscated or destroyed at any time when necessary in the opinion of the health officer to protect the public health and safety. (Ord. 855 § 2, 1963; prior code § 15.48(C)).

**8.16.290 Employees – Head covering required when.**

Male and female persons engaged in cooking or food preparation shall wear an approved cap, hairnet or headdress to prevent the falling of hair into such foods. (Ord. 855 § 2, 1963; prior code § 15.48(D)).

**8.16.300 Food storage containers.**

No tin can, lard stand or other such container shall be used for the purpose of cooking, preparing or storing of foodstuffs. The health officer shall condemn and/or destroy all food held in storage contrary to the provisions of this section. (Ord. 855 § 2, 1963; prior code § 15.48(E)).

**8.16.310 Screens required – Fly fan regulations.**

All establishments where food is prepared, served or kept shall have wire screens at all outside openings for the purpose of excluding flies and other insects. All screen doors must be self-closing and outside doors shall open outwards only. All screening used in such places shall be not less than 14 meshes to the inch. Fly fans may be substituted for screen doors and when used shall be installed inside the building over the door opening so that the airflow is directed downward and outward. Fly fans shall produce an airflow with a minimum velocity of 750 feet per minute over the entire door opening, from the top thereof to a point three feet above the floor. (Ord. 855 § 2, 1963; prior code § 15.48(F)).

**8.16.320 Milk – Method of serving.**

Market milk and goat's milk served by any establishment shall be served in the original bottle, the cap of which shall not be removed except in the presence of the consumer or patron; provided, however, that this section does not apply to market cream and does not prevent the use of milk-dispensing devices as authorized by this chapter. (Ord. 855 § 2, 1963; prior code § 15.50).

**8.16.330 Milk-dispensing devices – Use restrictions.**

Milk-dispensing devices approved for such use by the Director of Agriculture of the state of California may be used for dispensing homogenized milk, subject to the following regulations:

A. The milk-dispensing device and its operation shall comply with state laws and regulations, this code and all ordinances applicable thereto.



B. The milk-dispensing device shall be installed and located in a place and manner acceptable to the health officer.

C. Milk-dispensing devices are permitted only in eating establishments and only in those rooms or places in such establishments where food is served and eaten by the consumer, or where food is prepared for service and such preparation is conducted within view of the consumer.

D. All milk-dispensing devices shall be displayed openly to the public.

E. A milk-dispensing device shall be operated only by persons regularly employed by the establishment in which the dispensing device is located. The operation of a self-service milk-dispensing device is prohibited, unless such operation is specifically approved by the health officer.

F. The name of the dairy or distributor supplying milk for the milk-dispensing device, together with the grade of the milk dispensed, shall be plainly labeled on such device in a location approved by the health officer.

G. The day of delivery of the milk shall be plainly indicated on the milk container used in the milk-dispensing device.

H. No milk shall be dispensed from such device more than 120 hours from the date of delivery of such milk to the establishment.

I. The minimum serving from such milk-dispensing device shall be eight ounces.

J. The milk dispensed from such dispensing device shall, at the time of delivery to the final consumer, meet the bacteriological standards for graded market milk.

K. The milk-dispensing device, including the milk container and all other appliances used in connection with such device, shall be maintained in a sanitary condition at all times. (Ord. 855 § 2, 1963; prior code § 15.51).

#### **8.16.340 Malted milk and other milk drinks – Manufacture and serving regulations.**

No person shall operate or maintain an establishment serving malted milk, malted skim milk or other milk drink without complying with the following regulations:

A. Malted milk shall be a mixture of Grade A raw or pasteurized milk, containing not less than three and three-tenths percent of milk fat, with malted milk and flavoring substances, and either ice cream containing not less than 10 percent of milk fat or ice milk containing not less than four percent of milk fat. All ice cream or ice milk shall

conform to the provisions of the Agricultural Code of the state of California. It is unlawful to prepare, serve, sell or distribute in an establishment any malted milk unless made of Grade A raw or pasteurized whole milk, which milk either has been poured from the original standard container from which the cap has been removed in the presence of the customer or patron, the contents of said container containing no more than the individual requirements of the customer at the time of service, or poured from a standard milk bottle, the maximum content of which does not exceed one quart and which has attached a metal top designed to cover the pouring lip, which top must be approved by the health officer and sterilized as soon as said bottle is empty; provided, however, this subsection shall not prohibit the use of a milk-dispensing device in accordance with CVMC 8.16.330.

B. Milk shakes and other milk drinks served or prepared with the addition of flavoring substances or other ingredients added thereto shall be prepared from whole milk or skim milk which has met the required standards of Grade A pasteurized milk.

C. Malted skim milk is a mixture of skim milk with malted milk and flavoring substance and ice cream or ice milk containing not less than four percent of milk fat. Skim milk used in an establishment where skim malted milk is prepared, served or distributed shall meet the standards required for Grade A pasteurized milk and shall be pasteurized and bottled in standard milk bottles in an approved pasteurizing and bottling plant. The bacterial count of skim milk shall not exceed the minimum standard for Grade A pasteurized milk.

D. The establishment shall display a sign, in legible lettering at least four inches high, which shall state that malted milk or malted skim milk is served. (Ord. 855 § 2, 1963; prior code § 15.52).

## Chapter 8.18

### FOOD CATERERS AND CATERING EQUIPMENT RENTALS

#### Sections:

- 8.18.010 Definitions.
- 8.18.020 Application of ordinances.
- 8.18.030 Health permits and fees.
- 8.18.040 Notification of catering events.
- 8.18.050 Potentially hazardous foods.
- 8.18.060 Toilet facilities.
- 8.18.070 Catering vehicles.
- 8.18.080 Catering equipment rental establishment.

#### **8.18.010 Definitions.**

Whenever in this chapter the following terms are used, they shall have the meanings respectively ascribed to them in this section:

A. "Caterer" means a business which prepares food for a catering function for events such as, but not limited to, picnics, weddings, banquets, parties, gatherings.

B. "Catering vehicle" means a vehicle upon which food, beverages and related serving equipment are transported related to a catering function.

C. "Catering function" means any event where a caterer provides food for person or persons at other than an existing health regulated establishment. A catering function shall not include those functions that are conducted by persons engaged or employed in youth organizations, churches, church societies, private clubs or other nonprofit associations of a religious, philanthropic, civic improvement, youth development, social, political, or educational nature, which purchase food, food products, or beverages for service without charge to their members, or for service or sale at a reasonable charge to their members or to the general public at fund-raising events, for consumption on or off the premises at which the food, food products, or beverages are served or sold, if the service or sale of such food, food products or beverages does not constitute a primary purpose or function of the club or association, and if no employee or member is assigned full time to care for or operate equipment used in such an arrangement.

D. "Catering equipment rental establishment" means an establishment that provides food service utensils, such as dishes, tableware, pots and pans, to caterers or to the public but does not provide catering services.

E. "Department" means the San Diego department of health services. (Ord. 2279 § 1, 1988).

#### **8.18.020 Application of ordinances.**

The provisions of Chapter 8.08 CVMC relating to food handler training and the California Uniform Retail Food Facilities Law (CURFFL) relative to food handler training and the preparation and distribution of food apply to caterers and caterer operation. (Ord. 2279 § 1, 1988).

#### **8.18.030 Health permits and fees.**

Persons operating as caterers and catering equipment rental establishments are considered to be operating a health regulated establishment and are subject to the public health permit requirement as specified in CVMC 8.08.010. Such persons shall pay the permit fees prescribed for restaurants and shall be subject to penalties for delinquent fee payment. (Ord. 2279 § 1, 1988).

#### **8.18.040 Notification of catering events.**

When requested by the deputy director of environmental health services, caterers shall notify the department of the time, date and location of each catering function in a manner specified by the department. (Ord. 2279 § 1, 1988).

#### **8.18.050 Potentially hazardous foods.**

All potentially hazardous foods as defined in Section 27531 of the California Uniform Retail Food Facilities Law that are stored, held, transported or served by a caterer must be protected from contamination and kept at temperatures as required by California state law. (Ord. 2279 § 1, 1988).

#### **8.18.060 Toilet facilities.**

Adequate toilet and handwashing facilities, as determined by the deputy director of environmental health services, must be reasonably available in the vicinity of any location where food is prepared or served. (Ord. 2279 § 1, 1988).

#### **8.18.070 Catering vehicles.**

No person or company shall operate, or cause to be operated, a catering vehicle without complying with the following:

A. Such person or company shall have a valid health permit, as required in CVMC 8.18.030.

B. Foods and food containers shall be carried in compartments with cleanable interior surfaces.

C. Vehicles shall be maintained in a clean condition. (Ord. 2279 § 1, 1988).

**8.18.080 Catering equipment rental establishment.**

No person or company shall operate or cause to be operated a catering equipment rental establishment without complying with the following:

A. All food service equipment shall be stored in a building that meets the requirements of California state law.

B. All food service equipment, such as dishes, glasses, tableware, pots and pans, shall be cleaned and sanitized by methods prescribed in the California Uniform Retail Food Facilities Law. (Ord. 2279 § 1, 1988).

**Chapter 8.20****FOOD VENDORS\***

## Sections:

- 8.20.010 Vending vehicles – Definitions.
- 8.20.020 Vending vehicles – For foodstuffs and ice cream – License tax required.
- 8.20.025 Vending vehicles – Restrictions near school facilities.
- 8.20.030 Vending vehicles – Parking and stopping regulations.
- 8.20.040 Vending vehicles – Compliance with certain regulations required.
- 8.20.050 Vending vehicles – Refrigeration required.
- 8.20.060 Vending vehicles – Identification to be displayed.
- 8.20.070 Vending vehicles – Cleanliness required – Inspection – Certification.
- 8.20.080 Vending vehicles – For unprepared food – Regulations.
- 8.20.090 Vending vehicles – For prepared food – Regulations.
- 8.20.095 Vending vehicles – Mobile food preparation unit – Regulations.
- 8.20.100 Vending vehicles – Limitations on use.
- 8.20.110 Vending machines – Operator defined.
- 8.20.120 Vending machines – Permit required – Operator responsibilities.
- 8.20.130 Vending machines – Permit required for service vehicle.
- 8.20.140 Vending machines – Location restrictions – Approval required.
- 8.20.150 Vending machines – Service room required.
- 8.20.160 Vending machines – Cleaning and sanitizing generally.
- 8.20.170 Vending machines – Outside and other equipment to be cleaned.
- 8.20.180 Vending machines – For cold carbonated beverages – Cleaning requirements.
- 8.20.190 Vending machines – For milk products – Cleaning and sanitizing requirements.
- 8.20.200 Vending machines – Refilling regulations.

\* For authority for cities to license businesses for purposes of revenue and regulation, see Gov. Code § 37101; for statutory provisions authorizing cities to

enforce state laws on food handling sanitation, see Health and Saf. Code § 28690.

**8.20.010 Vending vehicles – Definitions.**

Whenever in this chapter the following terms are used, they shall have the meanings respectively ascribed to them in this section:

A. “Prepared food vending vehicle” means a food vending vehicle from which any food or beverage product is sold, given away, displayed or offered for sale, at retail, other than an unprepared food vending vehicle, catering truck, bakery truck, or ice cream or ice cream product truck.

B. “Unprepared food vending vehicle” means a food vending vehicle from which is sold, given away, displayed or offered for sale, at retail, any raw or unprepared food or food product including, but not limited to, fruits, vegetables, produce, meats, fish, poultry or seafood.

C. “Mobile food preparation unit” means any vehicle or portable food service unit upon which food is prepared for service, sale, or distribution at retail. A mobile food preparation unit shall be considered a vending vehicle for purposes of this chapter.

D. A vending vehicle may have more than one designation pursuant to this section. A vehicle with multiple designations must comply with all applicable provisions of this chapter and state law. (Ord. 2120 § 1, 1985; Ord. 855 § 2, 1963; prior code § 15.60).

**8.20.020 Vending vehicles – For foodstuffs and ice cream – License tax required.**

Every person conducting, managing or operating a business in which carts, wagons or vending vehicles for foodstuffs, including ice cream, are used shall pay a tax as presently designated, or as may in the future be amended, in Section 8.20.020 of the master tax schedule in CVMC 5.07.030. The license shall identify the particular vehicle to be used and shall be kept on the vehicle, available for inspection at all times. (Ord. 2408 § 1, 1990; Ord. 2081 § 1, 1984; prior code § 18.57).

**8.20.025 Vending vehicles – Restrictions near school facilities.**

A. No person shall stop or park a food vending vehicle on a public street within 500 feet of any school property boundary in the city of Chula Vista between the hours of 7:00 a.m. and 5:00 p.m. on regular school days.

B. “School” means all public or private schools in which instruction is given through grade 12 or in any one or more of such grades. (Ord. 2729 § 1, 1998; Ord. 2122, 1985).

**8.20.030 Vending vehicles – Parking and stopping regulations.**

No person shall stop or park a food vending vehicle on a public thoroughfare for the purpose of selling, giving away, displaying or offering for sale any food or beverage product except for a period of time sufficient to consummate an immediate sale or sales. No person shall stop, park or cause any food vending vehicle to remain on any public property except pursuant to the order of a lawful authority or for the purpose of making emergency repairs to the vehicle; in no event shall any person sell or give away any food or beverage product from a food vending vehicle while on any public property other than a thoroughfare. No person shall stop, park or cause a food vending vehicle to remain on any private property for the purpose of selling, giving away, displaying or offering for sale any food or beverage product to any person other than the owner of such property or his agents, customers or employees. (Ord. 855 § 2, 1963; prior code § 15.61).

**8.20.040 Vending vehicles – Compliance with certain regulations required.**

Food vending vehicles shall comply with all provisions of this code and other ordinances of the city regulating food vending establishments, insofar as such regulations are applicable to vending vehicles and the operation thereof. (Ord. 855 § 2, 1963; prior code § 15.62).

**8.20.050 Vending vehicles – Refrigeration required.**

No person shall operate, or cause to be operated, a food vending vehicle unless it is furnished with mechanical refrigeration equipment, in good working order, sufficient to maintain perishable food and beverage products at a temperature not in excess of 50 degrees Fahrenheit. Refrigeration compartments shall be kept clean, shall be constructed of tile, metal or other approved material, and shall have no seams or cracks. Food storage containers shall have no open seams. (Ord. 954 § 2, 1965; Ord. 855 § 2, 1963; prior code § 15.63).

**8.20.060 Vending vehicles – Identification to be displayed.**

The exterior of each vending vehicle shall display, in lettering at least three inches in height, the

name, address and telephone number of the owner. A distinctive identifying number or symbol assigned by the department of public health shall be displayed on the windshield of each vending vehicle. (Ord. 954 § 2, 1965; Ord. 855 § 2, 1963; prior code § 15.64).

**8.20.070 Vending vehicles – Cleanliness required – Inspection – Certification.**

The interior and the exterior of every food vending vehicle and all equipment therein shall have smooth, washable surfaces and shall be maintained in good repair and in a sanitary manner. Each vending vehicle shall be inspected at least semi-annually by the health officer. Vending vehicles shall be loaded and ready for operation at the time of inspection. A certificate of inspection, valid for six months, shall be issued to vending vehicles conforming to the requirements of this code. The certificate of inspection shall specify the food products which may be sold. (Ord. 954 § 2, 1965; Ord. 855 § 2, 1963; prior code § 15.65).

**8.20.080 Vending vehicles – For unprepared food – Regulations.**

No person shall operate or cause to be operated an unprepared food vending vehicle without complying with all of the following regulations:

A. All tools, implements and receptacles shall be kept in a clean and sanitary condition.

B. Sufficient fly-tight containers, of metal or some other approved substance, shall be provided for the disposal of trimmings and refuse and shall be emptied and washed daily.

C. No fish, poultry or other animal shall be cleaned in a food vending vehicle, nor shall the entrails of any fish, poultry or other animal be there removed. No fish, poultry, meat or meat products shall be cut, processed or otherwise prepared in a food vending vehicle.

D. Scales and other weighing devices shall be protected from dust, dirt, flies and other vermin and contaminants.

E. Every unprepared food vending vehicle shall be inspected at least semi-annually on dates scheduled by the health officer, or more often if the health officer so requires. The vending vehicle shall be fully loaded and ready for operation at the time of such inspection. The health officer shall issue a certificate of inspection if his inspection discloses that the vehicle conforms to the requirements of this code. The certificate shall expire six months from and after the date of its issue, and shall specify the

particular food and beverage products authorized to be sold or otherwise distributed from the vehicle. (Ord. 855 § 2, 1963; prior code § 15.66).

**8.20.090 Vending vehicles – For prepared food – Regulations.**

No person shall operate or cause to be operated a prepared food vending vehicle without complying with all of the following requirements:

A. Every owner or operator of vending vehicles shall have a service room or other sanitary location approved by the director of public health for the preparation of food sold from vending vehicles. Only food prepared in the service room or other approved location shall be sold from a vending vehicle. Service rooms or other approved locations shall comply with regulations for food handling establishments.

B. No hot prepared food, except coffee, tea or packaged cocoa, shall be served from a vending vehicle unless the equipment used to prepare such food is approved by the director of public health.

C. Except as provided in subsection (D) of this section, no perishable food shall be sold from a vending vehicle more than 24 hours after preparation.

D. If the director of public health certifies that an owner or operator of vending vehicles continuously maintains all perishable food intended for sale from a vending vehicle at a temperature of not more than 50 degrees Fahrenheit from the time of preparation until service to the consumer, such food may be sold for a period not exceeding 72 hours after preparation.

E. All perishable food shall show the date of preparation.

F. Vending vehicles shall dispense only single-service disposable cups, plates, forks and spoons. (Ord. 954 § 2, 1965; Ord. 855 § 2, 1963; prior code § 15.67).

**8.20.095 Vending vehicles – Mobile food preparation unit – Regulations.**

No person shall operate or cause to be operated a mobile food preparation unit without complying with all of the provisions of Health and Safety Code Section 27790, et seq., and Article 10 (commencing with Section 13600) of Title 17 of the California Administrative Code. Said operation shall comply with the following additional requirements:

A. Mechanically refrigerated display cases shall be provided for all perishable foods on display for sale in said mobile food preparation unit.

B. Vehicle ambient air temperature shall be maintained in each work area to provide reasonable comfort consistent with standards of the restaurant industry for the nature of the process and the work performed. If excessive heat or humidity is created, the owner or operator of the mobile food preparation unit shall make all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.

C. Mobile food preparation units shall be equipped with adequate seats with backrests for all employees to be transported in such units. Said seats shall be properly secured in place. Seats shall be not less than 15 inches or more than 19 inches above the floor, at least 10 inches deep, and at least 18 inches wide. The backrests shall extend to a height of at least 36 inches above the floor. All persons being transported in a mobile food preparation unit shall be seated in said seats while the unit is in motion.

D. Each mobile food preparation unit shall be equipped with a fully charged fire extinguisher in good condition. Drivers shall be advised of the location of the type of extinguisher used and instructed in its operation.

E. All cutting tools or tools with sharp edges carried in a mobile food preparation unit shall be placed in covered boxes or containers while the unit is in motion, and all other tools and cooking equipment shall be secured to the body of the vehicle while the unit is in motion. Tools with cutting edges protected by scabbards or similar guards shall be considered as being in containers.

F. An alternative means of exit, other than the main exit door, shall be provided in the exterior wall and in the roof of the vehicle with unobstructed passages to the outside. Such passage shall be at least 24 inches by 24 inches. The alternate means of exit shall have an interior latching mechanism which shall be operated by hand without special tools or key. Such exit shall be labeled "Safety Exit" in contrasting colors with letters at least one inch high.

G. All loads carried in a mobile food preparation unit shall be secured against dangerous displacement either by properly piling or securing in a manner as to prevent shifting, toppling or otherwise becoming unstable.

H. No cooking or food preparation shall be done while the mobile food preparation unit is in motion.

I. A headquarters shall be established for all mobile food preparation units, and said units shall be stored at such headquarters when not in use.

J. The storage area shall be equipped with an electrical outlet to provide auxiliary power for refrigeration units on each mobile preparation unit.

K. The headquarters parking area for mobile food preparation units shall be paved with a paving material such as concrete or asphalt. The surface of the paving shall slope to a drain and shall not pond water. Said surface shall be kept in good repair. The storage area shall contain a liquid waste dump station, and there shall be installed a concrete apron surrounding the waste receptor for a distance of 10 feet in each horizontal direction, sloping to the drain.

L. Waste water shall not be permitted to flow into the street from the headquarter's parking area.

M. An approved waste dump station shall be provided at each headquarters.

N. Lights shall be provided for the parking area to provide at least two footcandles of illumination when measured 30 inches above the pavement.

O. Mobile food preparation units which do not properly control food temperature, which lack running water, which have a defective liquid waste collection tank or which otherwise are unable to operate in a sanitary manner so as to pose an immediate danger to the public health may be removed from operation by order of the health officer or his designated representative.

P. The health officer shall be granted access to inspect mobile food preparation units during operating hours and at the headquarters during hours of loading, food preparation, and cleaning. (Ord. 2120 § 2, 1985).

#### **8.20.100 Vending vehicles – Limitations on use.**

Food vending vehicles shall be used for no purpose other than those purposes permitted by this chapter, unless the health officer has approved in writing some other proposed use of such vehicle. (Ord. 855 § 2, 1963; prior code § 15.68).

#### **8.20.110 Vending machines – Operator defined.**

"Operator" means the person who furnishes, installs and services the vending machine. (Ord. 855 § 2, 1963; prior code § 15.71).

#### **8.20.120 Vending machines – Permit required – Operator responsibilities.**

No operator shall maintain, conduct, manage or operate any vending machine unless a permit for such machine has been issued by the health officer

and unless such permit is valid and unexpired. The applicant for a permit shall designate in writing the products to be vended, and permits shall be valid only for those products listed on the permit. Unless it appears to the health officer that the vending machine will at all times be maintained in a clean and sanitary condition, and that all products of the machine will reach the consumer in a clean and wholesome condition, he shall deny the application for the permit. If the permit is granted, the operator shall be responsible for the proper operation and maintenance of the vending machine and for complying with the requirements of this division and of state laws and regulations in connection therewith. The name and address of the operator shall be posted conspicuously on the vending machine. (Ord. 855 § 2, 1963; prior code § 15.70).

**8.20.130 Vending machines – Permit required for service vehicle.**

No operator shall use a vehicle to service vending machines, or allow such use, unless the health officer has issued a permit for such vehicle. (Ord. 855 § 2, 1963; prior code § 15.72).

**8.20.140 Vending machines – Location restrictions – Approval required.**

The operator shall furnish the health officer with the location of any vending machine installed, sufficiently soon so that within 72 hours subsequent to such installation the health officer may inspect the vending machine and the location. If the location of the machine is not approved by the health officer, the vending machine shall be removed immediately and not operated until the location thereof is rendered acceptable. Each vending machine shall be located so that sanitary facilities, fixtures and receptacles for emptying waste containers and for performing required sanitation are readily accessible. The area around the vending machine shall be maintained clean and free of accumulated paper cups and wrappers, spillage, and other waste material and trash. Approved trash receptacles shall be provided by the machine operator, proximate to vending machines, whenever required by the health officer. (Ord. 855 § 2, 1963; prior code § 15.73).

**8.20.150 Vending machines – Service room required.**

All operators shall establish within the city a service room or rooms, which shall be used only for cleaning, storing and maintaining vending machines, supplies and sanitized parts. All cleaning

and sanitizing of vending machine parts which come in contact with food, food products or liquids dispensed by a vending machine shall be done in the service room previously approved by the health officer. The service room shall meet all the requirements of this title relative to food handling establishments. (Ord. 855 § 2, 1963; prior code § 15.74).

**8.20.160 Vending machines – Cleaning and sanitizing generally.**

Vending machines dispensing liquids shall be cleaned not less frequently than three times each week, and machines dispensing unwrapped nonliquid food products shall be cleaned not less frequently than once each month, except as hereinafter noted in the manner set forth in CVMC 8.20.170 through 8.20.200. (Ord. 855 § 2, 1963; prior code § 15.75).

**8.20.170 Vending machines – Outside and other equipment to be cleaned.**

The following general regulations apply to all vending machines. The operator shall clean the outside of the machine, and any vending stage, door, chute, drip plate and waste can. Used cup and trash containers shall be emptied and cleaned. Parts shall be wiped with a cleaned moist cloth which has been dipped in a solution containing not less than 200 parts of active chlorine per million parts, or in some such other approved sanitizing agent or material. (Ord. 855 § 2, 1963; prior code § 16.76(A)).

**8.20.180 Vending machines – For cold carbonated beverages – Cleaning requirements.**

In addition to the servicing required by the general regulations, machines dispensing cold carbonated beverages shall be serviced as follows: Not less frequently than once each 60 days, all contact parts of the machine shall be cleaned by removing, washing and disinfecting all tanks, valves, faucets, pipe lines and water filters. Interior water filter and conditioning elements shall be taken to the service room for servicing; properly sanitized replacements may be transported under sanitary conditions from the service room and installed while the other water filter and conditioning elements are being serviced. Water filters and water conditioning devices shall be of a type which permits periodic cleaning and replacement. (Ord. 855 § 2, 1963; prior code § 15.75(B)).

**8.20.190 Vending machines – For milk products – Cleaning and sanitizing requirements.**

In addition to the servicing required by the general regulations, machines dispensing milk and milk products shall be serviced as follows: Fluid milk or cream shall be removed from the machine and discarded daily, and fresh products added. Canned evaporated milk may be dispensed for 72 hours before discarding; provided, that throughout this period the temperature of such milk is maintained at not more than 50 degrees Fahrenheit. All parts and appurtenances of vending machines that come in contact with fluid milk or milk products shall be removed daily and cleaned and sanitized. Vending machines that dispense nonliquid milk or nonliquid cream products shall be sanitized not less frequently than three times each week. (Ord. 855 § 2, 1963; prior code § 15.75(C)).

**8.20.200 Vending machines – Refilling regulations.**

Vending machines, in locations for which the health officer has not issued a food handling establishment permit, shall be refilled only by substituting for the empty container one which was cleaned, sanitized and filled in the service room. The emptied container shall be transported to the service room for cleaning and sanitizing. (Ord. 855 § 2, 1963; prior code § 15.75(D)).

**Chapter 8.21**

**WHOLESALE FOOD WAREHOUSES**

Sections:

- 8.21.010 Purpose and intent.
- 8.21.020 Adoption of San Diego County ordinance regulating wholesale food warehouses by reference.
- 8.21.030 Administration and enforcement.
- 8.21.040 Fees.

**8.21.010 Purpose and intent.**

Wholesale food warehouses are not adequately regulated by the state of California and recent inspections of some of these food warehouses by the county of San Diego have revealed rodent infestations, mishandling of recalled food, and other conditions that could lead to foodborne illness.

Therefore, it is the purpose of the city council to adopt, in accordance with the requests of the county of San Diego, the regulatory ordinances adopted in CVMC 8.21.020 by the county for the regulation of wholesale food warehouses. Furthermore, it is the intent of the city council through the adoption of the ordinances as they may currently read or hereinafter be amended by reference to assist in every way in carrying out the wholesale food warehouse regulatory program being conducted by the county. (Ord. 2916 § 1, 2003).

**8.21.020 Adoption of San Diego County ordinance regulating wholesale food warehouses by reference.**

The city council adopts the provisions of the County of San Diego Code of Regulatory Ordinances concerning permitting and regulation of wholesale food warehouses, codified at Sections 61.212 through 61.256, by reference and incorporates these provisions into the Chula Vista Municipal Code as if set forth in full. The city council concurs with the determination that Sections 61.212 through 61.256 (the wholesale food warehousing ordinances of the county) may be implemented throughout the county as it presently exists or as may be amended or supplemented in the future by the county without further approval by the city council. Sections 61.212 through 61.256 of the County of San Diego Code of Regulatory Ordinances, which relate to wholesale food warehousing, shall be maintained on file in the office of the city clerk. (Ord. 2916 § 1, 2003).



**8.21.030 Administration and enforcement.**

The County of San Diego Department of Environmental Health is authorized and empowered to make inspections and issue permits to the owners and/or operators of wholesale food warehouses that hold or distribute food at wholesale. The County Department of Environmental Health shall also be responsible for enforcing the provisions of this chapter. (Ord. 2916 § 1, 2003).

**8.21.040 Fees.**

Every person regulated by this chapter shall pay the required fee or fees associated with administration and enforcement of the wholesale food warehouse permit and inspection program, including, but not limited to, a permit fee, fee for inspection, fee for failure to file an application, late fee, and finance charge. The exact amount and method of application of the fee or fees shall be determined by the County of San Diego and kept on file at the County Department of Environmental Health and the office of the City Clerk. Such fees may be adopted, amended or supplemented by the county without approval by the City Council. The County of San Diego shall retain all fees and charges collected by it from regulated wholesale food warehouse owners or operators. (Ord. 2916 § 1, 2003).

**Chapter 8.22****REGULATION OF SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT**

## Sections:

- 8.22.010 Purpose.
- 8.22.020 Definitions.
- 8.22.030 Prohibitions.
- 8.22.040 Designation of smoking areas.
- 8.22.050 Posting of signs.
- 8.22.060 Governmental agency cooperation.
- 8.22.070 Exceptions.
- 8.22.080 Enforcement and appeal.
- 8.22.090 Violations and penalties.
- 8.22.100 Education for no-smoking program.
- 8.22.110 Severability.

**8.22.010 Purpose.**

Because smoking of tobacco, or any other weed or plant, is a positive danger to health and a cause of material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined spaces, and in order to serve public health, safety and welfare, the declared purpose of this chapter is to prohibit the smoking of tobacco, or any weed or plant, in public places and places of employment, except in designated smoking areas. (Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

**8.22.020 Definitions.**

“Smoke” or “smoking” as defined in this chapter means and includes the carrying of a lighted pipe, or lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar or cigarette of any kind.

“Public place” means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, retail stores, retail service establishments, retail food production and marketing establishments, restaurants, theaters, waiting rooms, reception areas, educational facilities, health facilities and public transportation facilities. A private residence is not a “public place.”

“Place of employment” means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, conference rooms, and employee cafeterias. A private residence is not a “place of employment.” (Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

**8.22.030 Prohibitions.**

A. No person shall smoke in a public place or place of employment, except in designated smoking areas.

B. No person shall smoke in the dining area of any restaurant or establishment where people eat, including outdoor patios, outdoor bars that serve food, or any covered eating area.

C. No person shall smoke within 50 feet of any entrance to any restaurant or establishment where people eat.

D. No person shall smoke in any portion of Friendship Park.

E. No person shall smoke in any portion of Independence Park and Rancho del Rey Park.

F. No person shall smoke in any portion of Memorial Park and Discovery Park.

G. No person shall smoke in any portion of all City parks except Friendship Park, Independence Park, Rancho del Rey Park, Memorial Park, and Discovery Park. (Ord. 3058 § 1, 2007; Ord. 3046 § 1, 2006; Ord. 3045 § 1, 2006; Ord. 3044 § 1, 2006; Ord. 3043 § 1, 2006; Ord. 3035, 2006; Ord. 2086 § 1, 1984).

**8.22.040 Designation of smoking areas.**

A. Smoking areas may be designated in public places and places of employment by proprietors or other persons in charge, except in retail stores, retail service establishments, food markets, public conveyances, theaters, auditoriums, public assembly rooms, meeting rooms, rest rooms, elevators, pharmacies, libraries, museums or galleries which are open to the public or any other place where smoking is prohibited by the Fire Marshal or by other law, ordinance or regulation. Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas. It shall be the responsibility of employers to provide smoke-free areas for nonsmokers within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or other physical modifications in providing these areas. An employer who in good faith develops and promulgates a policy regarding smoking and nonsmoking in the workplace shall be deemed to be in compliance with this section; provided, that a policy, which designates an entire workplace as a smoking area, shall not be deemed a good faith policy.

No public place other than the ones enumerated in CVMC 8.22.070 shall be designated as a smoking area in its entirety.

B. Notwithstanding any other provision of this chapter, any facility or area may be designated in its entirety as a no-smoking area by the owner or manager thereof. (Ord. 3058 § 1, 2007; Ord. 2086 § 1, 1984).

**8.22.050 Posting of signs.**

Signs which designate smoking or no-smoking areas established by this chapter shall be clearly, sufficiently, and conspicuously posted in every room, building, or other place so covered by this chapter. No-smoking signs shall be specifically placed in retail food production and marketing establishments, including grocery stores and supermarkets open to the public, so that they are clearly visible to persons upon entering the store, clearly visible to persons in checkout lines, and clearly visible to persons at meat and produce counters. The manner of such posting, including the wording, size, color, design, and place of posting, whether on the walls, doors, tables, counters, stands or elsewhere, shall be at the discretion of the owner, operator, manager, or other person having control of such room, building or other place, so long as clarity, sufficiency, and conspicuousness are apparent in communicating the intent of this chapter. (Ord. 2086 § 1, 1984).

**8.22.060 Governmental agency cooperation.**

The City Manager shall annually request that governmental and educational agencies who conduct their specific business within the City of Chula Vista establish local operating procedures to cooperate and comply with this chapter. In federal, State, county and special school districts within the City of Chula Vista, the City Manager shall urge enforcement of their existing no-smoking prohibitions and request cooperation with this chapter. (Ord. 3058 § 1, 2007; Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

**8.22.070 Exceptions.**

A. No-smoking areas are not required in individual private offices, hotel and motel meeting and assembly rooms rented to guests, areas and rooms while in use for private social functions, psychiatric facilities, jails, stores that deal exclusively in tobacco products and accessories, and smoking lounges as that term is defined in Government Code Section 7596.

B. Any owner or manager of a business or other establishment subject to this chapter may apply to the City Council for an exemption or modification of the provisions of this chapter due to unique or

unusual circumstances or conditions. (Ord. 3058 § 1, 2007; Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

**8.22.080 Enforcement and appeal.**

A. The City Manager shall be responsible for compliance with this chapter when facilities which are owned, operated or leased by the city of Chula Vista are involved. The City Manager shall provide business license applicants with copies of this chapter.

B. The owner, operator or manager of any facility, business or agency shall post or cause to be posted all “No Smoking” signs required by this chapter. Owners, operators, managers or employees of covered entities shall be required to orally inform persons violating this chapter of the provisions of the chapter. The duty to inform such violator shall arise when such owner, operator, manager or employee becomes aware of the violation.

C. It shall be the responsibility of employers to disseminate information covering the provisions of this chapter to employees. (Ord. 3058 § 1, 2007; Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

**8.22.090 Violations and penalties.**

Any person who violates any provision of this chapter by smoking in a posted “No Smoking” area, or by failing to post or cause to be posted a “No Smoking” sign required by this chapter, or by a knowing failure to inform any person who violates the provisions of this chapter, when such duty to inform arises, as set forth in CVMC 8.22.080(B), is guilty of an infraction. (Ord. 3058 § 1, 2007; Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

**8.22.100 Education for no-smoking program.**

The City Manager shall engage in a continuing program to inform and clarify the purposes of this chapter to citizens affected by it, and to guide owners, operators and managers in their compliance.

The City shall leave the responsibility of conducting a public education campaign, regarding the health-degrading aspects of smoking, to other governmental and health agencies equipped with the needed expertise to conduct such campaign. (Ord. 3058 § 1, 2007; Ord. 1642 § 1, 1975).

**8.22.110 Severability.**

If any provision, clause, sentence or paragraph of this chapter, or the application of this chapter to any person or circumstance, shall be held invalid, such invalidity shall not affect the other provisions

or application of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are hereby declared to be severable. (Ord. 3058 § 1, 2007; Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

**Chapter 8.23**

**SOLID WASTE AND RECYCLING  
CONTRACT OR FRANCHISE\***

Sections:

- 8.23.010 Contract or franchise authority.
- 8.23.020 Prerequisites to authorization.
- 8.23.030 Bonding of contractor or grantee.
- 8.23.040 Written acceptance.
- 8.23.050 Publication costs.
- 8.23.060 Contract or franchise terms and conditions.
- 8.23.070 Renewal of contract or franchise.
- 8.23.080 Termination.
- 8.23.090 Assignment.

\* Prior legislation: Ords. 2568, 2569, 2571 and 2656.

**8.23.010 Contract or franchise authority.**

The City Council may, pursuant to State law, or in accordance with Article XII of the Charter of the City, contract or franchise for solid waste and recyclables collection and disposal. (Ord. 2740 § 1, 1998).

**8.23.020 Prerequisites to authorization.**

A. Applicants for a contract or franchise pursuant to this chapter and the Charter of the City must file with the City administration the following information:

1. Name and description of the applicant;
2. Permanent home and business address and full address of the applicant;
3. Trade and firm name;
4. If a joint venture or a partnership, the names of all partners, or if a corporation, the names of the officers and any controlling shareholders, and, in each case, their percentages of participation and their permanent addresses;
5. That the applicant has arranged for the disposal area where the same may be legally accepted and disposed;
6. The location of the disposal area;
7. Facts showing that the contractor is qualified to render efficient refuse collection service;
8. That the applicant owns or has under his control, in good mechanical condition, sufficient equipment to conduct the business of refuse collection adequately and that the applicant owns or has access to suitable facilities for maintaining his equipment in a clean and sanitary condition;
9. That the vehicles and equipment conform to all applicable provisions of this chapter;

10. Such other facts or information as the city manager or the city council may require.

B. The city manager shall investigate the information required by subsection (A) of this section and verify that the contractor or grantee is capable of complying with the provisions of this chapter, the terms of the proposed contract or franchise, and the rules and regulations of the city. The city manager shall notify the city council of his findings prior to approval or denial of the contract or grant of franchise by the council. (Ord. 2740 § 1, 1998).

**8.23.030 Bonding of contractor or grantee.**

Before entering into a contract or franchise under the provisions of this chapter, the council shall require the contractor or grantee as a condition to the contract or franchise to post with the city clerk a cash bond or surety bond in an amount determined by the council and furnished by a corporate surety authorized to do business in the state, payable to the city. The bond shall be conditioned upon the full and faithful performance by the collector of his obligations under the applicable provisions of this chapter and shall be kept in full force and effect by the collector throughout the life of the permit and all renewals thereof. (Ord. 2740 § 1, 1998).

**8.23.040 Written acceptance.**

Any franchise granted hereby shall not become effective until written acceptance thereof shall have been filed by the grantee with the city clerk. (Ord. 2740 § 1, 1998).

**8.23.050 Publication costs.**

The grantee of a franchise hereunder shall pay to the city a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting thereof; such payment to be made within 30 days after the city shall have furnished such grantee with a written statement of such expense. (Ord. 2740 § 1, 1998).

**8.23.060 Contract or franchise terms and conditions.**

A contract or franchise may be let on such terms and conditions as may be required or approved by the city council in accordance with the terms of this chapter and the city Charter. (Ord. 2740 § 1, 1998).

**8.23.070 Renewal of contract or franchise.**

Where a contract or franchise has been entered into between the city and an operator and the operator has satisfactorily performed under such contract or franchise, the city council, without inviting

bids or proposals therefor, may, either prior to or after the expiration of such contract, extend or renew the same upon the same conditions or such other conditions as the city council may provide. The city council shall, however, whether considering a contract or a franchise, follow the procedures established by Article XII of the Charter for notice and hearing. (Ord. 2740 § 1, 1998).

**8.23.080 Termination.**

A contract or franchise may be terminated at the option of the council in the event there is a change of ownership of any kind or nature of the operating company, unless approval therefor has been obtained in writing from the council. If it is determined by the city manager following an inspection of the contractor's or grantee's place of business, after reasonable notice to the contractor or grantee, that the operator or manager has not complied with the provisions of this chapter and all other applicable statutes, ordinances, rules and regulations of the state and city, the city manager shall notify the contractor or grantee in writing of noncompliance and shall order compliance within 30 days. If non-compliance is not corrected, the council, after a hearing, shall be empowered to cancel the contract or franchise with the operator, or take such other action as the council shall determine. (Ord. 2740 § 1, 1998).

**8.23.090 Assignment.**

No assignment of subcontracting of any contract or franchise, or any right occurring under any contract or franchise, shall be made in whole or in part by the contractor or grantee without the express written consent of the city. In the event of any assignment, the assignee shall assume the liability and all other obligations of the contractor grantee. (Ord. 2740 § 1, 1998).

**Chapter 8.24****SOLID WASTE AND LITTER\***

## Sections:

- 8.24.010 Purpose and intent.
- 8.24.020 Definitions.
- 8.24.030 Accumulation of materials constituting a fire hazard prohibited.
- 8.24.040 Solid waste – Disposal in public places prohibited.
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- 8.24.090 Solid waste – Placement in containers or bundles – Restrictions.
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- 8.24.200 Interference with collection and scavenging prohibited when.
- 8.24.210 Littering – By private persons prohibited where.
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- 8.24.230 Owner or occupant duty to keep sidewalks free of litter.

\* For authority for cities to declare what shall be deemed a nuisance, see Gov. Code § 38771; for provisions regarding abatement of nuisances, see Gov. Code §§ 38773 and 38773.5.

CROSS REFERENCES: Dead Animals, see Ch. 6.16 CVMC.

Prior legislation: Prior code §§ 16.1 – 16.3 and 16.7 – 16.18; Ords. 912, 949, 1204, 1852, 1988, 1999, 2004, 2206, 2428, 2484 and 2740.

**8.24.010 Purpose and intent.**

The city council finds that the accumulation, storage, collection, transportation, processing and disposal of solid waste is a matter of public concern, in that improper control of such matters creates a public nuisance and can lead to air pollution, fire hazards, illegal dumping, insect breeding, rodent infestation and other problems affecting the health, welfare and safety of the residents of this and surrounding cities. The city council further finds that the minimum weekly collection of solid waste from all residences and places of business in the city benefits all occupants of residences and businesses within the city. Accordingly, the collection of solid waste in the city is a mandatory service, shall not be discontinued, and all owners and occupants as defined in CVMC 8.24.060 are made liable for the payment of such fees as may be approved from time to time by the city council. The city council further declares that the regulations provided in this chapter are designated to eliminate or alleviate such public health and safety concerns, and provide minimum standards for the accumulation, storage, transportation and processing of solid waste. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.020 Definitions.**

For the purpose of this chapter, the definitions contained in CVMC 8.25.020 shall govern, unless the context otherwise requires or indicates. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.030 Accumulation of materials constituting a fire hazard prohibited.**

It is unlawful for any person to create or allow to be created or maintained, upon any premises in the city owned or controlled by such person, any accumulation of materials that are dangerous as fire menace or hazard. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.040 Solid waste – Disposal in public places prohibited.**

It is unlawful for any person to place, dump, deposit or throw any solid waste including, but not limited to, plastic, glass, metal, paper, green waste, other food waste, automobile parts, or other solid waste or liquid wastes of any kind or character whatsoever, upon or along the right-of-way of any

public highway, street, lane, alley or other public place within the corporate limits of the city. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.045 Solid waste generated off-site – Placement in city trash containers – Prohibited.**

City solid waste and litter containers are placed in city parks, at bus stops and other public areas for the use of the public to control litter and solid waste which is generated at or near the location where the solid waste containers are located; they are not to be used as disposal sites for solid waste which is generated off-site, except as defined as incidental waste in CVMC 8.25.020. Therefore, it is unlawful for any person to place, dump, deposit or throw away solid waste of any kind or character whatsoever other than incidental waste in city litter or solid waste containers, if such was generated at a location other than where the solid waste or litter container is located. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.050 Solid waste – Disposal on private property prohibited – Exception.**

It is unlawful for any person to place, dump, deposit or throw away any solid waste or other waste discards of any kind or character whatsoever, upon any private property adjacent to or abutting upon any public highway, or public place, or upon any private property whatsoever, within the corporation limits of the city, unless such person first obtains the written permission of the owner of such property so to do. It is further unlawful for such person to deposit or place such materials in any solid waste container owned or used by the owner of such property, unless such person first obtains the written permission of the owner so to do. This section is not intended to preclude a person from disposing of waste generated at a business in containers provided for customers of the business, such as empty food containers being placed in public waste containers at a fast food restaurant. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.060 Owner or occupant responsibility to maintain sanitary premises.**

Every owner, tenant, occupant or person owning or having the care and control of any premises in the city shall keep said premises or those under his/her care and control in a clean and sanitary condition, and no person shall permit any solid waste or any other substance which may be or will become

offensive to be deposited or to remain in or upon any premises owned or occupied by him or under his care and control, except as otherwise expressly permitted by this chapter. It shall be the responsibility of such person to provide for weekly scheduled solid waste collection service by means of the city's contract or franchise agent and pay for such services pursuant to this chapter. However, any such person subject to the mandatory requirement may remove or convey their own waste to a state-permitted landfill or transfer station by applying for an exemption in writing in advance and receiving such exemption pursuant to CVMC 8.24.180. Any dispute as to such exemption may be appealed to the city manager. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.070 Solid waste – Collection prohibited when – Burning prohibited.**

A. No person shall collect, remove or convey, or cause or permit to be collected, removed or conveyed, any residential, commercial or industrial solid waste upon or along any public street, alley or any other public place in the city; provided, however, the prohibitions of this section shall not apply to authorized employees of the city, or to any person or firm or employees thereof, with whom the city or a local school district has entered into a contract or franchise for the collection, removal or disposal of solid waste, or to the occupant or owner of any residence personally removing their own solid waste from said residence or commercial establishment or as may otherwise be permitted or required by federal or state laws that legally supersede the provisions of this chapter. Occupants or owners removing or conveying their own waste shall comply with the provisions of this chapter and all local state and federal regulation regarding the safe transportation and disposal of wastes.

B. It is unlawful for any person to burn or bury any solid waste as a means of disposing of said waste. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.080 Solid waste – Containers approved for use by small quantity generators (single-family residential and small businesses with cart service) and large quantity generators (bin or roll-off service) for solid waste, yard waste and recyclables.**

A. It is unlawful for any small quantity generator in a residential area to keep or store any solid waste and recyclables within containers except those provided by the city contract or franchise

agent. Residents may keep yard waste in a container provided by the city contractor or franchise agent or their own standard waste container. Such standard containers shall be a maximum capacity of 40 gallons, tapered gradually, decreasing in diameter toward the bottom of the container, made of metal or plastic with metal or plastic covers and operable handles, and shall be watertight and fly-proof. Residents may also purchase and use their own automated yard waste container for yard waste only, if that container has been approved by the city. Large quantity generators shall utilize containers provided by the city contract or franchise agent. Compactor containers or other receptacles provided by large quantity generators, such as commercial and industrial customers, must be approved by the city contract or franchise agent for compatibility with collection equipment before use. Use of incompatible compactors or other containers is not allowed and the purchase or lease of such equipment will not be considered grounds for an exemption from mandatory service.

B. Further, every person having the care or control of any place or premises within the city where solid waste accumulates or exists shall cause such solid waste to be placed and kept in such watertight containers, with lids securely fitted, and in a number adequate to contain the total amount of solid waste (refuse, recycling and yard waste) accumulating during the maximum allowed one-week interval between each collection or removal thereof.

C. Enclosures for solid waste containers must be of adequate size to hold the number of containers required to temporarily store the refuse, recycling and yard waste generated in between service intervals, pursuant to subsection (A) of this section. The enclosures shall also be adequate in size to accommodate other ancillary collection and removal services, i.e., grease rendering as defined in CVMC 19.58.340. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.090 Solid waste – Placement in containers or bundles – Restrictions.**

All solid waste shall be kept within sturdy containers made of metal or plastic, and no solid waste shall be placed in any container so that it protrudes or extends beyond such containers. Containers shall also have tight-fitting lids sufficient to keep out the rain and prevent litter. Every owner, tenant, occupant or person having responsibility for premises shall subscribe for adequate service and

maintain the number of rigid containers and lids sufficient to separately hold their weekly solid waste (refuse, recyclables and yard waste). Yard waste and other designated recyclables shall never be placed for collection in plastic bags. The weight of any empty standard container for yard waste for a small quantity generator shall not exceed 15 pounds; the weight of any fully loaded container shall not exceed 60 pounds. Cardboard containers shall not be used as solid waste containers and should be emptied, broken down and placed at the designated collection location for collection with recyclables.

A. The following actions are approved for solid waste by small quantity generators (single-family residential and small businesses with curbside collection service):

1. Color-coded and specially marked containers will be provided upon request by the city contract or franchise agent for used oil, oil filters, and designated recyclables at no additional charge. Color-coded and specially marked containers for yard waste will be provided at the resident's option and require a monthly rental fee established in the maximum rate schedule;

2. Brush and limbs of trees may be placed outside of yard waste containers, tied with natural fiber (compostable) twine into bundles of not more than four feet in length, 18 inches in diameter and 35 pounds in weight;

3. Any person desiring to receive different, additional, or more frequent service may do so through the contract or franchise agent, on mutually agreeable terms and conditions, by contacting the contract or franchise agent at least two days before their regular refuse collection service day.

B. The following actions are prohibited for small quantity generators:

1. Use of severely damaged containers or containers with jagged or sharp edges (said containers will be appropriately tagged by contract or franchise agent first time noted and will be collected by contract agent if used subsequently to being so tagged);

2. Placement of hazardous or toxic wastes, such as solvents, paints, pesticides, fuels, explosives and medical wastes, at the designated collection location for collection by the city or any contract or franchise agent(s). This prohibition is not intended to exclude the door-to-door collection of any hazardous waste, by appointment, by a contractor licensed by the city and permitted by the State Department of Toxic Substances or the county environmental health department;



3. Placement of construction and demolition waste at the designated collection location for service by the city contractor or franchise agent which may resist compaction or damage equipment, such as large metal objects, concrete blocks, dirt or tires. This prohibition is not intended to prevent a resident from making an appointment for free bulky pick-up, free used oil and filter collection, or contracting with the city contract or franchise agent for a temporary bin for construction debris, metals, yard waste and source-separated recyclable materials;

4. Deposit of solid waste or any other material in waste containers intended for use by, or belonging to, others;

5. The disposal of designated recyclables in solid waste containers.

**C. Enforcement.**

1. Generators that fail to place solid waste (refuse, recyclables or yard waste) out for collection in proper containers or fail to properly separate recyclables will be tagged with a notice and provided with proper instructions.

2. Repeated violation of proper set-out and/or separation after notification by the city or its contract or franchise agent will subject the violating person to a penalty of up to \$10.00 per incident. That penalty will be assessed as part of the regular solid waste disposal bill and will be subject to the same payment and collection procedure provided in CVMC 8.24.180.

3. An additional fee of \$10.00 will be added to the bimonthly or monthly service fee to restart service for any owner/occupant that discontinues service prior to receiving an exemption under CVMC 8.24.180(H). (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.100 Solid waste – Placement of containers for collection – Times.**

No solid waste shall be placed for collection in an alley or on the curb or the streets before 6:00 p.m. on the day immediately prior to the scheduled collection day. No person shall permit solid waste containers to remain on the street or alley after 8:00 p.m. of the collection day. Collection point shall be in front of the residential property at the curblineline or as close thereto as possible without creating an obstacle on the sidewalk. All solid waste placed at such collection points shall be deemed a request for service by the city's contract or franchise agent. Carts shall be placed at least 1.5 feet apart, with wheels against the gutter; manually collected items, such as bulky pick-up items, standard yard

waste containers and designated used-oil recycling containers shall also be 1.5 feet from carts. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.110 Reserved.**

(Ord. 2992 § 1, 2005).

**8.24.120 Reserved.**

(Ord. 2992 § 1, 2005).

**8.24.130 Reserved.**

(Ord. 2992 § 1, 2005).

**8.24.140 Reserved.**

(Ord. 2992 § 1, 2005).

**8.24.150 Reserved.**

(Ord. 2992 § 1, 2005).

**8.24.160 Reserved.**

(Ord. 2992 § 1, 2005).

**8.24.170 Reserved.**

(Ord. 2992 § 1, 2005).

**8.24.180 Payment of solid waste collection charges – Penalty for delinquency.**

A. Payment Obligation. The city council finds and determines that the regular collection of solid waste, yard waste and designated recyclables, and the disposal or processing thereof by the contract or franchise agent of the city from all places in the city, is a part of the integrated solid waste management service to the premises from which it is collected. All owners and occupants of premises within the city shall be responsible for paying the monthly collection service rate charged by the city or its contract or franchise agent, or shall comply with the provisions of this chapter for an exemption from mandatory service as set forth in subsection (H) of this section. No person that has not previously applied for and received an exemption shall willfully fail, neglect or refuse, after demand by the city or its contract or franchise agent, to pay the service fees.

B. Billing and Payment. All solid waste service charges shall be billed upon a monthly or bimonthly basis as determined by the city council, and shall be due and payable by the owner/occupant at the time indicated in the billing statement. The city's solid waste contract or franchise agent will provide solid waste billing services, and, subject to the provisions of this chapter, be primarily responsible for the collection of payments. The due date for each class of

generator shall be clearly indicated on the bill/invoice. If the due date falls on a Saturday, Sunday or legal holiday, the customer will have until the end of the next regular business day to make payment. Payments made by mail must be postmarked no later than midnight of the due date on the invoice. Payments may be made in person on or before the due date between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays, at the contract or franchise agent's Chula Vista office.

C. Billing Cycles, Classifications and Due Dates. All solid waste service charges for small quantity generators (residential dwellings and businesses with curb or alley cart service) shall be billed bimonthly in advance. The due date for small quantity generator invoices shall be the last day of the bimonthly billing cycle. Solid waste service charges for large quantity generators (residences and businesses with bin, compactor or roll-off service) shall be billed monthly in arrears. The due date for large quantity generator invoices shall be 15 days after the last day of the monthly billing cycle. The cost of temporary services such as industrial roll-off boxes may be applied to the monthly or bimonthly billing statements of existing customers, secured by a line of credit or paid for as "Cash On Delivery" (COD) as mutually agreed by the city contract or franchise agent and the customer. The city will direct the contract or franchise agent to deliver invoices to the Postal Service in a manner that will provide the customer no less than 15 days for delivery and payment of their invoice without penalty.

D. Service Rates. The contract or franchise agent shall set service rates subject to a maximum rate established by the city council. A complete schedule of maximum rates shall be kept on file with the city clerk and the city conservation coordinator and is available for public review. Maximum rates may be subject to increase pursuant to the terms of the city's contract or franchise with the contract or franchise agent. Subject to the terms of the then-in-effect contract or franchise, the council may from time to time establish such rates by resolution, including the establishment of rates for different classifications of generators (residential, commercial, industrial or subclassifications thereof) or types of materials generated, including preferential or discounted rates for senior citizens or low-income families or other classifications which are deemed to be in the public interest.

E. Penalties for Delinquency – Notification.

1. Delinquent Accounts – Generally. A bill shall be considered delinquent if payment in full is

not received by the close of business or postmarked before midnight of the due date as shown on the bill. However, when the final day falls on a Saturday, Sunday or legal holiday, payment may be made without penalty on the next regular business day. If payments for small quantity generator invoices have not been received by the city's contract or franchise agent 10 days before the due date, the city's contract or franchise agent shall send notification ("first warning") outlining potential late fees and penalties to the resident or business.

2. Late Notice. In the event the owner or occupant of any premises or business shall be delinquent in payment of any part or all of the solid waste fees and delinquency continues for a period of 10 days after the due date shown on the bill, the city's contract or franchise agent shall send notification ("late notice") to the owner and occupant informing both of the amount owed and the schedule of penalties and costs accrued at each stage of delinquency as defined below. The notification to the owner shall be mailed to the name and address listed on the last available property tax assessment roll and shall include the potential delinquency amount to be assessed as a lien and collected on the owner's property tax bill. If payment in full is not received by the due date on the bill/invoice, the city or its contract or franchise agent may impose a one time late/processing fee equal to 10 percent of the charges owed or \$10.00. In addition, for each 30 days the delinquent bill remains unpaid, the city or its contract or franchise agent may impose additional late/processing fees equal to one and one-half percent of the outstanding debt. If the bill is not paid within 15 days of the invoice due date, the city contract or franchise agent may charge an additional restart fee of \$10.00. (The penalties and restart fee are designated for administrative convenience only in the master fee schedule.) The city or its contract or franchise agent must at minimum send one bill/invoice at least 10 days before the due date and one notification letter by first class mail to the owner or occupant prior to assessing a penalty.

3. Final Late Notice. In the event that the owner or occupant of any premises or business is delinquent in payment of all or any part of the solid waste bill, other than that for which they have applied for and received an exemption from the city, for a period of 90 days after the due date of the invoice, the city or its contract or franchise agent shall assign the delinquent account to the city for collection. Upon mutual agreement, the city contract or franchise agent may assign delinquent accounts to the city before 90 days. At least 10 days

prior to assigning an account to the city for collection, the city contract or franchise agent shall send a second notification (“final late notice”) to the owner. The notification shall include the total current amount due, a description of the potential penalties for delinquent amounts and a description of the potential lien process, the location where the bill may be paid in person during regular business hours and a self-addressed return envelope for payment by mail.

4. Final Notice of Delinquency. Upon assignment of the delinquent account to the city for collection, the delinquent charges, penalties and fees may be collected by the city:

- a. Pursuant to a lien imposition and property tax bill process provided below;
- b. By suit in any court of competent jurisdiction; or
- c. By any other manner permitted by law or equity at the city’s discretion.

Prior to setting a hearing to consider a lien, the city will send notification (“final notice of delinquency”) to the property owner with a detailed description of the amount owed, the penalty schedule, lien procedure and associated costs and administration fees (the penalties and fees are designated for administrative convenience only in the master fee schedule).

F. Lien Process for Solid Waste Services.

1. Hearing and Lien – Notice. When the full amount for said solid waste service charge is not paid within 15 days after the final notice of delinquency, the city clerk may set said delinquent account for hearing by the city council at a regular or adjourned regular meeting, which will be held at least seven calendar days after such 15-day period has expired. The owner of the property shall be mailed notice of the time and place of the hearing. The notice shall also inform the property owner that failure to pay said delinquent account will result in a lien upon the property, and the amount owed will be charged to the property owner on the next regular tax bill. Notice of the public hearing shall also be published once at least 10 days in advance thereof in a newspaper of general circulation published in the city of Chula Vista. The city clerk shall post a copy of such notice of the time and place of hearing, in a conspicuous place at or near the entrance of the council chambers in the City Hall.

2. Delinquent Accounts – Hearing and Assessment. The city council shall consider said delinquent accounts at the time set for hearing, together with any objections or protests by inter-

ested parties. Any owner of land or person affected by the charges may present a written or oral protest or objection to the delinquency of said account or the amount owed thereon. At the conclusion of the hearing, the city council shall either approve the delinquency and amount owed on the account as submitted or as modified or corrected by the city council. The decision of the city council on the charges and on all protests or objections shall be final and conclusive. The amounts so approved shall reflect the entire amount due, including all penalties, interest and administrative fees that have accrued against the account as of the date of the hearing plus any county fees (for processing and collecting the lien). The amount shall be charged to the property owner on the next regular tax bill and shall be a lien upon the property involved. The city council shall confirm such assessment and cause the same to be recorded on the assessment roll and, thereafter, such assessment shall constitute a special assessment and lien upon the property. The city council shall adopt a resolution assessing such amounts as liens upon the respective parcels of land as they are shown upon the last available assessment roll.

3. Delinquent Accounts – Administrative Fee. All delinquent accounts that are not paid within 10 days after the final delinquency notice has been posted may be charged an administrative processing fee to offset the costs incurred by the city in administering the provisions of this chapter. The administrative processing fee (designated for administrative convenience only in the master fee schedule) shall be added to the amount due as collected by the city under subsection (E)(4) of this section.

G. Solid Waste Service Deposits Required When – Amount. The city or its contract or franchise agent have the right to require deposits from the owner or occupant of any premises who has allowed his/her bill for solid waste service charge to become delinquent or who does not have an acceptable credit rating. Deposits shall be equal to the estimated amount of the solid waste service charges for two billing cycles, but in no event shall the deposit be less than \$25.00.

H. Request for Exemption from Fees – City-Approved Exception.

1. Terms for an Exemption. All exemptions and extensions will be granted for a period of not more than 180 days and shall be at the discretion of the director of public works or his/her designee. Applicants which have been cited with a notice of violation or administrative citation and those that

have been late on sewer or solid waste fee payment within the past six months will not be qualified for an exemption.

2. Process for Request. Requests for an exemption for mandatory solid waste services and payment shall be made on a form provided by the director of public works. Requests on the required form shall be completed by the applicant and submitted to the city, as outlined on the form, at least five working days before the next applicable solid waste billing cycle. An extension of an approved exemption may be requested by submitting the request in writing at least 10 days before the end of the current extension period.

3. Conditions of an Approved Application. Applicants shall agree to an inspection of their premises to verify compliance with solid waste diversion and pay an inspection fee to the director of public works or his designee, per exemption period, of \$15.00. The inspection fee shall be waived if the premises are in compliance. If the premises are found to not be in compliance, subsequent reinspection fees shall also be charged. Failure to notify the city conservation coordinator or the city's contract or franchise agent in writing prior to reoccupying the premises, or otherwise altering compliance with the exemption conditions, shall constitute delinquency of payment for collection charges, and charges and penalties shall be retroactive to the first day of the exemption period. In all cases, property owners and/or their agents will be expected to maintain sanitary premises pursuant to CVMC 8.24.060 including, but not limited to, litter abatement, clean sidewalks and gutters, and yard waste recycling (as appropriate), throughout the exemption period.

4. Special Terms. Exemptions will not apply retroactively except as stated in a Class 1 vacancy exemption below. All exemptions requested by tenants shall also be signed by the property owner.

a. Vacancy Exemption for Unoccupied Premises. In the event that the premises are unoccupied and all water, sewer, electricity and gas are also disconnected, an owner or occupant of a residence or business may request a vacancy exemption. Should the premises be unoccupied due to a death or similar hardship, the executor, beneficiary or county probate administrator may request a retroactive exemption. It is the responsibility of the occupant and/or the property owner to cancel an exemption for vacancy and restart service if the property is to be occupied before the end of the exemption period. The request for service shall be made to the city contract or franchise agent at least

two regular business days before the next regular collection service day.

b. Self-Haul. Occupant or tenants of premises may apply for an exemption from fees for all or part of the solid waste, yard waste and recycling services and remove or convey waste and/or recyclables for processing and disposal which they generate themselves. Such persons must provide weekly receipts for disposal at a state-permitted landfill or transfer station and/or appropriate recycling facility at the end of each billing cycle or upon demand by the city or its contract or franchise agent. Persons provided an exemption are still subject to state-mandated waste diversion goals and may not: (1) dispose of their waste in the waste receptacle of another generator in Chula Vista or another jurisdiction, or in a park or street litter bin, (2) contract with a third party to remove and convey their waste, (3) burn their waste in their fireplace or by other means, (4) dispose of designated recyclables, or otherwise improperly dispose of waste or recyclables as established in CVMC 8.24.040, 8.24.045 and 8.24.050. A self-hauler exemption is not a permit to haul waste generated by a second party.

c. Source Reduction, Recycling and Composting Exemption. The occupant/owner of any premises may apply for an exemption from all or part of the solid waste, yard waste and recycling fees for 100 percent diversion (no disposal of any kind, anywhere). Such persons must provide a written description of their solid waste management plans, to comply with the state-mandated landfill diversion goal and the city's integrated solid waste management plan.

d. Property owners and occupants within an area newly annexed to the city that was not currently using the city's contract or franchise agent may use the service of a private refuse collection service other than the city's franchise agent for a period not to exceed one billing cycle. If the owner or occupant was under a preexisting franchise agreement with a private refuse collection service other than the city's contract or franchise agent, they may remain with that service to the extent required by law until the end of the agreement period, less any extensions in that agreement, for a period not to exceed 180 days.

e. The city contractor or franchise agent may suspend collection service and/or charges from a large quantity generator for:

i. Vacancy;

ii. Delinquency of payment subsequent to implementation of subsection (E) of this section; or

iii. Mutual agreement by the City and contract or franchise agent. The contractor shall notify the City quarterly of all suspended accounts that did not result in payment. (Ord. 2992 § 1, 2005; Ord. 2891 § 1, 2003; Ord. 2764 § 1, 1998).

**8.24.190 Reserved.**

(Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.195 Mandatory recycling for exempt and reduced rate customers.**

Where a solid waste rate reduction or exemption is granted hereunder, the affected party shall not be exempted from and shall remain subject to the mandatory recycling ordinance. Each person receiving a rate reduction or exemption shall be responsible for doing his or her equitable share to assist the City with the 50 percent landfill diversion goal mandated by the California Integrated Waste Management Act of 1989 (AB 939) including, but not limited to, participation in source reduction, reuse, recycling and composting of the designated recyclables and household hazardous waste as applicable. Failure to comply with the mandatory recycling ordinance or disposal of solid waste at a site other than the premises where the waste was generated shall be cause for termination of the exemption or reduced rate and shall subject the rate payer to paying the full cost of service for the full period of the exemption or reduced rate, plus any applicable penalty for violation of CVMC 8.24.040, 8.24.045 and 8.24.050. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.200 Interference with collection and scavenging prohibited when.**

It is unlawful for any person or persons, other than the City contract or franchise agent as defined herein and authorized by the City to collect solid waste or household hazardous waste, to interfere in any manner with any solid waste, household hazardous waste, designated recyclables or yard waste container or the contents thereof, whether owned by private persons, the City, or by its contract or franchise agent, or to remove any such container or its contents from the location where the same was placed by the owner thereof. This provision is not intended to prohibit any person, firm or corporation generating a reusable or recyclable commodity from selling or giving the same as he, she or it may desire; provided, that the commodity(ies) shall be

removed and conveyed in a manner strictly in accordance with the rules and regulations of the County Department of Environmental Health and Chapters 8.23, 8.24, and 8.25 CVMC, and that such commodities shall be diverted from a landfill, transformation facility, use as alternative daily cover at a landfill, or other land application or other use not expressly recognized as diversion by the city or the California Integrated Waste Management Act of 1989. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.210 Littering – By private persons prohibited where.**

No person or persons shall leave, discard, deposit, throw away, or cause to be left, discarded, deposited or thrown away, any solid waste, hazardous waste or medical waste of any type including, but not limited to, paper, wood, glass, plastic, metals, green waste or other organic matter, upon any street, alley, gutter, sidewalk, parkway, park or recreational area in the City. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.220 Littering – By corporations or persons prohibited where.**

It is unlawful for any person, firm, company or corporation to deposit upon any sidewalk or street within the City any sweepings from any sidewalk, stairway or other opening leading to the street or sidewalk. All such sweepings or material from any sidewalk or any other opening leading to the street or sidewalk within the City shall be removed in a pan, shovel or other container and placed in a container for solid waste, or green waste recycling or other recycling container as appropriate. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

**8.24.230 Owner or occupant duty to keep sidewalks free of litter.**

It shall be the duty of all owners and occupants of buildings in the City and the duty of all owners of vacant lots in the City to keep the sidewalks adjacent to such premises clean and free of any solid waste of any type including, but not limited to, paper, wood, glass, plastic, metals, green waste, noxious weeds and vegetation or other organic matter. (Ord. 2992 § 1, 2005; Ord. 2764 § 1, 1998).

## Chapter 8.25

### RECYCLING

#### Sections:

- 8.25.010 Purpose and intent.
- 8.25.020 Definitions.
- 8.25.030 Mandatory fees for recycling.
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- 8.25.040 Separation of recyclable materials, storage, and containers.
- 8.25.050 Mandatory recycling.
- 8.25.060 Recycling programs.
- 8.25.070 Reports.
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- 8.25.090 Composting.
- 8.25.095 Construction and demolition debris recycling.
- 8.25.100 Enforcement.
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#### **8.25.010 Purpose and intent.**

The purpose of this chapter is to provide standards for integrated solid waste management, to include source reduction, recycling and composting of solid wastes, in order to provide for the long-term health, safety and welfare of Chula Vista residents through extending current landfill capacity, preserving resources, and providing for the general protection of the environment. The chapter provides for regulation of the storage, collection, transportation and recovery of marketable and recyclable materials. (Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992).

#### **8.25.020 Definitions.**

For purposes of this chapter, and other municipal code provisions referring hereto, the following words shall have the meanings ascribed thereto, unless the context in which they are used clearly indicates another meaning:

A1. "Aluminum" means recoverable materials made from aluminum, such as used aluminum food or beverage containers, aluminum foil, siding, screening, and other items manufactured from aluminum.

A2. "Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City of Chula Vista.

B. "Bin" shall mean those plastic or metal containers of one cubic yard (202 gallons) to eight cubic yards that have plastic lids on the top (unless metal lids are designated by the City Manager). Bins are used for weekly or more frequent collection of waste, yard waste or designated recyclables by the City or its franchise agent.

C. "Bulky waste" means discarded items whose large size or shape precludes or complicates their handling by standard residential or commercial solid waste, recycling and green waste collection methods. Bulky items include white goods, furniture, large auto parts, trees, stumps, carpet and other potentially oversize wastes. Bulky waste does not include hazardous or infectious waste unless specifically exempt, such as freon-containing refrigerators.

D. "Buy-back center" means a facility licensed and permitted by the Department of Conservation and/or local jurisdiction which pays a fee for the delivery and transfer of ownership to the facility of source-separated materials for the purpose of recycling or composting.

E. "Cardboard" means post-consumer waste paper grade corrugated cardboard (grade No. 11), kraft (brown) paper bags, or solid fiber boxes which have served their packaging purposes and are discarded and can later be reclaimed for collection and recovery for recycling.

F. "Carts" shall mean those plastic containers with a capacity of less than 202 gallons (one cubic yard). Carts shall have a fixed lid and are designed for automated and/or semi-automated collection of solid waste, yard waste and/or designated recyclables by the City or its franchise agent.

G. "City" shall mean the City of Chula Vista, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

H. "Collection" means the act of removing and conveying nonhazardous and noninfectious solid waste, commingled or source-separated materials, from residential, commercial, industrial, or institutional (governmental) generators to a facility for processing, composting, transfer, disposal or transformation.

I. "Commercial" means a site and/or business zoned or permitted for any use other than residential including, but not limited to, commercial, light industrial, industrial and agricultural. Commercial generators that generate three or more cubic yards of waste per week are serviced by a bin or compactor collection vehicle.

J. "Commercial recyclables" means designated recyclable materials from the two commercial sub-categories of "office" and "hospitality." Materials include, but are not limited to: office paper, cardboard, newspaper, and aluminum from offices; and cardboard, glass bottles and jars, plastic bottles, aluminum, tin and bi-metal cans, and white goods from hospitality establishments.

K. "Compactor containers" means those fully enclosed metal containers of two to 40 cubic yards provided by the City's hauler or customer. Compactors typically serve very large quantity generators.

L. "Compost" means the product resulting from the controlled biological decomposition of organic wastes that are source-separated from the municipal solid waste stream.

M. "Composting" shall mean the controlled and monitored process of converting organic wastes into compost.

N1. "Construction" means the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.

N2. "Construction and demolition waste" means used or discarded materials removed from the premises during demolition, dredging, grubbing, and building, resulting from construction, remodeling, repair, and/or demolition activities on housing, commercial, governmental buildings, and other structures and pavement.

O1. "Contract or franchise agent(s)" means any person or private or public entity designated by the City Council, pursuant to Article XII of the City Charter and Chapter 8.23 CVMC, as being responsible for administering the collection, processing and/or disposal of solid waste or designated recyclables.

O2. "Conversion rate" means the rate set forth in the standardized conversion rate table approved by the City pursuant to this chapter for use in estimating the volume or weight of materials identified in a waste management report.

O3. "Covered project" shall have the meaning set forth in CVMC 8.25.095.

O4. "Demolition" means the decimating, deconstructing, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

O5. "Divert" means to use material for any purpose other than disposal in a landfill or transformation facility.

O6. "Diversion requirement" means the diversion of 90 percent of inert waste and not less than 50 percent of the remaining waste generated via reuse or recycling, unless a partial or full diversion exemption has been granted pursuant to CVMC 8.25.095, in which case the diversion requirement shall be the maximum feasible diversion rate established by the Waste Management Report Compliance Official for the project.

P. "Recycling box" shall mean those containers with a capacity of 18 gallons to 32 gallons which are supplied by the City or its franchise agent for manual collection of designated recyclables at special events.

Q. "Curbside collection" means the service of removing and conveying nonhazardous and noninfectious solid waste, source-separated recyclables and/or green waste from the public thoroughfare at the curb or alley. (The City shall make the final determination regarding eligibility for curbside collection, which shall generally apply to small quantity generators.)

R1. "Designated containers" ("containers") shall mean those containers designated by the City Manager for temporary storage and collection of waste or designated recyclables including but not limited to curbside bins, carts, bins, roll-off boxes, and/or compactor containers.

R2. "Designated recyclables" means those materials designated by the City Manager for recovery or reuse. Any material having an economic value on the secondary materials market or that is otherwise salvageable shall be included and/or other materials that have been separated from other small quantity or large quantity generators for the purposes of being recycled for resale and/or reuse, and placed at a designated recycling or waste collection or storage location or in a designated recycling or waste container for the purpose of collection and processing, or any such designated recyclable materials collected under a mixed waste processing program. The list includes, but is not limited to: newspaper (ONP), mixed paper (MP), corrugated cardboard (OCC), steel, tin and bi-metal cans, metal coat hangers, aluminum containers, white goods, glass food and beverage containers, No. 1 and No. 2 plastic containers, all California redemption containers, used oil, used oil filters, yard waste, clean lumber, concrete and asphalt.

S. "Designated solid waste and recycling collection or storage location" means a place designated by the City Manager for storage and/or collection of waste, green waste and/or recyclables

pursuant to CVMC 8.24.100. Designated locations include, but are not limited to, the curb, alley, waste/recycling enclosure, a loading dock, or basement of a commercial enterprise or multifamily complex where waste and recyclables are placed for collection or temporary storage prior to collection by the City's franchise agent.

T. "Franchised recyclables" means any residential, commercial or industrial recyclables, as defined herein, to be collected by the City's contract agent or franchisee, placed in designated recycling containers or at designated recycling collection or storage location(s).

U. "Garbage" means all nonhazardous, noninfectious organic waste including: kitchen and table waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking, or handling of food stuffs, except organic wastes separated therefrom and used in composting in accordance with CVMC 8.25.090.

V. "Generator" means every owner, tenant, occupant or person owning or having the care and control of any premises in the City including the temporary use of parks, open space or a public thoroughfare.

W. "Glass bottles and jars" means food and beverage containers made from silica or sand, soda ash, and limestone, the product being transparent or translucent and being used for packaging or bottling, including container glass designated redeemable under the California Beverage Container Recycling and Litter Reduction Law, Division 12.1 (commencing with Section 14500) of the California Public Resources Code, as well as glass jars and bottles without redeemable value ("scrap"), but excluding household, kitchen, and other sources of noncontainer glass such as drinking glasses, ceramics, light bulbs, window pane glass, and similar glass products that are not bottles or jars.

X. "Grantee" shall mean the City's franchise agent(s).

Y. "Green wastes" means the leaves, grass, weeds, shrubs, tree branches, tree trunk and other wood materials from trees. Green waste may also include preconsumer food waste, incidental amounts of waxed or plastic-coated cardboard and mixed paper, and unpainted and untreated lumber. Green waste does not include tree stumps in excess of 35 pounds, more than incidental dirt or rock, plastic, glass, metal, painted or treated lumber, plywood, particle board, or other manufactured products that contain glue, formaldehyde, nonorganic or nonbiodegradable materials.

Z. "Green waste processing" means the accumulation and storage of green waste in a manner that leads to the intentional or unintentional thermophilic decomposition of green waste. The acceptance of payment for green waste and the accumulation of more than 15 yards or three tons per year of unprocessed, shredded, ground or composted material shall constitute green waste processing and is subject to the City, County and State requirements regulating compost and/or solid waste facilities. Residential, commercial and agricultural sites that generate, stockpile or process green waste material generated on-site and used on-site without sale of finished or unfinished material, that are otherwise compliant with all conditions of the municipal code for nuisance, may apply for an annual exemption.

AA. "Hazardous or toxic waste" means any waste material or mixture of wastes which is toxic, corrosive, flammable, explosive, an irritant, a strong sensitizer, and which generates pressure through decomposition, heat or other means, if such a waste or mixture of wastes may cause substantial personal injury, serious illness or harm to humans, domestic animals, or wildlife, during, or as an approximate result of, any disposal of such wastes or mixtures of wastes as defined in Section 25117 of the California Health and Safety Code, which is not legally disposable at a Class III landfill.

BB. "Hospitality" means any establishment that offers dining services, food or beverage sales. This includes taverns, bars, cafeterias, and restaurants, as well as motels and hotels (temporary housing of less than one month duration), hospitals, schools, colleges, and other such establishments that have dining services, or a restaurant or bar, on their premises.

CC. "Industrial recyclables" means recyclables from industrial, construction, and demolition operations, including, but not limited to, asphalt, concrete, dirt, land-clearing brush, sand and rock.

DD. "Industrial solid waste" means solid waste originating from mechanized manufacturing facilities, factories, refineries, construction and demolition projects, and/or publicly operated treatment works, excluding recyclables and compostables, if properly handled and treated, and excluding hazardous or toxic waste.

EE. "Inert waste" means materials such as concrete, soil, asphalt, ceramics, earthen cooking ware, automotive safety glass, and mirrors.

FF. "Improper disposal" means the discarding of any item or items upon public or private premises that were not generated on the premises as a



part of its authorized use, unless written consent of the property owner is first obtained.

GG. "Improper disposal site" means any premises that have intentionally or unintentionally accumulated solid waste or recyclables and/or charged a fee for accepting material without a solid waste or composting permit from the county local enforcement agency. This does not include businesses licensed and permitted in the City to purchase source-separated recyclables.

HH. "Incidental waste" means less than one pound of waste deposited in a public litter bin or designated waste container to prevent litter, such as waste from a fast food meal deposited in a designated waste container or public litter bin by a pedestrian or vehicle operator.

II. "Industrial generator" means any property or generator that is engaged in the manufacture of products including but not limited to construction and demolition. Industrial generators are typically serviced by roll-off box containers of 10-yard to 40-yard capacities and typically generate inert materials such as asphalt, concrete, building debris and some wood and dry green waste.

JJ. "Industrial" means any form of mechanized manufacturing facilities, factories, refineries, and construction and demolition operations, excluding hazardous waste operations.

KK. "Institutional" shall mean any premises owned and/or occupied by local, State and federal agencies, typically office or education facilities with a common waste stream.

LL. "Integrated solid waste management" means a planned program for effectively controlling the storage, collection, transportation, processing and reuse, conversion, or disposal of solid waste, recyclables and/or compostables in a safe, sanitary, aesthetically acceptable, environmentally sound and economical manner. It includes all administrative, financial, environmental, legal and planning functions as well as the operational aspects of solid waste handling, disposal, litter control and resource recovery systems necessary to achieve established objectives.

MM. "Landfill" means a disposal system by which solid waste is deposited in a specially prepared area which provides for environmental monitoring and treatment pursuant to the California Code of Regulations, California Public Resources Code and the Federal Resource Conservation and Recovery Act.

NN. "Large quantity generator" means those residential, commercial, industrial and institutional entities that generate more than 300 gallons of

waste per week excluding source-separated recyclables diverted from disposal or transformation.

OO. "Mixed waste processing" means a system of recovering recyclables from the mixed waste stream through separation at a processing facility, transfer station, landfill, or other such facility, instead of separation at the primary waste generation source.

PP. "Multifamily" means a structure or structures containing a total of four or more dwelling units in any vertical or horizontal arrangement on a single lot or building site.

QQ. "Newspaper" means newsprint-grade paper including any inserts that come in the paper, and excluding soiled paper, all magazines and other periodicals, telephone books, as well as all other paper products of any nature.

RR1. "Non-covered project" shall have the meaning set forth in CVMC 8.25.095.

RR2. "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 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, compost, and/or designated recyclables.

SS. "Office" or "offices" for purposes of this chapter shall mean any office, combination of offices, or connected building or office space regardless of office affiliation, ownership, or occupancy. This includes, but is not limited to, businesses used for retail, wholesale, professional services, legal services, financial services (to include banks), medical services, shipping and receiving areas, churches, schools, colleges, and libraries.

TT. "Office paper" means waste paper grades of white and colored ledgers and computer paper. Examples include forms, copy paper, stationery, and other papers that are generally associated with desk and employee work area activity, and any additional materials to be added by ordinance.

UU1. "Performance deposit" means cash, money order, check, letter of credit, or surety bond in the amount set forth in CVMC 8.25.095(B)(3).

UU2. "Plastic bottle" means a plastic container with narrow neck or mouth opening smaller than the diameter of the container body, used for containing milk, juice, soft drinks, water, detergent, shampoo or other such substances intended for

household or hospitality use; to be distinguished from nonbottle containers (e.g., deli or margarine tub containers) and from nonhousehold plastic bottles such as those for containing motor oil, solvents, and other nonhousehold substances.

VV. "Pollution" means the condition caused by the presence in or on a body of water, soil, or air of any solid waste or substance derived therefrom in such quantity, or such nature and duration, or under such condition, that the quality, appearance, or usefulness of the water, soil, land, or air is significantly degraded or adversely altered.

WW1. "Processing" means the reduction, separation, recovery, conversion, or recycling of any component(s) of solid waste.

WW2. "Project" means any activity which requires an application for a construction or demolition permit, or any similar permit from the City of Chula Vista.

XX. "Putrescible wastes" means the waste in organic material with the potential decomposition capacity to emit noticeable quantities of odor and gas by-products. Material in this category includes, but is not limited to, kitchen waste, dead animals, food from containers, etc., except organic wastes separated therefrom and used in composting.

YY. "Recyclables" means any materials that are recyclable, reclaimable, and/or reusable within the following generating categories: small quantity generator and large quantity generator. Any material having an economic value on the secondary materials market or that is otherwise salvageable shall be included and/or other materials that have been separated from other small or large quantity generators for the purposes of being recycled for resale and/or reuse, and placed at a designated recycling or waste collection or storage location or in a designated recycling or waste container for the purpose of collection and processing, or any such designated recyclable materials collected under a mixed waste processing program.

ZZ. "Recycling" shall mean any process by which materials which would otherwise be discarded, deposited in a landfill or transformation facility and become solid waste are collected (source-separated, commingled, or as "mixed waste"), separated and/or processed, and returned to the economic mainstream in the form of raw materials or products or materials which are otherwise salvaged or recovered for reuse.

AAA. "Refuse" means garbage and rubbish.

BBB. "Removal" means the act of taking solid wastes or designated recyclables from the place of

generation either by the contract or franchise agent(s), or by a person in control of the premises.

CCC1. "Removal frequency" means frequency of removal of solid wastes or recyclables from the place of generation.

CCC2. "Renovation" means any change, addition, or modification in an existing structure.

DDD. "Residential," for purposes of this chapter, means any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, including single- and multiple-family dwellings, apartment-hotels, boarding and lodging houses. "Residential" does not include short-term residential uses, such as motels, tourist cabins, or hostels which are regulated as hospitality establishments.

EEE1. "Residential recyclables" means those specific recyclable materials from residential solid waste (single-family and multifamily) including, but not limited to, aluminum, glass bottles and jars, newspaper, plastic bottles, tin and bi-metal cans, white goods, and yard waste.

EEE2. "Reuse" means further or repeated use.

FFF. "Roll-off service" means service provided for the collection, removal and disposal of industrial waste such as construction, demolition and other primarily inert nonputrescible wastes and green wastes. Roll-off service is usually provided using metal containers of 10 to 40 cubic yards that are open on the top with doors on one end.

GGG. "Rubbish" means nonputrescible solid wastes such as ashes, paper, glass, bedding, crockery, plastics, rubber by-products or litter. Such materials that are designated as recyclable or compost may be exempt from categorizing as rubbish; provided, such materials are handled, processed and maintained in a properly regulated manner.

HHH. "Salvaging or salvageable" means the controlled and/or authorized storage and removal of solid waste, designated recyclables or recoverable materials.

III. "Scavenging" means the uncontrolled and/or unauthorized removal of solid waste, designated recyclables or recoverable materials. Such activity is unlawful and is a misdemeanor punishable by up to six months in jail and \$1,000 in civil penalties under CVMC 8.24.200 and 8.25.080 and Chapter 9, Section 41950 of the California Integrated Waste Management Act of 1989.

JJJ. "To segregate waste material" means any of the following: the placement of designated recyclables in separate containers; the binding or bagging of designated recyclables separately from other waste material and placing in a separate container

from refuse, or the same container as refuse; and the physical separation of designated recyclables from other waste material (either at the generating source, solid waste transfer station, or processing facility).

KKK. "Small quantity generator" means those residential, commercial, industrial and institutional entities that generate less than 300 gallons of waste per week excluding source-separated recyclables diverted from disposal or transformation.

LLL. "Solid waste" means all putrescible and nonputrescible solid, semisolid and liquid wastes, such as refuse, garbage, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and includes liquid wastes disposed of in conjunction with solid wastes at solid waste transfer/processing stations or disposal sites, which are generated by residential, commercial or industrial sites within the City. Solid waste shall not include: hazardous and infectious waste, sewage collected and treated in a municipal or regional sewage system or materials or substances having commercial value or other importance which can be salvaged for reuse, recycling, composting or resale.

MMM. "State" shall mean the State of California.

NNN. "Storage" means the interim containment of solid wastes, yard wastes, or recyclables in an approved manner after generation and prior to disposal, collection or processing. ("Interim" means for one week or less; roll-off containers may store nonputrescible waste for up to 30 days.)

OOO. "Streets and byways" shall mean the public streets, ways, alleys and places as the same now or may hereafter exist within said city, including State highways now or hereafter established within said city.

PPP1. "Tin and bi-metal cans" means any steel food and beverage containers with a tin or aluminum plating.

PPP2. "Total project costs" means the total value of a project as calculated using Chula Vista's standard valuation multipliers.

QQQ. "Transfer or processing station" means those facilities utilized to receive solid wastes and to temporarily store, separate, convert, or otherwise process the solid waste and/or recyclables.

RRR1. "Unit" means an individual residence contained in a residential multifamily complex.

RRR2. "Waste management report (WMR)" means a WMR form, approved by the City Man-

ager or designee, for the purpose of compliance with this chapter.

RRR3. "Waste Management Report Compliance Official" means the designated staff person(s) authorized by the City Manager and responsible for implementing the construction and demolition debris recycling program.

SSS. "White goods" means kitchen or other large enameled appliances which include, but are not limited to, refrigerators, washers, and dryers.

TTT. "Wood waste" means lumber and wood products but excludes tree stumps in excess of 35 pounds, more than incidental dirt or rock, plastic, glass, metal, painted or treated wood, plywood, particle board or other manufactured products that contain glue, formaldehyde, nonorganic or nonbiodegradable materials.

UUU. "Vector" means any nuisance such as odor, unsightliness, sound, or a carrier, usually insects or rodents, that is capable of transmitting a disease.

VVV. "Yard waste" means the leaves, grass, weeds, and wood materials from trees and shrubs from the single-family and multifamily residential sources of the City's green waste (to include landscape haulings from residential sources). Acceptable materials for collection include all yard waste as herein defined, excluding treated or processed wood or lumber, bulky waste or any other materials as shall be determined by the City as to not be salvageable. All acceptable yard waste shall be void of nails, wire, rocks, dirt or any other material that is not considered yard waste. (Ord. 3116 § 1, 2008; Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992).

### **8.25.030 Mandatory fees for recycling.**

A. The City Council finds and determines that the regular collection of recyclables by the contract or franchise agent(s) of the City from all places in the City is a service to the premises from which it is collected. All owners or occupants of premises generating recyclables shall pay the monthly collection fee charged by the City's contract or franchise agent, not to exceed the City-approved maximum rates. A schedule of maximum rates shall be kept on file with the City Clerk and is available for public review. Maximum rates may be subject to increase pursuant to the terms of the City's contract or franchise with the contract or franchise agent(s). Subject to the terms of the then-in-effect contract or franchise, the Council may from time to time establish such rates by resolution, including the establishment of rates for different classifica-

tions of quantity generators (small quantity generators, large quantity generators, residential, commercial, or industrial, or subclassifications thereof) or types of materials generated or other classifications which are deemed to be in the public interest.

B. Pursuant to California Public Resources Code Section 41900, et seq., the City may, by resolution of the City Council, impose fees on City generators to pay the actual costs incurred by the City in preparing, adopting or implementing an integrated waste management plan in accordance with State mandates.

C. The contract or franchise agent shall provide billing service and be totally responsible for the collection of such fees, at the same time and in the same manner as the collection of charges for refuse collection pursuant to CVMC 8.24.180. No person shall willfully fail, neglect or refuse, after demand by the contract or franchise agent(s), to pay the fees provided for herein. (Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992).

**8.25.035 Reserved.**

(Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992; Ord. 2428 § 1, 1990).

**8.25.040 Separation of recyclable materials, storage, and containers.**

A. The owner, operator, and/or occupant of any premises, business establishment, industry, or other property, vacant or occupied, shall be rebuttably presumed to be the generators of, and be responsible for the safe and sanitary storage of, all solid waste, designated recyclables, and compost accumulated on the property. The designated recyclables and compost shall be stored separately from refuse. The property owner, operator, or occupant shall store such solid waste, designated recyclables, and compost on the premises or property in such a manner so as not to constitute a fire, health, or safety hazard, and shall require it to be handled in such a manner so as not to promote the propagation, harborage, or attraction of vectors, or the creation of litter or other nuisances.

B. A container or containers for designated recyclables shall be provided by the contract or franchise agent(s) for any premises generating residential or commercial recyclables, for the exterior collection of designated recyclables. Containers for industrial recyclables shall be provided by the generator of the designated recyclables, unless oth-

erwise arranged through the City Manager. The containers shall effectively segregate the designated recyclables from refuse.

C. All such containers to be used in the City's recycling programs shall be approved by the City Manager, in conjunction with the contract or franchise agent(s) (or, in the case of industrial recyclables, the generators of the industrial recyclables).

D. Designated recyclables shall be sorted according to type and/or as established by program guidelines and placed in separate containers, containers with segregated compartments, or commingled (in one recycling container), as agreed upon by the City Manager and the contract or franchise agent(s). Containers, if more than one, shall be grouped together and placed for collection at the same time as when regular refuse collection occurs or at designated recycling collection times (if different from refuse collection) and at designated recycling collection locations.

E. All containers used for recycling purposes, storage or collection, including commercial and industrial recycling containers used in City recycling programs as well as all other containers used for recycling purposes whether owned or operated by a commercial entity, nonprofit organization, or any other persons or entity, shall be identified with the name and current telephone number of the owner or the responsible agency or person. Commercial recycling containers shall remain locked at all times in order to discourage scavenging and prevent dumping of refuse in the container, unless exempted by the City Manager in conjunction with the contract or franchise agent(s).

F. Containers which do not comply with the requirements of this section shall be presumed to be refuse and taken by the contract or franchise agent(s) for disposal or potential use as salvaging or recycling containers.

G. It shall be unlawful for any person to dispose, dump, or otherwise place material other than designated recyclables in a designated recycling container or at a designated recycling collection or storage location.

H. Exemption. Designated recyclables which are source-sorted by their generator for the purpose of recycling by selling them to a buy-back center or donating them to a City-licensed nonprofit or community group conducting recycling programs for the purpose of raising funds do not have to be placed in the designated recycling container required by this section, nor placed in a designated recycling collection location in accordance with this section. When designated recyclables are

received by a City-licensed nonprofit or community group conducting recycling programs for the purpose of raising funds, they shall be stored and sorted in accordance with this section and transported to a buy-back center for the purpose of recycling. (Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992).

#### **8.25.050 Mandatory recycling.**

It shall be mandatory for all generators of residential, commercial, and industrial recyclables in the City to separate from refuse, for recycling purposes, all designated recyclables and otherwise participate in recycling as described by this chapter. (Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992).

#### **8.25.060 Recycling programs.**

A. The City Manager shall establish and promulgate reasonable regulations, guidelines and other program-related specifics as to the implementation of recycling programs for residential, commercial, and industrial recycling, including the method for collection of designated recyclables.

B. Commercial and industrial establishments shall develop their respective “in-house” recycling plans that provide for the collection of designated recyclables in conjunction with the City’s established recycling programs. The City and the contract or franchise agent(s) shall assist in program development and provide technical expertise and training materials.

C. Collection of recyclables from single-family residential units shall minimally occur once weekly. For commercial and industrial entities, collection shall be provided as needed to meet demand.

D. The City encourages use of buy-back centers, donation centers (for used furniture and other reusable bulky items, and nonprofit agents), scrap dealers, home and commercial composting, source reduction, and other creative, lawful and environmentally sound efforts to reduce waste in accordance with this chapter that do not conflict with any established or planned City-sponsored recycling, composting or source-reduction programs. (Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992).

#### **8.25.070 Reports.**

A. All commercial and industrial establishments shall submit recycling tonnage documentation on an annual basis to the City’s conservation coordinator, due on or before January 31st, for the previous year. Annual reporting shall be on the

form promulgated by the City Manager, and commence on the first anniversary of the date set forth in the mandatory recycling implementation schedule as established in this chapter as July 1, 1993. Voluntary reporting prior to the required mandatory recycling is encouraged.

B. All applicants for a construction or demolition permit for a covered project must submit a waste management report (WMR) to the Waste Management Report Compliance Official for approval, prior to permit issuance, per CVMC 8.25.095. (Ord. 3116 § 1, 2008; Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992).

#### **8.25.080 Scavenging.**

A. It shall be unlawful for any person other than authorized City personnel or contract or franchise agent(s) to remove any separated designated recyclable(s) or salvageable commodity from any designated recycling collection or storage location, or designated recycling container. However, the original generator of the designated recyclables may, for any reason, remove the designated recyclables placed by said generator from the designated recycling container or designated recycling collection or storage location in which said generator had originally placed them.

B. It shall be unlawful for any person to disturb, modify, harm, or otherwise tamper with any container or designated recycling collection or storage location containing designated recyclables, or the contents thereof, or to remove any such container from the location where the same was placed by the generator thereof, or to remove the contents of any such container, unless authorized by the generator of such designated recyclables or duly authorized City personnel or contract or franchise agent(s). (Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992).

#### **8.25.090 Composting.**

A. Every establisher of a composting pile, bin, holding area or other such composting system shall first obtain a permit from the City, if the total volume used within the boundaries of the premises for composting is 15 cubic yards or greater.

B. Every composting pile, bin, holding area or other such composting system shall be maintained so as to not create a public or private nuisance through visual, odor, safety and/or other means, or as prescribed in Chapter 19.66 CVMC. Without constituting a limitation on the foregoing, no such composting pile, bin, holding area or other such

composting system shall be maintained within six feet from an exterior window, exterior door or other exterior entrance to an inhabited residential structure other than one owned by the owner of such composting system.

C. The owner, operator, or occupier of property containing a composting pile, bin, holding area or other such composting system that is greater than five feet high, five feet wide and five feet in length shall weekly monitor temperature, through utilization of a thermometer designed for such purposes.

D. No single compost pile, bin, holding area or other such composting system on a residential single-family (as defined in Ordinance No. 2492) premises shall be more than five feet in height and/or greater than six feet in width or length. (Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2589 § 1, 1994; Ord. 2492 § 1, 1992).

### **8.25.095 Construction and demolition debris recycling.**

#### A. Projects.

1. Covered Projects. The following project categories are covered projects and must comply with this section:

a. Any project requiring a permit for demolition or construction, with a project valuation of \$20,000 or more, unless defined as a non-covered project in subsection (A)(3) of this section.

b. Any sequenced developments, such as housing subdivision construction or subdivision demolition, must be considered as a "project" in its entirety for purposes of this section, and not as a series of individual projects.

2. City-Sponsored Projects. All City construction and demolition projects shall be considered "covered projects" and shall submit a waste management report to the City Manager or designee prior to issuance of any construction or demolition permits.

3. Non-Covered Projects. A performance deposit and waste management report shall not be required for the following:

a. Work for which a construction or demolition permit is not required.

b. Roofing projects that do not include tear-off of existing roof.

c. Work for which only a plumbing, only an electrical, or only a mechanical permit is required.

d. Seismic tie-down projects.

e. Projects less than 10,000 square feet, where no structural building modifications are required.

f. Emergency required to protect public health and safety.

g. Individual single-family homes that are not part of a larger project.

While not required, it shall be encouraged that at least 50 percent of all project-related construction, renovation and demolition waste from non-covered projects be diverted.

#### B. Submission of Waste Management Report.

1. Construction and Demolition Waste Management Report Forms. Applicants for any covered project shall complete and submit a construction and demolition waste management report on a waste management report form (WMR) approved by the City for this purpose. The WMR shall be submitted for review and approval prior to issuance of a construction or demolition permit. The completed WMR shall indicate all of the following:

a. The type of project;

b. The total square footage of the project;

c. The estimated volume or weight of construction and demolition debris, by material type, to be generated;

d. The maximum volume or weight of construction and demolition debris that will be recycled or diverted from the landfill;

e. The maximum volume or weight of construction and demolition debris that will be disposed of in a landfill; and

f. The vendors or facilities that the applicant proposes to use to collect, process or receive the construction and demolition debris.

In estimating the volume or weight of materials identified in the WMR, the applicant shall use the standardized conversion rates established and approved by the City for this purpose.

2. Initial Application. Notwithstanding any other provision of this code, no construction or demolition permit may be issued until the initial construction and demolition waste management report has been approved by the WMR Compliance Official. The WMR Compliance Official will respond to the applicant's WMR submittal within 10 business days with an approval, denial or request for clarification. If the WMR Compliance Official does not respond within 10 business days, the applicant should notify the Official. After notification by the applicant, the Official will then have three business days to complete the review. If the review is not completed within three business days after the notification, the deposit requirement will be waived.

3. Amount of Performance Deposit. The applicant for any covered project shall submit to

the City a performance deposit. The amount of the performance deposit shall be calculated as the lesser of three-quarters of one percent of the total project cost for new construction and one and one-half percent of the total project costs for demolition projects or \$30,000. All letters of credit must be issued by a financial institution acceptable to the City and on a form prescribed by the City and approved by the City Attorney. All bonds shall be in the form prescribed by the City and by such sureties which are admitted insurers in the State of California, are subject to regulation by the Department of Insurance, and which satisfy all State requirements. The City shall not accept a surety bond for less than \$10,000.

The WMR Compliance Official shall waive the performance deposit if the total deposit required pursuant to this section would be \$50.00 or less. Performance deposit funds in the form of cash, money order, or check will be placed in a secured account, subject to interest. The performance deposit and accrued interest shall be returned to the applicant upon acceptance of proof of compliance in full. If partial compliance, the performance deposit and associated interest will be refunded on a prorated basis dependent on the degree of compliance. The City will retain the interest on any deposit funds not refunded.

4. Documentation. Within 30 days after demolition is completed (if a demolition permit only) or 30 days after the issuance of a certificate of occupancy or at the time of issuing the last certificate of occupancy for units within a phased project of any covered project, the applicants shall submit to the WMR Compliance Official documentation that it has met the diversion requirement for the project, unless applicant has been granted an exemption pursuant to subsection (C) of this section. The documentation shall include all of the following:

a. Receipts from the vendor or facility that received each material, showing the actual weight or volume of that material;

b. A copy of the completed waste management report form, in its entirety; and

c. Photographs and narrative documentation of the applicant's reuse activities.

5. Weighing of Wastes. Applicants shall make reasonable efforts to ensure that all construction, renovation and demolition waste diverted for reuse or disposed of is measured and recorded using the most accurate method of measurement available. To the extent practical, all construction, renovation and demolition waste shall be weighed

by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction, renovation and demolition waste for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the applicant shall use the standardized rates established by the conversion rates table approved by the City for this purpose. Conversion rate tables will be included with the waste management report form.

6. Determination of Compliance and Release of Performance Deposit. The WMR Compliance Official shall review the information submitted under this section and determine whether the applicant has complied with the diversion requirement, as follows:

a. Compliance. If the WMR Compliance Official determines that the applicant has fully complied with the diversion requirement applicable to the project, he or she shall cause the release of the performance deposit to the applicant within 30 days of the applicant's submission of the documentation required under this section. If the applicant has complied in part, a portion of the performance deposit will be withheld. The amount withheld will be proportional to the percentage of materials that are not recycled/diverted.

b. Noncompliance. If the WMR Compliance Official determines that the applicant failed to submit the documentation within the required time period, then the performance deposit shall be forfeited to the City. All forfeited and/or unrecovered funds shall be used for waste reduction and recycling activities.

C. Exemption.

1. Application. If an applicant for a covered project experiences unique circumstances that the applicant believes make it infeasible to comply with the diversion requirement, the applicant may apply for an exemption at the time that he or she submits the WMR. The applicant shall indicate on the WMR the maximum rate of diversion he or she believes is feasible for each material and the specific circumstances that he or she believes make it infeasible to comply with the diversion requirement.

2. Meeting with WMR Compliance Official. The WMR Compliance Official shall review the information supplied by the applicant and may meet with the applicant to discuss possible ways of meeting the diversion requirement.

3. Granting of Exemption. If the WMR Compliance Official determines that it is infeasible for the applicant to meet the diversion requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate this rate on the WMR submitted by the applicant. The WMR Compliance Official shall return a copy of the WMR to the applicant marked "Approved with Exemption." The applicant shall then be responsible for diverting the revised rate noted by the WMR Compliance Official on the approved WMR, in compliance with the provisions of this section.

4. Denial of Exemption. If the WMR Compliance Official determines that it is possible for the applicant to meet the diversion requirement, he or she shall so inform the applicant in writing. The applicant shall resubmit a WMR form in full compliance with this section. If the applicant fails to resubmit the WMR, or if the resubmitted WMR does not comply with this section, the WMR Compliance Official shall deny the WMR.

D. Appeal. Appeals of a determination made by the WMR Compliance Official under this section shall be made to the City Manager or designee. The appeal shall be in writing and filed with the City Clerk within 10 business days of issuance of the WMR Compliance Official's decision. The appeal shall be limited to the following issues: (1) the granting or denial of an exemption; and (2) the amount of security to be released. The decision of the City Manager or designee shall be final. (Ord. 3118 § 1, 2008; Ord. 3116 § 1, 2008; Ord. 3105 § 1, 2008).

#### **8.25.100 Enforcement.**

A. The City Manager or designee is responsible for enforcing the provisions of this chapter.

B. Types of materials included in designated recyclables may be administratively deleted by the City Manager under emergency conditions (to include market failures), subject to formal ordinance amendment approved by the City Council, if such conditions persist.

C. Nothing in this chapter or its implementing regulations shall prevent the City or its contract or franchise agent(s) from efforts to obtain voluntary compliance by way of warning, notice of violation, educational or other means. (Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992).

#### **8.25.110 Severability.**

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are hereby declared to be severable. (Ord. 3105 § 1, 2008; Ord. 2992 § 1, 2005; Ord. 2740 § 3, 1998; Ord. 2492 § 1, 1992).



## Chapter 8.26

### ALCOHOLIC BEVERAGE WARNING SIGNS

#### Sections:

- 8.26.010 Purpose.
- 8.26.020 Duty to post signs or notices.
- 8.26.030 Placement.
- 8.26.040 Language.
- 8.26.050 Department of Health Services representatives.

#### **8.26.010 Purpose.**

The Surgeon General of the United States has advised women who are pregnant, or considering pregnancy, not to drink alcoholic beverages. Recent research indicates that alcohol consumption during pregnancy, especially in the early months, can harm the fetus, and result in birth defects including mental retardation, facial abnormalities and other defects involving heart and bone structure. In order to serve the public health, safety and welfare, the purpose of this chapter is to educate the public by requiring warning signs to be placed at all locations where alcoholic beverages are sold to the public. (Ord. 2242 § 1, 1987).

#### **8.26.020 Duty to post signs or notices.**

Any person or entity who owns, operates, manages, leases or rents premises offering wine, beer, or other alcoholic beverages for sale, or dispensing for consideration to the public, shall cause a sign or notice to be permanently posted or displayed on the premises as provided in this chapter. The sign or notice shall read as follows:

PREGNANCY AND ALCOHOL DO NOT  
MIX – DRINKING ALCOHOLIC BEVER-  
AGES, INCLUDING WINE AND BEER,  
DURING PREGNANCY CAN CAUSE  
BIRTH DEFECTS.

Except as specified in CVMC 8.26.030, or in rules and regulations adopted by the San Diego County Department of Health Services, a sign or notice as required herein shall not be smaller than eight and one-half inches wide by five and one-half inches long, nor shall any lettering thereon be less than three-eighths inch in height. (Ord. 2242 § 1, 1987).

#### **8.26.030 Placement.**

A sign or notice required by CVMC 8.26.020 shall be placed as follows:

A. Where the sale or dispensing of wine, beer, or other alcoholic beverages to the public is primarily intended for consumption off the premises, at least one sign shall be so placed as to assure that it is conspicuously displayed so as to be readable at all points of purchase.

B. Where the sale of wine, beer, or other alcoholic beverages to the public is primarily intended for consumption on the premises, at least one sign shall be placed to assure that it is conspicuously displayed so as to be readable in each public restroom. (Ord. 2242 § 1, 1987).

#### **8.26.040 Language.**

In the event a substantial number of the public patronizing a premises offering for sale or dispensing wine, beer, or other alcoholic beverages uses a language other than English as a primary language, an additional sign or notice as is required by CVMC 8.26.020 shall be worded in the primary language or languages involved. (Ord. 2242 § 1, 1987).

#### **8.26.050 Department of Health Services representatives.**

A. The Health Officer shall be responsible for the enforcement of compliance with this chapter. The County Department of Health Services shall have the authority to adopt reasonable rules and regulations for the implementation of this chapter, including rules and regulations for alternative signs and placement of required signs.

B. The San Diego County Department of Health Services shall make warning signs available to vendors of alcoholic beverages. Persons or entities may, however, at their own expense, prepare and post signs meeting the requirements of this chapter. In no event shall the prescribed language of the warning sign be altered. (Ord. 2242 § 1, 1987).

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**Chapter 8.28****MOSQUITO AND FLY  
BREEDING PLACES\***

## Sections:

- 8.28.010 Deemed nuisance.  
8.28.020 Abatement authority.  
8.28.030 Maintaining nuisance deemed  
misdemeanor – Penalty.

\* For statutory authority for cities to designate nuisances, see Gov. Code § 38771; for provisions regarding abatement of nuisances, see Gov. Code §§ 38773 and 38773.5.

**8.28.010 Deemed nuisance.**

Within the corporate limits of the city, any breeding place of mosquitoes or flies is a public nuisance. (Prior code § 20.31).

**8.28.020 Abatement authority.**

Such nuisance as declared in the preceding section may be abated by the health officer of the city in any manner permitted by law, or by any proceeding or remedy provided by law. (Prior code § 20.32).

**8.28.030 Maintaining nuisance deemed  
misdemeanor – Penalty.**

It is declared unlawful for any person to permit or maintain any nuisance as provided in CVMC 8.28.010 within the corporate limits of the city and any person who permits or maintains any such nuisance shall be guilty of a misdemeanor. Such person shall be deemed guilty for each day during any portion of which any violation is committed, continued or permitted and shall be punishable as provided in this code. (Prior code § 20.33).

**Chapter 8.32****WEED ABATEMENT\***

## Sections:

- 8.32.010 Weeds or rubbish – Notice to remove given when.  
8.32.020 Weeds or rubbish – Serving of notice to remove – Contents.  
8.32.030 Weeds or rubbish – Notice to remove – Appeal procedure.  
8.32.040 Weeds or rubbish – Owner or occupant duty to remove – Time limit.  
8.32.050 Weeds or rubbish – Removal by city authorized when.  
8.32.060 Assessment of charges – Method of determination.  
8.32.070 Assessment of charges – Appeal of determination.  
8.32.080 Charges to be lien on property – Collection.  
8.32.090 Accumulation of combustible materials – Prohibited where.  
8.32.100 Accumulation of combustible materials – Deemed misdemeanor.

\* For statutory authority for cities to compel owners or controllers of property to remove weeds, etc., see Gov. Code § 39501.

**8.32.010 Weeds or rubbish – Notice to  
remove given when.**

Whenever the fire chief finds weeds, rubbish, or any other material upon any street, parkway, sidewalk, property, lands or lot located in the city, which may endanger or injure neighboring property, or the health or welfare of the residents of the vicinity, or which shall be deemed a fire hazard, he shall give, or cause to be given, notice to remove such weeds, rubbish or other material in the manner hereinafter provided. (Prior code § 14.38).

**8.32.020 Weeds or rubbish – Serving of  
notice to remove – Contents.**

The notice required by the preceding section shall be given by posting in a conspicuous place upon the property, land or lot located in the city, upon which, or upon the street, parkway or sidewalk in front of which such weeds, rubbish or other material may be, a notice headed: "Notice to Clean Premises," in letters not less than one inch in height, and which shall be in legible characters, and which directs the removal of the weeds, rubbish or other material, as the case may be, and

refers to this chapter for further particulars. Personal service of a notice similar in substance upon the owner, occupant or agent in charge of such property, land or lot shall dispense with the posting of the notice herein provided for. (Ord. 2718 § 1, 1998; prior code § 14.39).

**8.32.030 Weeds or rubbish – Notice to remove – Appeal procedure.**

Within 10 days from the date of posting of such notice, or in case of personal service of notice, within 10 days from the date of such personal service thereof, the owner of or any person interested in such property, land or lot affected by such notice may appeal to the city manager pursuant to Chapter 1.40 CVMC for the requirements thereof. (Ord. 2718 § 1, 1998; prior code § 14.40).

**8.32.040 Weeds or rubbish – Owner or occupant duty to remove – Time limit.**

It shall be the duty of the owner, the agent of the owner or the person in possession of any lot in the city within 10 days from the date of posting of the notice provided for in CVMC 8.32.010, or in case a personal notice is given, within 10 days from the date of such personal service thereof, or in case of an appeal to the city manager, within 10 days from the determination thereof, unless the same is sustained, to clean and remove therefrom, and from the street, sidewalk or parkway in front of such property, all noxious weeds or vegetation, except such as are cultivated and grown by such owner, agent or person in possession of such property for ornamental purposes, or for food for man or beast, or for fuel, and all dead trees, tin cans, refuse and waste material of all kinds which may endanger or injure neighboring property, or be detrimental to the health and welfare of the residents of the vicinity, or such rubbish, weeds, noxious vegetation or any other material as may be deemed a fire hazard, and as such endanger the city; and the removal of all such weeds and vegetation, or other materials of all kinds hereinabove specified, shall be completed within 10 days after receiving such notice, as hereinabove provided for in this chapter, or in case of appeal to the city manager, within 10 days after the determination thereof, unless the same shall be sustained. (Ord. 2718 § 1, 1998; prior code § 14.41).

**8.32.050 Weeds or rubbish – Removal by city authorized when.**

If such owner, agent or person in possession of such property fails to remove such articles, materi-

als, weeds or vegetation from such property within the time specified in this chapter for the removal of the same, it shall be the duty of the fire chief to cause the removal of such articles, rubbish, weeds, vegetation or other materials therefrom. (Ord. 1588 § 1, 1974; Ord. 1509 § 1, 1973; prior code § 1, 1973; prior code § 14.42).

**8.32.060 Assessment of charges – Method of determination.**

The fire chief shall determine the charge to be made for the removal of such materials and assess the same upon each lot or subdivision of land separately, which assessment shall include the cost of removal and of collecting therefor, together with 25 percent thereof to be added thereto to cover interest on the cost thereof and incidental expenses. (Ord. 1588 § 1, 1974; Ord. 1509 § 1, 1973; prior code § 14.43).

**8.32.070 Assessment of charges – Appeal of determination.**

The determination of such charges by the fire chief as to the amount so assessed may be appealed to the city manager pursuant to Chapter 1.40 CVMC. If, upon appeal, the requirements of the original notice are modified or the amount so assessed by the fire chief is modified, the fire chief, in removing, or causing to be removed, such articles, rubbish, weeds, vegetation or other materials, or in making such assessment as hereinabove provided for, shall be governed by the determination so made. (Ord. 2718 § 1, 1998; Ord. 1588 § 1, 1974; Ord. 1509 § 1, 1973; prior code § 14.44).

**8.32.080 Charges to be lien on property – Collection.**

Such assessment or tax shall be entered by the city clerk upon the real property tax assessment rolls upon certification by the fire chief as to such amount, and when so entered, shall become a lien upon the real property involved, and the tax shall be collected by the director of finance in the manner and form provided for the collection of other city taxes. (Ord. 1588 § 1, 1974; Ord. 1509 § 1, 1973; prior code § 14.45).

**8.32.090 Accumulation of combustible materials – Prohibited where.**

Any accumulation of combustible or inflammable material, boxes, broken wood, trash, waste papers, rags, or other debris of any kind whatsoever, back of fences or signboards, or in or near buildings, stairways, cellars, basements, or any

other location which is located so as to be liable to cause fire, is hereby prohibited, and it shall be unlawful to place or allow any such material named in this section to remain in such locations named herein. (Prior code § 14.47).

**8.32.100 Accumulation of combustible materials – Deemed misdemeanor.**

Any person violating any of the provisions of CVMC 8.32.090 shall be deemed guilty of a misdemeanor. (Prior code § 14.48).

**Chapter 8.34**

**REGULATION OF  
HAZARDOUS MATERIALS**

Sections:

- 8.34.010 Purpose and intent.
- 8.34.020 Adoption of San Diego County hazardous materials disclosure ordinance and hazardous waste surveillance program ordinance by reference.
- 8.34.030 Schedule of fees for enforcement and implementation of disclosure ordinance and surveillance ordinance.
- 8.34.040 Provisions no further in force and effect.

**8.34.010 Purpose and intent.**

A. It is the purpose of the city council to adopt, in accordance with the requests of the department of health services of the county, the regulatory ordinances adopted in CVMC 8.34.020 by the county for the control and regulation of hazardous and extremely hazardous wastes. The ordinances would require all persons handling hazardous materials to disclose such information to the department of health services of the county in a manner required by the department. A second ordinance would establish a permit system, using the fees generally therefrom to carry out an enforcement and surveillance program.

B. It is the intent of the city council through the adoption of the ordinances as they may currently read or hereinafter be amended by reference to assist in every way in carrying out the hazardous waste management program being conducted by the county. (Ord. 2020 § 1, 1983; Ord. 1991 § 1, 1982).

**8.34.020 Adoption of San Diego County hazardous materials disclosure ordinance and hazardous waste surveillance program ordinance by reference.**

The city council adopts Ordinance No. 6376 and Ordinance No. 6293 of the county of San Diego, as amended by Ordinance No. 6469 and Ordinance No. 6470, respectively, by reference and incorporates the ordinances into the Chula Vista Municipal Code as if set forth in full. The city council concurs with the determination that the hazardous waste surveillance ordinance of the county may be implemented throughout the county as it presently exists

or may be amended in the future without further approval by the city council. The city council approves the amendments to the disclosure ordinance of the county of San Diego establishing certain exemptions therefrom as expressed in Minute Order 18 of April 19, 1983, of the board of supervisors. The city council incorporates all such surveillance and disclosure ordinances within the municipal code and authorizes the county to enforce same. All ordinances of the county of San Diego relating to hazardous materials disclosure and hazardous waste surveillance programs shall be maintained on file in the office of the city clerk. (Ord. 2038 § 1, 1983; Ord. 2020 § 1, 1983; Ord. 1991 § 1, 1982).

**8.34.030 Schedule of fees for enforcement and implementation of disclosure ordinance and surveillance ordinance.**

Any person, association, partnership or corporation required to obtain a permit under the provisions of this chapter shall make an application to the county department of health services. An annual nonrefundable fee, the exact amount of which shall be determined by the county board of supervisors and kept on record by the county department of health services, shall accompany the submission of each application to the department of health services to defray the cost to the county for administering and providing services pursuant to this chapter. (Ord. 1991 § 1, 1982).

**8.34.040 Provisions no further in force and effect.**

The provisions of this chapter shall remain in effect until July 1, 1984, and thereafter the provisions of this chapter shall no longer be in force and effect, unless said provisions or similar provisions are reenacted by the Chula Vista city council. (Ord. 2023 § 1, 1983).

**Chapter 8.36**

**MEDICAL WASTES**

Sections:

- 8.36.010 Definitions of terms.
- 8.36.020 Medical solid wastes.
- 8.36.030 Biohazardous wastes – Small generators.
- 8.36.040 Biohazardous wastes – Large generators.
- 8.36.045 Transporting and dumping.
- 8.36.050 Sharps containers and red bags – Additional requirements.
- 8.36.060 Management plan – Preparation and filing.
- 8.36.070 Exemption.
- 8.36.080 Civil penalty.
- 8.36.090 Additional remedies.
- 8.36.100 Enforcement.
- 8.36.110 Annual inspection fees.

**8.36.010 Definitions of terms.**

A. “Biomedical waste” means any waste which is generated or has been used in the diagnosis, treatment or immunization of human beings or animals, in research pertaining thereto, in the production or testing of biologicals, or which may contain infectious agents and may pose a substantial threat to health. Biomedical waste includes biohazardous waste and medical solid waste. Biomedical waste does not include hazardous waste (as defined in California Health and Safety Code Section 25117 and California Code of Regulations Title 22, Articles 9 or 11) or radioactive waste (as defined in California Health and Safety Code Section 25805(e)).

B. “Biohazardous waste” means any of the following:

1. Laboratory waste, including, but not limited to, specimen cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biological agents, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate and mix cultures or material which may contain infectious agents and may pose a substantial threat to health.

2. Recognizable fluid blood element and regulated body fluids, and containers and articles contaminated with blood elements or regulated body fluids that readily separate from the solid portion of the waste under ambient temperature and pressure. Regulated body fluids are cerebrospinal fluid, syn-

ovial fluids, pleural fluid, peritoneal fluid, pericardial fluid, and amniotic fluid.

3. Sharps, which are objects or devices having acute rigid corners, edges, or protuberances capable of cutting or piercing, including, but not limited to, hypodermic needles, blades, and slides.

4. Contaminated animal carcasses, body parts, excrement and bedding of animals, including materials resulting from research, production of biologicals, or testing of pharmaceuticals, which are suspected of being infected with a disease communicable to humans.

5. Any specimens sent to a laboratory for microbiologic analysis.

6. Surgical specimens including human or animal parts or tissues removed surgically or by autopsy.

7. Such other waste materials that result from the administration of medical care to a patient by health care providers and are found by the administering agency or the local health officer to pose a threat to human health or the environment. If there is a difference in opinion between the administering agency and the local health officer, the local health officer's view will prevail.

C. "Medical solid waste" shall include, but not be limited to, waste such as empty specimen containers, bandages, dressings containing nonliquid blood, surgical gloves, decontaminated biohazardous waste, and other materials which are not biohazardous.

D. "Sharps containers" are leakproof, rigid, puncture-resistant containers which when sealed cannot be reopened without great difficulty. These containers must be labeled with either "biohazard" or "infectious waste" on the outside of the container. These containers must also be labelled so that the producer's name, address and phone number are legible and easily visible on the outside of the container.

E. "Red bag" means a disposable plastic bag which is impervious to moisture and has a strength sufficient to preclude ripping, tearing or bursting under normal conditions of usage and handling of the waste-filled bag. Each bag shall be constructed of material of sufficient single-thickness strength to pass the 165-gram dropped dart impact resistance test as prescribed by Standard D 1709-75 of the American Society for Testing and Materials and certified by the bag manufacturer. The bags shall be securely tied so as to prevent leakage or expulsion of solid or liquid wastes during storage, handling or transport. The bag shall be red in color and conspicuously labelled with the international

biohazard symbol and the word "Biohazard." The bag shall be labeled so that the producer's name, address and phone number are legible and easily visible on the outside of the bag.

F. "Permitted biohazardous waste hauler" is a hauler who has received a permit from the appropriate agency to haul biohazardous waste.

G. "Solid waste hauler" is a hauler licensed by the appropriate agency to haul solid waste.

H. "Biomedical waste management plan" is a document which shall be completed by generators of biomedical waste on forms prepared by the environmental health division of the department of health services and shall contain the following information:

1. Name, address, telephone number, establishment, number of the generator, the responsible person, and an emergency telephone number which will provide 24-hour access to the responsible person.

2. Descriptions of the type and quantity of biomedical wastes generated and the containers used to store and dispose of the wastes.

3. Methods used to store, treat and dispose of biohazardous wastes.

4. Methods used to store and dispose of medical solid wastes.

5. A statement assuring that all personnel handling biomedical wastes have received training in aspects of handling the wastes, in accordance with this chapter and the biomedical waste management plan.

The responsible person shall certify by his or her signature that the biomedical waste management plan is true, and that the generator will comply with the provisions thereof.

I. "Putrescible biohazardous waste" means biohazardous waste subject to decomposition by microorganisms which produces a foul odor. Putrescible biohazardous waste includes, but is not limited to, blood and urine specimens and cultures.

J. Guideline for enforcement as follows:

<b>Biomedical Waste Management: General Requirements for Small Generators (&lt;220 lbs.)*</b>			
	<b>Biohazardous</b>		<b>Medical Solid Waste</b>
	<b>Nonsharps</b>	<b>Sharps</b>	
Storage	Nonputrescible: 6 months Putrescible: 7 days	6 months	Contained and secured to prevent unauthorized access
Containment	Double red bags and reusable containers with lids; or Red bag inside clear autoclave bag (on-site treatment only)	Leakproof, rigid, puncture-resistant container; when closed, prevents re-entry	
Labeling	Name, address, and phone number of producer must appear legibly on container before waste is placed inside		No requirements
Treatment	Sterilization or incineration (state-approved methods only)		No requirements
Disposal	Biohazardous waste becomes medical solid waste once sterilized. Must be contained and secured before disposal to municipal landfill		Municipal landfill
Transport	Sterilized: Solid waste requirements Unsterilized: Must be contained and secured before disposal to municipal landfill		Licensed solid waste hauler (general trash hauler)
Records	On-site treatment: Autoclave maintenance and quality control records Off-site treatment: Hauler agreement and receipts Plus: Biomedical waste management plan		No requirements

\* These requirements do not include all compliance requirements for state-licensed health care facilities. (Ord. 2313 § 1, 1989).

**8.36.020 Medical solid wastes.**

Any person who is a generator, or an employee of a generator, of medical solid wastes shall store such wastes prior to disposal in an area secured as to deny access to unauthorized persons, animals, wind, rain, insects, and rodents. If such wastes are placed in a trash receptacle or compactor which is accessible at any time to unauthorized persons, such receptacle or compactor shall be locked to prevent access to the contents thereof to anyone other than authorized persons or refuse collection personnel. (Ord. 2313 § 1, 1989).

**8.36.030 Biohazardous wastes – Small generators.**

A. It shall be unlawful for any generator of biohazardous wastes who produces less than 220 pounds of such waste per month to store or dispose of such wastes without an annual permit therefor from the deputy director of environmental health services.

B. Any person desiring a permit required by this chapter shall make application therefor as prescribed in subsection (A) of this section.

C. Any person who is a generator, or an employee of a generator, of biohazardous wastes, and produces less than 220 pounds of such waste per month, shall store and dispose of such waste in the manner provided for in Sections 66840(f), 66840(g), 66840(h), and 66845(a) through (c) of Title 22 of the California Code of Regulations, and shall maintain on the premises a copy of the current biomedical waste management plan, and documentation verifying the manner of disposal used. Unless approved by the deputy director of environmental health services, putrescible biohazardous waste shall not be maintained by the generator for more than seven days. Nonputrescible biohazardous waste (including sharps) shall not be maintained by the generator for more than six months. The sections specified in this section are hereby incorporated into and made a part of the Chula Vista Municipal Code. Not less than three copies of the specified sections are on file in the office of the city clerk of the city of Chula Vista. (Ord. 2313 § 1, 1989).



**8.36.040 Biohazardous wastes – Large generators.**

Any person who is a generator, or an employee of a generator, of biohazardous wastes, and produces 220 pounds or more of such wastes per month, shall store and dispose of such waste in the manner provided for in Section 66840(a) through (m), 66845(a) through (c), 66850(a) through (h), 66855(a) through (d), 66860, and 66865 of Title 22 of the California Code of Regulations, and shall maintain on the premises a copy of the current biomedical waste management plan, and documentation verifying the manner of disposal used. The sections of Title 22 of the California Code of Regulations specified in this section are hereby incorporated into and made a part of the Chula Vista Municipal Code. Not less than three copies of the specified sections are on file in the office of the city clerk of the city of Chula Vista. (Ord. 2313 § 1, 1989).

**8.36.045 Transporting and dumping.**

A. No person shall transport or collect hazardous wastes without compliance with applicable state law.

B. No person shall deposit, dump, spill, or otherwise allow to be placed on a county solid waste facility not designated as a hazardous waste disposal facility any waste classified as hazardous or infectious by state and federal law or county ordinance. (Ord. 2313 § 1, 1989).

**8.36.050 Sharps containers and red bags – Additional requirements.**

In addition to the requirements of CVMC 8.36.030 and 8.36.040, all generators of biohazardous wastes shall meet the following requirements:

A. All sharps containers and red bags used in complying with CVMC 8.36.030 and 8.36.040 shall be of the type defined in CVMC 8.36.010(D) and (E).

B. All sharps containers and red bags shall be labelled in accordance with CVMC 8.36.010(D) and (E) prior to placing any materials in said containers or bags.

C. When wastes are to be processed in an autoclave prior to disposal by the generator, they may be placed in a single red bag which must be placed in a clear autoclave bag which is labelled in the same manner as required for red bags in CVMC 8.36.010(E). More than one red bag may be placed in an autoclave bag.

D. Wastes which are not processed in an autoclave prior to disposal by the generator shall be

stored and disposed of in a red bag which is sealed inside of a second red bag.

E. Needles and syringes shall not be clipped prior to disposal.

F. Red bags, as defined above, shall be used only for the storage and disposal of biohazardous wastes.

G. All materials disposed of in sharps containers shall be managed in the manner prescribed for biohazardous wastes in CVMC 8.36.030 whether or not the materials are actually biohazardous wastes as defined in CVMC 8.36.010(B). (Ord. 2313 § 1, 1989).

**8.36.060 Management plan – Preparation and filing.**

A. All generators of biomedical wastes shall prepare a biomedical waste management plan as defined in CVMC 8.36.010(H). The plan shall be filed with the deputy director of the environmental health services division of the department of health services, and a copy shall be kept at all times on the premises of the facility in which biomedical wastes are being generated.

B. Every biomedical waste management plan shall be updated and refiled annually, or when any of the information contained therein has changed, whichever occurs first. (Ord. 2313 § 1, 1989).

**8.36.070 Exemption.**

CVMC 8.36.010 through 8.36.050 shall not be applicable to biomedical wastes produced by individuals through personal use at their residences and which are disposed of through residential service as defined in Chapter 8.24 CVMC. (Ord. 2313 § 1, 1989).

**8.36.080 Civil penalty.**

Any person who violates any of the provisions of this chapter shall be liable for a civil penalty not to exceed \$15,000 for each such violation. (Ord. 2313 § 1, 1989).

**8.36.090 Additional remedies.**

The civil penalty provisions of this chapter are in addition to any existing remedy authorized by law and are not to be construed as conflicting with, or in dereliction of, any provisions of this chapter or of this code or of law. Said provisions are to be construed as independent and nonexclusive and in no way conditioned upon each other. (Ord. 2313 § 1, 1989).

**8.36.100 Enforcement.**

The deputy director of the environmental health services division of the department of health services of the county of San Diego shall be responsible for enforcing the provisions of this chapter. The environmental health services division of the department of health services shall be the administering agency. (Ord. 2313 § 1, 1989).

**8.36.110 Annual inspection fees.**

Each business establishment handling medical waste shall pay a fee, the exact amount which shall be determined by the county of San Diego and kept on record by the county department of health services and on file in the office of the city clerk of the city. In any case where the applicant has failed for a period of 30 days to file the application and obtain the required permit, license or registration, there shall be added to and collected with the required fee a penalty as established by the county of San Diego and kept on record by the county department of health services. The imposition or payment of the penalty imposed by this section shall not prohibit the imposition of any other penalty prescribed by this chapter or a criminal prosecution for violation of this chapter. (Ord. 2313 § 1, 1989).