

**ORDINANCE NO. 20-10 N.S.**

**AN ORDINANCE AMENDING CHAPTER 9.20 AND CHAPTER 9.21 OF THE RICHMOND MUNICIPAL CODE TO REVISE THE DEFINITIONS OF SOLID WASTES AND RECYCLABLES AND TO INCLUDE RELEVANT TERMS**

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Now, therefore, the City Council of the City of Richmond does ordain as follows:

**SECTION 1 Findings.**

WHEREAS, the City of Richmond will begin a residential food waste collection and composting program on July 1, 2010 in which food waste will be collected with green waste on a bi-weekly basis;

WHEREAS, residential recycling and green waste are currently collected on a bi-weekly basis in Richmond;

WHEREAS, State Regulation: Title 14, Natural Resources—Division 7, CIWMB. Chapter 3. Minimum Standards for Solid Waste Handling and Disposal, Section 17331 states that: “The owner or tenant of any premises, business establishment or industry shall be responsible for the satisfactory removal of all refuse...shall not be allowed to remain on the premises for more than seven days”;

WHEREAS, regulation 17331 has not been amended since 1978, well before the California Integrated Waste Management Act of 1989, which in Section 40059 reserves exclusive power to local agencies to make decisions about many key solid waste matters, including collection frequency;

WHEREAS, CalRecycles (formerly the California Integrated Waste Management Board) stated during a March 29, 2010 joint meeting that cities have the ability to regulate collection frequency;

WHEREAS, the Local Enforcement Agency (LEA) may have some residual authority by virtue of the fact that regulation 17331 has been designated as a health-related standard, but exercise of any such power would be limited to premises located in the unincorporated county; and

NOW THEREFORE, the City Council of the City of Richmond does ordain as follows:

**SECTION 2**

Chapter 9.20 of the Richmond Municipal Code is hereby amended as follows:

**Chapter 9.20 SOLID WASTES**

**Sections:**

**9.20.010 Definitions.**

**9.20.020 Keeping of Solid Wastes or Recyclables prohibited.**

**9.20.030 Depositing Solid Wastes or Recyclables in sewers prohibited.**

**9.20.040 Allowing accumulation of Solid Wastes on Premises prohibited.**

**9.20.050 Placing Solid Wastes or Recyclables on streets, sidewalks, etc., prohibited.**

**9.20.055 Depositing Solid Wastes or Recyclables upon the property of others prohibited.**

**9.20.060 Burning of Solid Wastes or Recyclables prohibited.**

**9.20.070 Unlawful collection.**

**9.20.075 Unlawful collection of Recyclables.**

**9.20.080 Receptacles required.**

**9.20.090 Solid Waste collection service required.**

**9.20.095 Curbside placement of Receptacles required.**

**9.20.100 Failure to subscribe.**

**9.20.110 Collector entitled to payment.**

**9.20.120 Unauthorized collection prohibited.**

**9.20.130 Interference with collection prohibited.**

**9.20.140 Contracts for Solid Waste collection.**

- 9.20.145 Vehicle requirements.**
- 9.20.150 Rates for collection of Solid Wastes and Recyclables.**
- 9.20.155 Rates for collection of Solid Wastes and Recyclables from Commercial establishments.**
- 9.20.160 Rates for use of Solid Wastes Disposal Facility.**
- 9.20.170 Other collections.**
- 9.20.180 Rate and Receptacle disputes.**
- 9.20.190 Collection regulations.**
- 9.20.200 Exceptions.**
- 9.20.210 Penalties.**
- 9.20.220 Powers of County Code Enforcement Officers.**

**9.20.010 Definitions.**

The definitions contained in Title 7.3, Chapter 1, Article 2 of the California Government Code and Title 14, Division 7, Chapter 3, Article 4 of the California Administrative Code, shall govern the interpretation of the words used in this chapter except for the following:

- (a) "Bin" means a watertight garbage bin or container the type of which has been approved by the Collector.
- (b) "City" means the City of Richmond, California.
- (c) "City Manager" means the City Manager of the City of Richmond or said City Manager's designee.
- (d) "Collector" means the Person having a contract or franchise agreement with the City for the collection and disposal of Solid Wastes and Recyclables.
- (e) "County" means Contra Costa County, California.
- (f) "Commercial" means where business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding businesses conducted upon Dwelling Units which are permitted under applicable zoning regulations and are not the primary use of the property.
- (g) "Compost" means the product resulting from the controlled biological decomposition of organic wastes, in which wastes are source separated from municipal Solid Waste or are separated at a centralized facility. Compost includes the product resulting from the controlled biological decomposition of Green Waste.
- (h) "Composting" means the controlled microbial degradation of organic wastes yielding a safe and nuisance-free product.
- (i) "Director of Finance" means the Director of Finance of the City or said Director's designee.
- (j) "Dwelling Unit" means any Premises located within the City having bathroom and kitchen plumbing facilities, which is suitable for residential occupancy.
- (k) "Green Waste" means Recyclables that are plant wastes. The term "Green Waste" includes but is not limited to tree, shrub, or bush trimmings, grass cuttings, yard clippings, plants, wood, leaves, branches, tree pieces, and putrescible solid and semisolid material including kitchen or table food wastes and animal and vegetable wastes.
- (l) "Multi-Family Dwelling" means a complex of Dwelling Units consisting of two (2) units or more used for residential purposes.
- (m) "Owner" means the Person who is listed as having title to property by the latest property tax assessment rolls maintained by the Contra Costa County Assessor.
- (n) "Person" means any corporation, association, syndicate, joint stock company, partnership, club society or individual.
- (o) "Solid Waste" means putrescible and nonputrescible solid and semisolid material. The term Solid Waste includes garbage; refuse; trash; rubbish; ashes, beddings; plastics not recyclable in the City of Richmond or rubber byproducts; litter; animal excrement; vegetable or animal sewage; and industrial wastes. . The term does not include Recyclables or Green Waste.
- (p) "Premises" means any real property interest or estate which may be demised or granted by deed. The word "Premises" includes tracts, lots or parcels of land; easements; Single-Family Dwellings; townhomes; condominiums; Multiple-Family Dwellings; apartments; flats; duplexes, boarding or lodging homes; restaurants, hotel or motels; Commercial establishments or any parcel of land upon which a building or business is located.
- (q) "Receptacle" means a watertight garbage can or container the type of which has been approved by the Collector for semi-automated or automated collection. Each receptacle

should have suitable bails or handles with a tight-fitting cover and should have a capacity of not less than ten gallons and not greater than ninety-six gallons.

(r) "Recyclables" mean those materials which are subject to being collected, sorted, cleansed, treated, processed, and reconstituted so that what would otherwise become Solid Waste is capable of becoming material which is returned to the economic system as a resource in a form of raw material for new, reused, or reconstituted products.

Recyclables include but are not limited to newspaper and magazines, paper and cardboard, tin and aluminum cans, glass, plastics recyclable in the City of Richmond, demolition and construction wastes, and Green Waste.

(s) "Recycle"/"Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting Recyclables which would otherwise be disposed of in a landfill and returning them to the economy in the form of raw materials suitable for new, reused, reconstituted products or in the form of reusable goods suitable for resale or donation, consistent with the requirements of the CIWMA for Recycled Materials.

(t) "Recycling Center" means a facility established for the purpose of lawful Collection of Recyclables including, but not limited to, buy-back centers or drop-off locations.

(u) "Single-Family Dwelling" means each Dwelling Unit used for or designated for a single family. The term "Single-Family Dwelling" includes the individual Dwelling Units of Multi-Family Dwellings in all cases in which there are separate or individual Solid Waste Collection services for each Dwelling Unit.

(v) "Solid Waste Disposal Facility" means the West Contra Costa Sanitary Landfill.

#### **9.20.020 Keeping of Solid Wastes prohibited.**

(a) It is unlawful for any Person to place, deposit, keep, bury or allow the accumulation of any Solid Wastes on, in or under any Premises.

(b) It is unlawful for any Person to place, deposit, keep, bury or allow accumulation of any materials saved for firewood, or for Composting, soil building or mulching, on, in or under any Premises, if said materials are or may become (i) dangerous to the public health, safety or welfare; (ii) offensively odoriferous or unsightly; or (iii) shelter for rodents, vectors, vermin or other pests.

#### **9.20.030 Depositing Solid Wastes or Recyclables in sewers prohibited.**

It is unlawful for any Person to deposit any Solid Wastes or Recyclables in any City sewer or plumbing fixture or pipe connected thereto, except through a mechanical device which shreds or grinds Solid Wastes material or Recyclables and which has been approved by the City Manager.

#### **9.20.040 Allowing accumulation of Solid Wastes on Premises prohibited.**

It is unlawful for any Owner of any Premises to suffer, permit or allow any Solid Wastes to remain in, on or under said Premises for a period in excess of seven (7) days. All Solid Wastes accumulating from or upon any Premises shall be kept in a covered Receptacle.

#### **9.20.050 Placing Solid Wastes or Recyclables on streets, sidewalks, etc., prohibited.**

(a) It is unlawful for any Person to throw, place, scatter or deposit any Solid Wastes or Recyclables upon any street, sidewalk, public place or publicly owned property in the City or to cause or permit any Solid Wastes or Recyclables to be thrown, placed, scattered or deposited on said public property by or through an employee, agent, representative or anyone acting for or on behalf of that Person, except that a property Owner may place properly packaged materials at the curb on regularly scheduled days established by the City or the Collector for the removal of the same.

(b) It is unlawful for any Person to place or deposit or cause to be placed or deposited by or through an employee, agent, representative or anyone acting for or on behalf of that Person, any household, Commercial Solid Wastes, in any can, Bin, dumpster or other Receptacle which is provided for public use and which is located on public property, except for Solid Wastes generated in or around the public property in which such Receptacle is located.

#### **9.20.055 Depositing Solid Wastes or Recyclables upon the property of others prohibited.**

(a) It is unlawful for any Person to place, throw, scatter or deposit Solid Wastes or Recyclables, or cause Solid Waste or Recyclables to be thrown, placed, scattered or deposited upon any property belonging to another Person, corporation, business entity or public agency.

(b) It is unlawful for any Person other than a lawful tenant of such Premises to place or deposit any Solid Wastes or Recyclables in any can, bin, dumpster or other Receptacle upon the property of others, except where such Receptacles are provided for public use, unless they have in their possession, written permission of the property Owner to deposit wastes in Receptacles upon Premises.

**9.20.060 Burning of Solid Wastes or Recyclables prohibited.**

It is unlawful for any Person to burn any Solid Wastes or Recyclables within the City limits of the City.

**9.20.070 Unlawful collection of Solid Wastes.**

The City, in order to more effectually promote and protect the public health and safety and reduce the danger of hazards of fire, reserves unto itself the exclusive right to collect and dispose of the Solid Wastes produced or found within the corporate limits of said City. It is unlawful for any Person to collect or dispose of Solid Wastes within the City, except as is expressly provided in this chapter. The City shall have the right to franchise its exclusive rights hereunder to the Collector.

**9.20.075 Unlawful collection of Recyclables.**

(a) The City, in order to more effectually promote the general welfare and to protect the public health and safety reserves unto itself the exclusive right to collect and dispose of the materials which have been placed in a container designated for collection under a Recycling program sponsored by the City or the City's Collector. It is unlawful for any Person other than the City or the City's Collector to collect or dispose of any materials which have been placed in a container designated for collection under a City sponsored Recycling program.

(b) It is also unlawful for any Person to misappropriate, pilfer or steal any container provided pursuant to a Recycling program sponsored by the City or the City's Collector.

**9.20.080 Receptacles required.**

(a) It is the duty of every Owner of any Premises to maintain Receptacles provided by the Collector for receiving and holding all the Solid Wastes and Recyclables created or accumulated upon said Premises between the times for the collection of the Solid Wastes and Recyclables, and to deposit all such Solid Wastes and Recyclables therein. All Receptacles shall be kept in a sanitary condition at all times and shall not be placed within the limits of any street or other public place in the City, except that the Owner of any Premises shall place Receptacles at the curb in a location reasonably convenient for semi-automated or automated collection on the regularly scheduled days established by the City or the Collector for the collection of Solid Wastes and Recyclables in the area.

(b) Every Owner of a Single or Multiple-Family Dwelling shall provide and keep Receptacles of an adequate size and in sufficient numbers to contain, without overflowing, all the refuse generated by the dwelling residents within the designated removal period. The Owner shall provide a minimum of one Receptacle per family residential Dwelling Unit or the equivalent thereof as agreed between the Owner and the Collector pursuant to Section 9.20.170.

**9.20.090 Solid Waste collection service required.**

It is the duty of every Owner of any Premises in the City to subscribe to and pay for the Solid Waste collection service described in this chapter if said Premises is occupied.

**9.20.095 Curbside placement of Receptacles required.**

It is the duty of every Owner of any Premises in the City to place the Receptacles provided by the Collector and utilized by the Owner or the Owner's tenants on the curb immediately in front of the Premises in a location reasonably convenient for semi-automated or automated collection on the regularly scheduled days established by the City or the Collector for the collection of Solid Wastes and Recyclables. The only exception to this requirement is when the Owner of the Premises has reached an agreement with the Collector for an alternative collection method which would relieve the Owner of the Premises from the obligation of placing the Owner's Receptacles on the curb. Collector shall make appropriate alternative collection arrangements for physically challenged Owners.

**9.20.100 Failure to subscribe.**

(a) Any Person failing to subscribe for the collection and disposal of Solid Wastes as required by this chapter shall be guilty of an infraction and subject to the penalties set forth in Section 1.04.100.

(b) Each Owner of a Premises shall start services within seven (7) days of the occupancy of a Premises. If the Owner fails to start service, the Collector shall give the Owner a written notification that such service is required. If service is not initiated within fifteen (15) days from the date of mailing of the notice, then the Collector shall initiate and continue service for the Owner.

**9.20.110 Collector entitled to payment.**

(a) The City or, if there is one, the Collector shall be entitled to payment from the Owner for any collection services rendered.

(b) If any Owner fails to pay the Collector for collection for a five (5) month period, or for any other period where collection service is stopped, the Collector shall mail the Owner a final request for payment for the amounts owed, plus penalties, including the charge for service to the end of the Owner's most recent billing period which may include the month during which the notice was mailed. The final request shall include a warning notice that if the service charges are not paid within thirty (30) days, they will be turned over to the City for placement on the tax rolls. The warning notice shall include information concerning the additional administrative charges that will become due if a lien is recorded against the property, and that the City shall assess the property on the next property tax statement if the charges plus penalties shall be mailed to each Owner that appears as the Owner of the property for which the service was provided on the most recent property assessment rolls of the County Assessor.

(c) The form and content of the warning notice sent by the Collector shall be approved by the Director of Finance of the City.

(d) If the payment is not made by the Owner within thirty (30) days, the Collector will file with the Director of Finance a verified notice which shall contain, in the parcel number order, the name or names of the Owner, the address of the property served, the period of the service, and the amounts due plus penalties. The verified notice shall be submitted by the Collector to the Director of Finance not more than ninety (90) days following the final request for payment.

(e) The verified notice shall set a time and place for an administrative hearing before the Director of Finance and shall be mailed by the Collector to each Person to whom the described property for which the service is rendered is assessed on the most recent property assessment rolls of the County Assessor. The verified notice shall be mailed not less than fifteen (15) days prior to the date of the hearing.

(f) The Director of Finance shall conduct a hearing. The Director of Finance shall determine whether an assessment should be imposed upon the Owner.

(g) If the Director of Finance approves the delinquent charges against the Owner of the property and the Owner fails to pay said charges, an assessment on the real property for which the service was rendered will be recorded with the Recorder of Contra Costa County. The recorded assessment shall carry an additional administrative charge of \$25.00.

(h) Delinquent charges which remain unpaid by the Owner shall constitute a special assessment against the property to which the service was rendered and shall be collected at such time as established by the County Assessor for inclusion in the next property tax assessment.

(i) The Director of Finance shall turn over to the County Assessor for inclusion in the next property tax assessment the total sum of unpaid delinquent charges plus penalties for garbage collection service and administrative charges, plus an assessment charge of \$5.00 as a special assessment against the parcel of property situated within the City to which the service was rendered. The assessment shall be collected at the same time and in the same manner as ordinary municipal taxes are collected. The assessment shall be subordinate to all existing special assessment liens previously imposed on the property. It shall have priority over other liens except for those State, County and municipal taxes with which it shall have parity. The assessment shall continue until the assessment and all interest and charges due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

(j) The Collector may charge the City, at the established collection rates, for those Owners who are delinquent. Said charges shall cover the period during which the Collector provided collection and disposal services for the delinquent Owner. The City shall not become liable to pay such charges until the charges have been assessed against the Owner and the County has disbursed funds covering said charges.

**9.20.120 Unauthorized collection prohibited.**

(a) The collection, removal, and disposal of Solid Wastes and Recyclables may be performed by the City under the direction of the City Council, or by any Person with whom the City has entered into a contract or franchise agreement for the collection, removal and disposal thereof.

(b) It is unlawful and a misdemeanor for any Person, other than those specified in subsection (a) of this section, to collect, remove, or dispose of Solid Wastes or Recyclables for compensation pursuant to contract or agreement with another Person.

(c) It is unlawful and a misdemeanor for any Person to cause, through contract or agreement for compensation, the collection, removal or disposal of Solid Wastes or Recyclables by another Person, other than those specified in subsection (a) of this section.

(d) It is unlawful and a misdemeanor for any Person to convey, or cause to be conveyed, any solid wastes upon or along any street or alley or any other public place in the City, except in covered conveyances, containers, bins or Receptacles that will not permit any waste matter to sift, leak through, spill, blow or fall onto any City street, alley, highway, waterway or property adjacent thereto.

**9.20.130 Interference with collection prohibited.**

It is unlawful for any Person in any manner to interfere with the collection, removal or disposal of Solid Wastes or Recyclables by the authorized Collector.

**9.20.140 Contracts for Solid Wastes collection.**

The City Council may enter into a contract or franchise agreement with any Person for the collection of Solid Wastes and Recyclables. Such contract or franchise agreement may be revoked by the City Council for noncompliance with the provisions of said contract or franchise agreement or for violation of the provisions of this chapter or any pertinent federal, state or local law in accordance with the terms of said contract or franchise agreement.

**9.20.145 Vehicle requirements.**

(a) For every vehicle used to transport refuse on or over streets of the City, a means shall be provided to cover and contain refuse securely within the hauling body of the vehicle so that no refuse shall escape.

(b) Vehicles used for collecting or hauling refuse shall be kept clean, and no nuisance of odor committed.

**9.20.150 Rates for collection of Solid Wastes and Recyclables.**

For the service of collection of Solid Wastes and Recyclables from private Single or Multiple-Family Dwellings within the City of Richmond, monthly rates shall be changed by the Collector not to exceed the following rates:

(a) In all areas of the City of Richmond the charges for private Single or Multiple-Family Dwellings are:

(1) For Single-Family Dwellings, the charge for the weekly collection of each Receptacle of thirty-five (35) gallons per week shall be \$28.46 per month per Receptacle.

(2) For Single-Family Dwellings, the charge for the weekly collection of each Receptacle of sixty-five (65) gallons per week shall be \$54.33 per month per Receptacle.

(3) For Single-Family Dwellings, the charge for the weekly collection of each Receptacle of ninety-five (95) gallons per week shall be \$80.92 per month per Receptacle.

(4) For each mini-can (Receptacle not exceeding twenty (20) gallons in volume capacity) collected once per week at a Single-family Dwelling, the charge shall be \$23.50 per month.

(5) For residential units in Multiple-Family Dwellings, for each Dwelling Unit receiving collection service, the charge for the weekly collection of each Receptacle of thirty-five (35) gallons shall be \$28.46 per month per Receptacle.

- (6) For residential units in Multiple-Family Dwellings, for each residential unit receiving collection of each Receptacle of sixty-five (65) gallons per week shall be \$54.33 per month per receptacle.
- (7) For Residential units in Multiple-Family Dwellings, for each residential unit receiving collection of each Receptacle of ninety-five (95) gallons per week shall be \$80.92 per month per Receptacle.
- (8) For each mini-can (a Receptacle not exceeding twenty (20) gallons in volume capacity) collected once per week from a residential unit of a multi-family dwelling, the charge shall be \$23.50 per month per Receptacle.
- (9) For situations where more than one family unit residence is located on a lot or parcel, the charges shall be the same as those listed for residential units in multi-family dwellings in subsections (5), (6), (7), and (8) of this subsection (a).
- (10) In addition to the rates set forth in the above subsections, a carry-out fee of \$6.58 per Receptacle per month for Solid Waste Receptacles and \$3.28 per Receptacle per month for Recycling or green waste Receptacles may be charged to those Owners utilizing such service.
- (11) For senior citizens (individuals sixty-two (62) years of age or older who own or reside in a Single-Family Dwelling or a residential unit in a Multi-Family Dwelling, including duplexes), the charge for the collection of the first thirty-five gallon Receptacle once per week shall be \$17.19 per month. For the purposes of this subsection, a residence may qualify for the senior citizen rate if at least one of the Owners is a senior citizen as defined by this subsection.
- (b) In addition to the rates provided for in subsection (a) of this section, an additional surcharge of \$9.71 for each thirty-five gallons of Receptacle capacity; \$18.07 for each sixty-five gallons of Receptacle capacity; \$27.10 for each ninety-five gallons of Receptacle capacity; or an additional \$5.54 for each twenty (20) gallon mini-can shall be charged each month on each Receptacle as established by the Board of Directors of the West Contra Costa Integrated Waste Management Authority (WCCIWMA) or its successor entity, in accordance with the Joint Powers Agreement between the City and the WCCIWMA.
- (c) Collector may charge a late payment penalty of 5 percent (with a minimum of \$1.00) of the amount due and remaining unpaid after the same became due and an additional penalty of 5 percent (with a minimum of \$1.00) of the whole amount due, less late payment penalties, for each calendar month that the amount remains unpaid. Collector may also charge a one-time late payment of 20 percent (with a minimum of \$10.00) for amounts due and remaining unpaid for at least six months.

**9.20.155 Rates for collection of Solid Wastes and Recyclables from Commercial establishments.**

For the service of collecting Solid Wastes and Recyclables from Commercial establishments within the City of Richmond, monthly rates shall be charged by the Collector not to exceed the following rates:

(a) In all areas of the City of Richmond, except those specified in paragraph (b) of this subsection, the charges for the collection of Solid Wastes and Recyclables from Commercial establishments shall be according to the following:

(1) Beginning with the adoption of this ordinance, the following rates shall apply:  
TABLE INSET:

Container Size in Yards	Times Per Week (Monday through Friday)				
	1	2	3	4	5
1 Yard	\$193.06	\$341.26	\$489.32	\$637.50	\$785.71
2 Yards	\$319.95	\$588.14	\$856.47	\$1,124.70	\$1,393.03
3 Yards	\$439.83	\$821.96	\$1,203.97	\$1,586.19	\$1,968.33
4 Yards	\$556.34	\$1,049.40	\$1,542.63	\$2,035.70	\$2,528.78
5 Yards	\$ 671.06	\$1,273.92	\$1,876.77	\$2,479.77	\$3,082.62

6 Yards	\$784.74	\$1,497.02	\$2,209.31	\$2,921.47	\$3,633.88
7 Yards	\$897.58	\$1,719.41	\$2,541.12	\$3,362.82	\$4,184.54

\* The rates set forth above include a \$54.73 per yard/per month/per pickup/per week IRRF Surcharge.

TABLE INSET:

Commercial Cart Collection Service Rates	
30/35 Gal per month	\$34.82
60/65 Gal per month	71.53
95/100 Gal per month	93.19

(b) Special and Extraordinary Collections.

(1) The Collector shall collect the amounts indicated for each of the following services:

TABLE INSET:

(A) Special pickups without 24 hour notice or same day service	\$53.02
(B) Steam clean box	74.91
(C) Charge for moving container more than 15 feet (per foot)	0.13
(D) Lock and key charge	14.14

(2) Special pick up rates for the collection of bulky items and large quantities:

TABLE INSET:

Special Pickups	
Size (Cubic Yards)	Rate
1	\$68.09
2	107.21
3	144.32
4	180.25
5	215.57
6	250.57
7	285.35

(3) In the event that the Collector is requested to perform services which are not included in this ordinance but which are, nevertheless, part of the Collector's collection obligation, the Collector shall establish rates which are reasonable for said services. A reasonable charge would be one, which would produce revenue for the Collector in an amount equal to the actual cost (including, but not limited to, profit, regulatory fees, and disposal costs) of providing the service.

(4) The foregoing rates shall not apply to Collector's High Volume Commercial Customers. For the purposes of this section, a High Volume Commercial Customer is a Person or business, which, on average, over the course of one year, disposes of more than 1,000 yards per month of Commercial Solid Waste. In the case of High Volume Commercial Customers, the Collector shall establish rates, which are fair and reasonable as defined in subsection (1) above.

(c) Integrated Resource Recovery Facility Surcharge. In addition to the rates provided for in subsections (a) and (b) of this section an additional surcharge shall be charged each month on each cubic yard in accordance with the rates established by the Board of Directors of the West Contra Costa Integrated Waste Management Authority (WCCIWMA) or successor entity, and in accordance with the Joint Powers Agreement between the City and the WCCIWMA. Beginning with the adoption of this ordinance, the following WCCIWMA surcharge\*\* rates shall apply:

TABLE INSET:

Commercial Cart Rates	
30/35 Gal per month	\$ 10.13
60/65 Gal per month	18.85
95/100 Gal per month	28.27

(d) Collector may charge a late payment penalty of 5 percent, with a minimum of \$1.00 of the amount due and remaining unpaid after the same became due and an additional penalty of 5 percent with a minimum of \$1.00, of the whole amount due, less late payment penalties, for each calendar month that the amount remains unpaid. Collector may also charge a one-time late payment of 20 percent, with a minimum of \$10.00, for amounts due and remaining unpaid for at least six months.

(e) Rate Adjustments.

(1) In the event that the Collector elects to adjust some or all of the Commercial collection rates established hereunder, the Collector shall provide notice of each such proposed rate change to each Commercial customer of Collector who will be affected by such rate change and to the City Manager.

(2) The Collector shall also provide the City Manager with an analysis of the proposed Commercial rate change simultaneously with the rate change notice provided to the Commercial customers.

(3) Within thirty (30) days after receipt of the proposed rate change by the City Manager, the proposed rate change shall be forwarded to the City Council along with the City Manager's recommendation as to whether the proposed rate change is acceptable.

(4) The decision as to whether to approve the rate changes shall be left to the City Council's discretion. However, some of the criteria upon which the City Council's discretion may be based include:

(A) The fairness of the proposed Commercial rate change on all rate payers;

(B) The impact of the proposed Commercial rate change on the rate setting methodology as outlined in the Franchise Agreement between the Collector and the City; and

(C) The economies of Solid Waste Collection.

#### **9.20.160 Rates for use of Solid Wastes Disposal Facility.**

At such times as there is in force a contract or franchise agreement entered into by the City with the Collector for the operation and maintenance of Solid Wastes Disposal Facility in the City, the Collector may charge all Persons using the facility for the purpose of depositing Solid Wastes thereon at such rates not exceeding those rates specified in the Solid Wastes Disposal Facility Rate schedule adopted by resolution of the City.

#### **9.20.170 Other collections.**

For collection of unusual accumulations of Solid Wastes or Recyclables, and for collections not otherwise provided for in this chapter, such rates shall be charged, and such Receptacles shall be used, as may be agreed upon between the Collector and the Person from whom such Solid Wastes or Recyclables are collected.

#### **9.20.180 Rate and Receptacle disputes.**

In all cases where disputes arise as to the rate charged or to be charged for any service provided in these provisions, or the number or kind of Receptacle(s) to be used, the matter shall be referred to the City Manager and the City Manager shall, upon due investigation, determine and fix such price and Receptacle requirements as he may deem just and equitable. The determination of the City Manager shall be final.

#### **9.20.190 Collection regulations.**

The City Council may make such regulations concerning the number and manner of collections, the maintenance and operation of Collector's vehicles, and the maintenance of the Solid Waste Disposal Facility as it may deem necessary to carry out the provisions of this chapter.

#### **9.20.200 Exceptions.**

Nothing in this chapter shall be deemed to prohibit any of the following:

(a) The keeping and use of Recyclables in the operation of a Compost facility which has been approved by the City Manager;

(b) The burying of Solid Wastes at a Solid Waste Disposal Facility;

(c) The placing, depositing and keeping of Recyclables at a Recycling Center which has been approved by the City Manager.

**9.20.210 Penalties.**

(a) In addition to all other remedies and penalties available under this chapter, under other sections of this Code, or under other laws, any Person who violates the provisions of this chapter shall be guilty of an infraction for each day such violation continues and shall be subject to the penalties set forth in Section 1.04.100 of this Code, except that a violation may be charged as a misdemeanor pursuant to express language contained in other sections of this chapter or may, alternatively, be charged as a misdemeanor pursuant to the provisions of Section 1.04.140 of this Code.

(b) In addition to all other remedies and penalties available under this chapter, under other sections of this Code or under other laws, any violation of this chapter may be enforced by injunction issued by the Superior Court upon a suit brought by the City.

(c) In addition to all other remedies and penalties available under this chapter, under other sections of this Code or under other laws, in a civil action brought in any court of competent jurisdiction by or on behalf of the City, any Person who violates Section 9.20.050 of this chapter shall be liable to the City for the costs incurred by the City, including administrative costs, in removing, abating and properly disposing of any Solid Wastes or Recyclables which have been thrown, placed, scattered or deposited on public property in violation of Section 9.20.050. In any action brought pursuant to this subsection, upon proof that the Solid Wastes or Recyclables found on public property were previously under the possession or control of any Person, a rebuttable presumption shall arise that said Person violated Section 9.20.050 by throwing, placing, scattering or depositing Solid Wastes or Recyclables on public property or by causing or permitting the Solid Wastes or Recyclables to be thrown, placed, scattered or deposited on the public property by or through an employee, agent, representative or anyone acting for or on behalf of that Person. Said presumption may be rebutted by evidence that the Person took adequate precaution to ensure that the Solid Wastes or Recyclables would be properly disposed of in an approved Solid Wastes landfill or Recycling Center or through the Collector authorized by this chapter. Said evidence may include a receipt for the waste issued by an approved Solid Waste landfill or Recycling Center.

(d) In any action brought pursuant to subsection (b) or (c) of this section, civil penalties may also be sought by the City, as specified in Section 1.04.150 of this Code.

**9.20.220 Powers of County Code Enforcement Officers.**

Notwithstanding any other provisions of this Code, the Contra Costa County Code Enforcement Officers may enforce the following Richmond Municipal Code Sections in the incorporated area of north Richmond: 9.22.020, Keeping of Solid Wastes and Recyclables prohibited; 9.20.030, Depositing Solid Wastes or Recyclables in sewers prohibited; 9.20.040, Allowing accumulations of Solid Wastes on Premises prohibited; 9.20.050, Placing Solid Wastes or Recyclables on streets, sidewalks, etc., prohibited; 9.20.055, Depositing Solid Wastes or Recyclables upon property of others prohibited; 9.20.060, Burning of Solid Wastes or Recyclables prohibited; 9.20.070, Unlawful collection; 9.20.075, Unlawful collection of Recyclables; 9.20.080, Receptacles required; 9.20.090, Solid Wastes collection service required; 9.20.095, Curbside placement of Receptacles required.

**SECTION 3**

Chapter 9.21 of the Richmond Municipal Code is hereby amended as follows:

**Chapter 9.21 COLLECTION OF RECYCLABLES**

**Sections:**

**9.21.010 Purpose and findings.**

**9.21.020 Definitions.**

**9.21.030 Permit required.**

**9.21.040 Application form and fees.**

**9.21.050 Application investigation.**

**9.21.060 Application approval.**

**9.21.070 Permit form.**

**9.21.000 Permit duration and renewal.**

**9.21.090 Permit assignment.**

**9.21.100 Permit revocation.**

**9.21.110 Permit denial or revocation appeal hearing.**

**9.21.120 Exemptions.**

**9.21.130 Penalties.**

**9.21.010 Purpose and findings.**

(a) The purpose of this chapter is to regulate the collection of Recyclables within the City of Richmond.

(b) The City Council of the City of Richmond finds that the California Integrated Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.) (hereinafter referred to as "AB 939") requires municipalities to accurately account for the wastes (the "wastestream") generated within their boundaries and the amount of materials diverted from said wastestream.

(c) The City Council of the City of Richmond also finds that the diversion of wastes by the Collectors of Recyclables is an area which needs regulation in order to accurately develop an accounting of the diversion obtained by the City of Richmond for AB 939 purposes.

(d) In an effort to account for the wastes generated within the City of Richmond and the amount of Recyclables diverted from said wastes, the City of Richmond proposes to regulate the collection of Recyclables within the City of Richmond, subject to the exclusive franchise agreement between the City of Richmond and Richmond Sanitary Services, Inc., by imposing a permit requirement upon those who collect said Recyclables.

**9.21.020 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section unless the context specifically indicates otherwise:

(a) "City Manager" means the City Manager of the City of Richmond or said City Manager's designee.

(b) "Collection" or "collecting" means and includes the collecting, gathering, accumulating or obtaining of Recyclables for transport, processing or reconstitution.

(c) "Person" shall mean and include any individual, firm, corporation, association, club, partnership, or any other organization.

(d) "Processing" means and includes collecting, sorting, cleansing, treating, processing, or reconstituting a recyclable material so that said material may be returned to the economic system in a form of raw material for new, reused, or reconstituted products.

(e) "Recyclables" mean those materials which are subject to being collected, sorted, cleansed, treated, processed, and reconstituted so that what would otherwise become Solid Waste is capable of becoming material which is returned to the economic system as a resource in a form of raw material for new, reused, or reconstituted products.

Recyclables includes newspaper and magazines, paper and cardboard, tin and aluminum cans, glass, plastics recyclable in the City of Richmond, demolition and construction wastes, and Green Waste.

**9.21.030 Permit required.**

It shall be unlawful for any Person to collect any Recyclables within the City of Richmond unless said Person obtains a permit for the collection of Recyclables from the City Manager. This permit requirement applies to both those who collect and transport Recyclables and those who collect and process Recyclables.

**9.21.040 Application form and fees.**

(a) An applicant for a permit issued pursuant to this chapter, or an applicant for renewal of such a permit, shall file with the City Manager a sworn application in writing, on a form to be furnished by the City.

(b) If the applicant is in the business of collecting and transporting Recyclables, the applicant shall provide all information requested by the City Manager in order for the application to be deemed complete. At a minimum, the applicant's application must indicate the following:

(1) The name, address and telephone number of the applicant;

(2) The type, kind and make of each vehicle to be used by the applicant in the collection and transportation of Recyclables;

(3) Whether such vehicle is so constructed as to prevent unintended loss of contents;

- (4) The type and kind of cover used for covering the vehicle's contents;
  - (5) Each and every destination where all or part of the contents may be left or unloaded;
  - (6) The method, manner and frequency of cleaning such equipment;
  - (7) A statement that the applicant will not attempt to assign or transfer such permit and that the applicant agrees to comply with all requirements of this chapter;
  - (8) The description of the materials to be transported;
  - (9) A detailed report which identifies the Recyclables collected by the applicant in the City of Richmond for the immediately preceding year and which lists the quantities and types of Recyclables collected, the origination of the Recyclables and the destination of the Recyclables; and
  - (10) A statement that, if any of the information in the application changes in any material respect, the applicant will notify the City Manager in writing of any change or changes and will file a new application if so required by the City Manager.
- (c) If the applicant is in the business of collecting and processing Recyclables, the applicant shall provide all information requested by the City Manager in order for the application to be deemed complete. At a minimum, the application shall include the following:
- (1) The name, address and telephone number of the applicant and the facility where the processing of the Recyclables will occur;
  - (2) The type or types of materials to be recycled;
  - (3) The source or sources from which such materials are to be obtained;
  - (4) The manner of transportation of such material from the generator to the processing facility;
  - (5) A statement that the applicant will not attempt to assign such permit, and that the applicant agrees to comply with all requirements of this chapter, now in force or as hereafter amended;
  - (6) A detailed report which identifies the Recyclables collected and processed by the applicant for the immediately preceding year and which lists the quantities and types of Recyclables processed, the origination of the Recyclables, the destination of the recycled materials, and the disposition of any extraneous waste material that may be derived from the processing of the Recyclables; and
  - (7) A statement that, if any of the information in the application changes in any material respect, the applicant will notify the City Manager in writing of the change or changes and will file a new application if required by the City Manager.
- (d) There shall be no fee for the permit issued pursuant to this chapter.

**9.21.050 Application investigation.**

- (a) The City Manager shall conduct an appropriate investigation of the applicant to determine whether the permit may be issued.
- (b) If the applicant is in the business of collecting and transporting Recyclables, the City Manager shall inspect the vehicles to be used in transporting said materials to determine if said vehicles comply with the information set forth in the application.
- (c) If the applicant is in the business of collecting and processing Recyclables, the City Manager shall inspect the processing facility to determine if said facility complies with the information set forth in the application.

**9.21.060 Application approval.**

The City Manager shall issue a permit unless the City Manager finds any one or more of the following:

- (a) The applicant has had a similar permit previously revoked or denied for good cause within the immediately preceding year;
- (b) The applicant has knowingly made a false or misleading statement of a material fact or has made an omission of a material fact in the application for a permit;
- (c) The applicant fails or refuses to provide clear evidence of his or her identity, or any other information required by the City Manager to complete the investigation; or
- (d) The applicant fails to provide reports of Recyclables collected that are required by the application and this chapter.

**9.21.070 Permit form.**

All permits issued pursuant to this chapter shall be in the form prescribed by the City Manager.

**9.21.080 Permit duration and renewal.**

All permits issued pursuant to this chapter shall expire one year after the date of issuance; provided, however, that such permits may be renewed by the City Manager for additional periods of one year upon the permittee's submission of an application for renewal to the City Manager. Such renewal application, in completed form, must be received by the City Manager, no later than forty-five days prior to the expiration of the current permit.

**9.21.090 Permit assignment.**

The assignment or attempt to assign any permit issued pursuant to this chapter is unlawful and any such assignment or attempt to assign a permit shall render the permit null and void.

**9.21.100 Permit revocation.**

A permit may be revoked for the violation of any of the requirements contained in this chapter. Any circumstances constituting grounds for denial of an application, as set forth in Section 9.21.060, shall also constitute grounds for revocation.

**9.21.110 Permit denial or revocation appeal hearing.**

(a) Any Person whose application for a permit under this chapter has been denied, or whose permit has been revoked pursuant to the provisions of this chapter, shall have the right to a hearing before the City Manager, or the City Manager's designee, prior to final denial or prior to revocation.

(b) The City Manager shall give the applicant or permittee written notice of his or her decision to deny the application or to revoke the permit. The notice shall set forth the ground or grounds for the City Manager's decision to deny the application or to revoke the permit and shall inform the applicant or permittee that he or she has ten days from the date of receipt of the notice to file a written request for a hearing.

(c) Within ten days of the written notice by the City Manager of his or her decision to deny the application or revoke the permit, the applicant or permittee may appeal by submitting a request to the City Manager for a hearing before the City Manager, or the City Manager's designee. Such request must be made in writing and must set forth the specific grounds for the appeal. If the applicant or permittee files a timely hearing request, the City Manager, or the City Manager's designee, shall set a time and place for the hearing. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues, to be represented by counsel and to confront and cross-examine any witnesses against them. The decision of the City Manager, or the City Manager's designee, whether to deny the application or revoke the permit shall be in writing and shall be the final administrative decision.

(d) If no timely appeal is taken, the application may be denied or the permit revoked by decision of the City Manager and such decision shall be final. If a timely appeal request is made by a permittee, the permit shall remain in force and effect until a decision on appeal has been made by the City Manager, or the City Manager's designee.

**9.21.120 Exemptions.**

The provisions of this chapter shall not apply to the Person or entity which generates Recyclables and, subsequently, transports said materials to a processing facility or processes said materials at the site where the Recyclables are generated.

**9.21.130 Penalties.**

(a) Any Person who violates any part of this chapter shall be guilty of a misdemeanor.

(b) In lieu of the criminal penalties set forth above, the City may petition the superior court for injunctive relief.

(c) In addition to the criminal and civil sanctions set forth above, any Person who violates any part of this chapter shall be liable for the civil penalties provided by Section 1.04.150 of this Municipal Code.

**SECTION 4 Severability.**

The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the constitutionality or validity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

**SECTION 5 Effective Date.**

This Ordinance becomes effective upon its final passage and adoption.

\* \* \* \* \*

First introduced at a regular meeting of the Council of the City of Richmond, California, held June 1, 2010, and finally passed and adopted at a regular meeting therefore held on **June 15, 2010**, by the following vote:

AYES: Councilmembers Bates, Butt, Ritterman, Rogers, Viramontes, Vice Mayor Lopez, and Mayor McLaughlin

NOES: None

ABSTENTIONS: None

ABSENT: None

DIANE HOLMES  
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE MCLAUGHLIN  
Mayor

Approved as to form:

RANDY RIDDLE  
City Attorney

I certify that the foregoing is a true copy of **Ordinance No. 20-10 N.S.**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on June 15, 2010.