

00224

CITY COUNCIL MEETING

MARCH 16, 1983

REPORTS OF THE  
CITY MANAGER

REGULAR CALENDAR Agenda item K-1 - "Clarification of Garbage and Rubbish Ordinance" was introduced by City Manager Graves. The City Manager explained the existing City ordinances and responded to questions as were posed by the Council.

CLARIFICATION  
OF GARBAGE AND  
RUBBISH ORDINANCE

Also addressing the Council on the subject were:

- a) Mr. George bruns, representing Central Valley Disposal Service.
- b) Mr. David Vaccarezza, Sanitary City Disposal Company.

A lengthy discussion followed with questions being directed to Staff and to the City Attorney.

On motion of Mayor Pro Tempore Murphy, Olson second, Council referred the matter back to staff for additional information and further clarification.

City Attorney Stein stated that he would appreciate receiving input from all of the involved parties.

# COUNCIL COMMUNICATION



TO THE CITY COUNCIL  
FROM THE CITY MANAGER'S OFFICE

DATE  
March 19, 1983

NO.

SUBJECT:

PROPOSED ORDINANCE RE GARBAGE AND RUBBISH FRANCHISE

Dave Vaccarezza and George Bruns contacted my office regarding the definition of "commercial" vis-a-vis "industrial" within the City of Lodi. It is to be remembered that under the present Municipal Code Section 11-1 and 11-2 (copies attached), that apparently, Mr. Vaccarezza's Sanitary City has the exclusive franchise for the removal of garbage from residential and business houses (commercial collection). It is to be noted in the definition of garbage or solid waste in Section 11-1, excludes from said definition "waste materials from building construction and repair" or "factory waste and refuse from industrial plants", all of which excepted material must be properly removed by the owner or occupant of the premises where accumulated or by his agent.

The problem appears to be how we define industrial waste as compared to commercial waste or a commercial collection. A number weeks ago, the City Finance Department, City Planning Department and myself got together and prepared a printout of all the "alleged" industrial accounts within the City. What we then did was to superimpose upon this list the zones. This was an attempt to show the kinds of businesses that would be industrial rather than commercial. There was an assumption made that where you have, for example, a bakery in a commercial zone, that it in fact would be a commercial establishment rather than an industrial establishment.

Unfortunately, the analysis which was done does not resolve the problem wherein you have an establishment which is borderline commercial/industrial, and is in fact in a industrial zone.

Obviously, it was not the intent in passing Ordinance No. 383 (Chapter 11) that the distinction between commercial and industrial was to be done on zones. What I then did was contact a number of cities to determine how they handle the distinction between commercial and industrial. In the City of Modesto for example, there is no distinction made between commercial and industrial. Further, in Stanislaus County, they distinguish between commercial and industrial by the amount of garbage or industrial refuse which is accumulated. Over 500 pounds per day is considered industrial refuse.

K

It is interesting to note how they define industrial refuse. They go on to say that it is "refuse in an amount exceeding an average of five hundred pounds per operating day produced by a person principally engaged in the business of processing or manufacturing agricultural, animal or other products or materials whose principal outlet for such products is wholesale rather than retail; and refuse produced by any person engaged in the business of building construction or demolition".

Another alternative would be to distinguish between refuse which is recyclable and that which is not, making that which is recyclable, be it in commercial, residential or industrial, not under the franchise; and that which is not recyclable, to be under said franchise. It would require a change in the ordinance.

It is interesting to note that when you look at Section 11-1 and 11-2, we have excluded from the definition of garbage: solid waste, factory waste or refuse from industrial plants. Arguably, the reason why we did this was to allow the industrial plants to sell the refuse. It is my understanding that at one time, tomato waste and peach pits were sold and in fact may still be sold. It may very well make good sense to allow within the franchise, the lunch bags from the industrial plants to be collected by our franchisee, while disallowing the industrial waste which is source-separated and which is either sold or given away, and to be excluded from said franchise.

Attached hereto for your consideration is a copy of a draft ordinance which would in fact distinguish materials which are under the franchise from those not under the franchise by the definition of recycling.

It would be my recommendation that we hold a public hearing on any change in the franchise to give all interested parties an opportunity to discuss the proposed changes, if it is the Council's decision to change the ordinance.

Also attached hereto for your review are copies of the ordinances relating hereto of Stanislaus County, Modesto, and Palo Alto.

  
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RONALD M. STEIN  
City Attorney

RMS:vc

attachments

CHAPTER 11  
GARBAGE AND RUBBISH.<sup>1</sup>

- § 11-1. Definitions.
- § 11-2. Collection by city or agent; frequency of collection.
- § 11-3. Collection rates.
- § 11-4. Billing and collection of garbage fees.
- § 11-5. Repealed.
- § 11-6. Contract for collection.
- § 11-7. Insurance requirements of contractee.
- § 11-8. Permit for persons to remove own garbage.
- § 11-9. Garbage receptacles.
- § 11-10. Burning, burying, etc.; unlawful deposits; unlawful removal to city sanitary fill.
- § 11-11. Unlawful rubbish deposits.
- § 11-12. Repealed.

**Sec. 11-1. Definitions.**

For the purposes of this chapter the following words and phrases shall have the meaning respectively ascribed to them by this section:

"*City sanitary fill*" shall mean the northeast one-quarter of Section 19, Township Three North, Range Eight east, excepting the west sixty acres being that area of approximately one hundred acres owned by the city and commonly known as the "Harney Lane Sanitary Fill."

"*Custodian*" means the person appointed by the city manager to supervise and control all operations in the waste disposal grounds, his deputies and any city employee working under the direction of the custodian.

"*Garbage or solid waste*" means kitchen refuse and offal, swill, every accumulation of animal, vegetable and other matter that attends the preparation, consumption or dealing in meats, fish, fowl, fruits or vegetables and all other waste matter and rubbish such as, but not limited to, leaves, cans, glass, ashes,

1. For state law authorizing cities to enter into garbage, etc., disposal contracts, see H. & S. C., § 4250. For state law as to burning garbage and refuse, see H. & S. C., §§ 4300 to 4302.

As to definition of garbage collecting service, see § 2-37 of this Code. As to city service rates, see §§ 2-37 to 2-54. As to removal of dead animals from streets, see § 3-23. As to distribution of advertising matter on private property, see § 15-1. As to throwing or depositing paper, dodgers, handbills, advertising, etc., on streets, etc., see § 15-2.

discarded boxes, paper, the cutting from trees, lawns and gardens, ordinarily collecting on any occupied premises, excepting automobile and truck bodies, frames and tops, and waste materials from building construction and repair, or factory wastes and refuse from industrial plants, all of which excepted materials must be properly removed by the owner or occupant of the premises where accumulated, or by his agent.

Waste disposal grounds, as used herein, shall mean that portion of the northeast one-quarter of Section 19, Township Three North, Range Eight east, M.D.B. & M., now or hereafter used for disposal of waste materials, including garbage, by the city, residents of the city and by residents in the fourth supervisory district of the county. (Ord. No. 383, §§ 2, 3; Ord. No. 802, §1; Ord. No. 1166. §1.)

**Sec. 11-2. Collection by city or agent: frequency of collection.**

All garbage collected at any private dwelling, residence, or from owners or tenants of business houses (commercial collection), shall be collected by the city, acting through an independent contractor or contractors or otherwise, at regular intervals of at least once each week, and from every business place and other places not private residences, at least once each week, excepting that from restaurants, grocery stores and other places with offensive garbage or such garbage as may become offensive, it shall be collected at such intervals as necessary for proper sanitation. (Ord. No. 383, §4; Ord. No. 1100, §1.)

**Sec. 11-3 Collection rates.**

The most rates to be charged for garbage collection service shall be as follows:

(a) For any private dwelling house or residence the rate for one weekly garbage collection shall be:

(1) For the first container of thirty gallons or less, and not to exceed sixty pounds, four dollars and five cents;

(2) For each additional container of thirty gallons or less and not to exceed sixty pounds each, one dollar and ninety-five cents.

DRAFT ORDINANCE

LODI CITY CODE

CHAPTER 11

GARBAGE AND RUBBISH

Sec. 11-1. Definitions.

For the purposes of this chapter the following words and phrases shall have the meaning respectively ascribed to them by this section:

"City sanitary fill" shall mean the northeast one-quarter of Section 19, Township Three North, Range Eight east, excepting the west sixty acres being that area of approximately one hundred acres owned by the City and commonly known as the "Harney Lane Sanitary Fill."

"Custodian" means the person appointed by the city manager to supervise and control all operations in the waste disposal grounds, his deputies and any city employee working under the direction of the custodian.

"Garbage or solid waste" means kitchen refuse and offal, swill, every accumulation of animal, vegetable and other matter that attends the preparation, consumption or dealing in meats, fish, fowl, fruits or vegetables and all other waste matter and rubbish such as, but not limited to leaves, cans, glass, ashes, discarded boxes, paper, the cuttings from trees, lawns and gardens, factory wastes and refuse from industrial plants, ordinarily collecting on any occupied premises, excepting automobile and truck bodies, frames and tops, and waste materials from building construction and repair, all of which excepted materials must be properly removed by the owner or occupant of the premises where accumulated. Further, excluded from the definition of "garbage" or "solid waste" shall be recyclable by-products which are segregated at the source of generation by the owner or producer of same. This shall include but not be limited to glass, waste paper, scrap metal, animal feed and soil amendments.

"Factory waste" and "refuse from industrial plants" means solid waste resulting from any producing, manufacturing or processing business or operation, except any material which may be deemed as a recyclable by-product, which shall be segregated at the source of generation by the owner or producer of same. This shall include but not be

limited to scrap metal, waste paper, glass, animal feed and soil amendments.

"Recyclable by-product" means secondary material with a worth to the extent that an individual or entity will collect the material involved, with compensation to the customer or at no cost to the customer, where a recyclable by-product is separated at the source of generation by the owner or producer of same. Recyclable by-products may be generated from residential, commercial or industrial sources.

"Waste disposal grounds", as used herein, shall mean that portion of the northeast one-quarter of Section 19, Township Three North, Range Eight east, M.D.B. & M., now or hereafter used for disposal of waste materials, including garbage, by the city, residents of the city and by residents in the Fourth Supervisorial District of the County.

Sec. 11-2. Collection by city or agent; frequency of collection.

All garbage collected within the City, shall be collected by the city, acting through an independent contractor or contractors or otherwise, at regular intervals of at least once each week, and from every business place and other places not private residences, at least once each week, excepting that from restaurants, grocery stores and other places with offensive garbage or such garbage as may become offensive, it shall be collected at such intervals as necessary for proper sanitation.

This section shall have no applicability to recyclable by-products as defined in section 11-1.

REFUSE CONTROL

ORDINANCE NO. N.S. - 476

AN ORDINANCE AMENDING CHAPTERS 3 AND 4, OF TITLE 3 OF THE ORDINANCE CODE OF STANISLAUS COUNTY RELATING TO REFUSE CONTROL AND LITTERING, AND RENUMBERING THE CHAPTERS AND SECTIONS OF CHAPTERS 5, 6 AND 7 OF TITLE 3 OF THE ORDINANCE CODE OF STANISLAUS COUNTY RELATING TO MILK REGULATION, INSPECTION AND WEED CONTROL AND ABATEMENT AND WATER WELLS

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, DO ORDAIN AS FOLLOWS:

Section 1. Chapters 3 and 4 of Title 3 of the Ordinance Code of Stanislaus County are hereby amended to read as follows:

AS AMENDED BY:

ORDINANCE NO. 883 (7-20-79)

ORDINANCE NO. 1049 (4-16-82)

"Chapter 3 Refuse Control

Article 1 General

Section 3-130. Definitions.

For the purposes of this Chapter the following terms are defined:

- (a) Board. The Board of Supervisors of the County of Stanislaus.
- (b) County. County of Stanislaus, State of California.
- (c) Department. The Department of Environmental Resources of the County of Stanislaus.
- (d) Person. Any individual, firm, corporation, association, group or combination and the plural as well as the singular.
- (e) Garbage. All putrescible waste and animal or vegetable waste or residue produced or accumulated from the preparation, processing, handling or consumption of food stuffs.
- (f) Rubbish. Nonputrescible waste, discarded or abandoned material, including but not limited to, paper, cardboard, rags, rags, clothing, straw, wood, crockery, glass, rubber, metal, plastic and construction debris.
- (g) Refuse. Both garbage and rubbish as defined herein.
- (h) Industrial Refuse. Refuse in an amount exceeding an average of five hundred pounds per operating day produced by a person principally engaged in the business of processing or manufacturing agricultural, animal or other products or materials whose principal outlet for such products is wholesale rather than retail; and refuse produced by any person engaged in the business of building construction or demolition.

## CHAPTER 5—GARBAGE DISPOSAL

**SEC. 5-5.01. DECLARATION OF POLICY.** The accumulation, collection, removal and disposal of garbage must be controlled by the City for the protection of the public health, safety and welfare. The Council finds that to give effect to this policy, a comprehensive system for the periodic collection, removal and disposal of garbage from all premises in the City is essential and benefits all occupants of premises in the City, and, therefore, all such occupants are required to have garbage collection service. (Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.01.1. PENALTY PROVISIONS.** A violation of any provision of this chapter shall be punishable as an infraction as set forth in Section 1-2.01 of this Code, except where provisions of this chapter specifically make such violation a misdemeanor. (Added by Ord. 1689-C.S., § 2, effective 1-7-78)

**SEC. 5-5.02. DEFINITIONS.** The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- (a) "Director of Finance" means the Director of Finance of the City of Modesto or his duly authorized agent.
- (b) "Director of Public Works" means the Director of Public Works of the City of Modesto or his duly authorized agent.
- (c) "Health Officer" means the Health Officer of the City of Modesto or his duly authorized agent.
- (d) "Disposal Area" as used in this chapter shall mean any area designated or provided by the City Council from time to time for the purpose of disposal of garbage.
- (e) "Place" or "Premises" means every dwelling house, dwelling unit, apartment house or multiple dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, hospital, office building, department store, manufacturing, processing or assembling shop or plant, warehouse, and every other property or building where any person resides or any business or activity is carried on or conducted within the City of Modesto.
- (f) "Customer" shall mean any person, firm or corporation receiving garbage service under the provisions of this chapter.
- (g) "Garbage" means any and all matter and materials which are rejected, abandoned or discarded by the owners or producers thereof as offensive, or useless, or no longer desired by said owners or producers thereof, and/or which by their presence or accumulation may injuriously affect the health, comfort or safety of the community. It shall include rubbish, waste matter, swill, salvageable waste and similar substances or materials of the nature described above, but shall not include garden refuse as defined in Section 4-7.1102 of this Code.
- (h) "Swill" means all classes of putrescible animal, fish, fowl, fruit or vegetable matter, and shall include matter or substances used in the preparation, cooking, dealing in or storage of meats, fowl, fish, fruits and vegetables that are subject to immediate decay and the attraction of flies or rodents, and having a property value.
- (i) "Rubbish" means nonputrescible, useless, unused, unwanted or discarded material or debris, either combustible or noncombustible which

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by their presence may injuriously affect the health, safety and comfort of persons and property in the vicinity thereof.

(j) "Salvageable waste" means rubbish having a property value.

(k) "Property value" means a worth to the extent that a collector will collect the materials involved with compensation to the customer, or at no cost to the customer.

(l) "Industrial garbage" means garbage produced by any person, firm or corporation engaged in the business of processing or manufacturing agricultural products, animals, poultry, goods, wares or other products or materials, who processes or manufactures the same for the purpose of wholesale in processed or manufactured form. "Industrial garbage" also means garbage

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produced by any person, firm or corporation engaged in the business of building construction and/or building demolition.

(m) "Garbage collector" means an agent or employee of the City or any person, or the agents, assignees or employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of garbage as hereinafter set forth.

(n) "Swill collector" means an agent or employee of the city, or any person, or the agent, assignees, or employee of, to whom a license shall have been issued under the terms of this chapter for the collection of swill.

(o) "Salvageable waste collector" means an agent or employee of the City, or any person, or the employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of salvageable wastes.

(p) "Industrial garbage collector" means an agent or employee of the City, or any person, or the employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of industrial garbage.

(q) "Standard container" means a galvanized metal can, watertight and with a close-fitting cover, cover handle and side handles, of not less than ten (10) nor more than thirty-three (33) gallons net capacity, of a design satisfactory to the Director of Public Works or such other disposal unit of like capacity approved by the Director of Public Works.

(r) "Detachable container" means a metal container, watertight and with a cover, designed for direct dumping into a collection vehicle, and constructed in standard sizes with a minimum of one cubic yard in capacity, as approved by the Director of Public Works, and furnished by a licensed collector.

(s) "Drop box container" means a metal box designed for loading upon a vehicle for transportation to the disposal area, with a minimum of twenty (20) cubic yards capacity, of a design approved by the Director of Public Works, and furnished by a licensed collector.

(Ord. 30-C.S., amended by Ord. 388-C.S., Ord. 1095-C.S., and Ord. 1196-C.S., effective 7-5-72, operative 1-1-73.)

**SEC. 5-5.03. SEGREGATION AND DISPOSITION OF WASTE MATERIALS.** Every producer of garbage may at his option, segregate the same into rubbish, salvageable waste, and/or swill, and dispose of the same as provided in this chapter.

(Ord. 30-C.S., amended by Ord. 388-C.S., and Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.04. DEPOSITING OR BURYING GARBAGE.** No person shall throw, drop, leave, dump, bury, place, or otherwise dispose of any garbage upon any property within the city limits of the city, either with or without intent to remove the same from such property; or upon any street, way, sidewalk, gutter, stream or creek or the banks thereof, or any public place or public property within the city limits of the City; provided, however, that this section should not apply to any land used by the City for a disposal area.

(Ord. 30-C.S., amended by Ord. 1095-C.S., and Ord. 1196-C.S., effective 7-5-72, operative 1-1-73.)

**SEC. 5-5.05. ACCUMULATION OF GARBAGE OR RUBBISH.** Every person shall keep the premises occupied by him, and every owner of any unoccupied premises or property and every owner of three-family dwellings, apartment houses and multiple dwelling buildings shall keep the same in a clean and sanitary condition, and shall not cause, suffer, or permit any garbage to accumulate on such premises or property for a period in excess of one calendar week; or cause, suffer, or permit any rubbish to accumulate on his premises for a period in excess of one calendar month; provided, however, that this provision shall not be construed to prohibit any person from keeping building materials on any premises or property during the period of active construction, recon-

struction, or repair of a building or structure thereon under a current valid building permit; nor the keeping of wood, neatly piled, upon such premises for household use; nor the composting of grass or trimmings in a manner approved by the Health Officer. (Ord. 30-C.S., amended by Ord. 1095-C.S., and 1196-C.S., effective 7-5-72, operative 1-1-73.)

**SEC. 5-5.06. GARBAGE COLLECTION.** Collection of garbage shall be made at least once a week, and collection of swill shall be made daily. The collector shall transfer the contents of all containers into the collection vehicle provided therefor without spilling any contents.

(Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-73)

**SEC. 5-5.07. CONTAINERS REQUIRED.** It shall be unlawful for any person occupying any premises within the City, or for any person owning, controlling or maintaining any premises within the City where garbage is created, produced, or accumulated, to fail or neglect to provide a sufficient number of standard containers for receiving and holding without leakage or escape of odors all garbage produced, created, or accumulated upon such premises, except as hereinafter provided; and all such persons shall deposit all such garbage in such containers, and all such containers shall be at times kept in a good usable and sanitary condition. Containers shall be kept continuously closed except when garbage is being placed therein or removed therefrom, and shall at all times be closed against the access of flies, rodents, and animals to the contents thereof. Garbage and rubbish may be deposited in the same container. Containers shall not exceed thirty-three (33) gallons in volume, and shall not exceed fifty (50) pounds in weight when filled for removal, except when detachable or drop box containers are used. (Ord. 30-C.S., amended by Ord. 1095-C.S., and Ord. 1196-C.S., effective 7-5-72, operative 1-1-73.)

**SEC. 5-5.08. NUMBER OF CONTAINERS REQUIRED.** All places or premises within the City shall have sufficient containers to hold all garbage generated, produced or accumulated on the place or premises during a one-week period, unless a more frequent collection schedule has been approved or directed pursuant to this chapter. In determining the sufficiency of the number of containers required, the following minimum standards shall apply.

(a) One family and two family dwellings: one standard container per dwelling unit.

(b) Three family dwellings, apartment houses, and multiple dwelling buildings: one standard container per dwelling unit, unless a lesser number is authorized by the Director of Public Works.

(c) Motel, hotel, trailer park, or mobile home park: one standard container per unit or space, unless a lesser number is authorized by the Director of Public Works.

(d) Commercial place or premises: not less than one standard container.

Customers responsible for garbage collection services to apartment houses, multiple dwelling buildings, commercial and industrial places or premises may arrange for the use of detachable containers and/or drop box containers instead of standard containers. These arrangements shall be made with the licensed collector on the basis of charges established for this purpose.

Nothing herein shall be construed to prohibit the joint use of a detachable container or drop box container by two or more customers upon approval of the Director of Public Works. (Ord. 30-C.S., amended by Ord. 388-C.S., Ord. 703-C.S., and Ord. 1096-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.09. PROHIBITED LOCATION OF CONTAINERS.** Garbage, rubbish, swill, industrial garbage and salvageable waste

street or alley right-of-way, unless authorized by the Director of Public Works.

(Ord. 30-C.S., amended by Ord. 388-C.S., and Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.10. CONTAINER LOCATIONS.** (a) On single-family and two-family premises, garbage containers shall be placed by the customer on the premises and collected by the collector as follows:

1. Where alleys exist, upon the customer's premises, immediately adjacent to and accessible from the alley without the necessity of entering the premises.

2. Where alleys do not exist, upon the customer's premises, in a location no greater than fifty (50) feet from the front property line and accessible to the collector without the necessity of entering a fenced yard. All containers shall be screened from public view in a manner approved by the Director of Public Works.

(b) Standard and detachable containers for garbage service to multiple-dwelling buildings, apartments, commercial and industrial premises shall be placed in a location no greater than fifty (50) feet from the nearest point where the collector's vehicle can reasonably be parked. Drop box containers shall be located as agreed upon between the customer and the collector. In case of dispute, the location shall be as determined by the Director of Public Works.

(c) Containers for garbage may be placed on premises at a location other than required in paragraphs (a) and (b) above if the customer so desires, and collected therefrom at an additional charge as set forth in the schedule of charges adopted by the City Council from time to time.

(Ord. 30-C.S., amended by Ord. 859-C.S., and Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.11. EXPLOSIVES OR HAZARDOUS MATERIALS.** No person shall deposit in any container used for garbage, rubbish, swill, industrial garbage or salvageable waste any explosive, highly flammable, radioactive or otherwise hazardous material or substance without having first made special arrangements therefor with the collector thereof. A violation of this section shall be punishable as a misdemeanor.

(Ord. 30-C.S., amended by Ord. 1095-C.S., and Ord. 1689-C.S., § 1, effective 1-7-78)

**SEC. 5-5.12. SPILLAGE OF RUBBISH.** All rubbish hauled by any person over public streets in the City shall be secured during the hauling thereof so as to prevent spillage or blowing.

(Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.13. FURNISHING OF DETACHABLE AND DROP BOX CONTAINERS.** Any license granted by the City for garbage collection shall provide for the availability of approved detachable containers and drop box containers by the licensee on a rental basis. The licensee shall be responsible for the general repair and upkeep of all detachable containers and drop box containers. The customer shall

maintain all rented detachable containers and drop box containers in a sanitary condition at all times.

(Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.14. HOURS OF COLLECTION.** (a) No collections shall be made in residential districts, as shown on the Zoning Map of the City of Modesto, or at schools, churches, hospitals, offices or commercial establishments in or adjacent to said residential districts, except as follows:

(1) From the first day of November of any year to and including the thirty-first day of March of the following year no such col-

lection shall be made except between the hours of 6:00 o'clock A.M. and 6:00 o'clock P.M.

(2) From the 1st day of April to and including the 31st day of October of the same year no such collection shall be made except between the hours of 5:00 o'clock A.M. and 6:00 o'clock P.M.

(b) No collections shall be made from premises in commercial areas other than described in subsection (a) above except between the hours of 6:00 P.M. and 10:00 o'clock A.M. of the following day. The Director of Public Works shall determine the commercial areas subject to this provision.

(Ord. 30-C.S., amended by Ord. 1095-C.S. and Ord. 1134-C.S., effective 9-15-77)

**SEC. 5-5.15. COLLECTION EQUIPMENT.** All collections shall be made with vehicles of a design approved by the Director of Public Works. All collections shall be made as quietly as possible, and use of any unnecessarily noisy trucks or equipment is prohibited.

(Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.16. LICENSE TO COLLECT GARBAGE.**

(a) It shall be unlawful for any person to engage in the business of collecting garbage, swill, industrial garbage and/or salvageable waste within the City unless such person is an employee or agent of the City, or has been granted a license by the Council so to do, or is the employee of a person who has been so licensed.

(b) It shall be unlawful for any person to interfere in any manner with the lawful operations of such licensee or his authorized agents or assignees.

(c) The City may provide in any license issued pursuant to this chapter that the licensee may assign a portion or portions of the garbage collection services for which he is so licensed to one or more agents or assignees upon approval of the City Council. The licensee shall be responsible for the operation and conduct of such agents or assignees.

(Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.17. REMOVAL OF GARBAGE BY PRODUCERS.** Notwithstanding the provisions of Section 5-5.16:

(a) Any person may remove or dispose of, or may cause to be removed and disposed of, from premises occupied by him or under his control, such rubbish as is created or produced on such premises in excess of the regular garbage collection made by City's licensee if the following conditions have been or will be complied with:

1. Such removal and disposal activity shall be only by the owner or occupant personally, or by such owner's or occupant's regularly employed personnel carried on owner's or occupant's payroll records as an employee.

2. All vehicles used in carrying out such removal and disposal activities shall be owned by, or under the exclusive control of owner or occupant, and shall meet all the requirements of this chapter and all other laws and ordinances of the State of California and the City. Any such vehicle shall be subject to inspection by the Director of Public Works.

(b) Any producer of industrial garbage or swill, or his employee, may transport the same upon or through any street or public place of the City for disposal at an approved disposal area. In the event said producer desires to dispose of such garbage or swill at a location other than an approved disposal area, the approval of the Health Officer shall first be obtained in writing of the manner in which and the place at which such industrial garbage or swill is to be disposed of. If, in the opinion of the Health

Officer, such manner of disposal will be detrimental to the public health or welfare, the Health Officer shall have the right to deny such request.

(c) It shall be unlawful for any person acting as an employee of a producer of industrial garbage or swill to collect or transport such garbage or swill from more than one industrial producer thereof.

(d) Any person engaged in the business of gardening or tree trimming, or building demolition, or construction clean-up work, including both yards and building interiors, is authorized to remove and dispose of rubbish produced as an incident to such business.

(Ord. 30-C.S., amended by Ord. 1095-C.S., and Ord. 1196-C.S., effective 7-5-72, operative 1-1-73.)

**SEC. 5-5.18. LICENSE FEE FOR COLLECTION OF GARBAGE AND INDUSTRIAL GARBAGE.** The license fee for engaging in the business of collecting garbage, and/or industrial garbage, in the City shall be the sum of One Hundred and no/100ths (\$100.00) Dollars per year, or fraction thereof, payable in advance. In addition to the annual fee, the collector shall be required to pay quarterly to the City within thirty (30) days following the close of the preceding quarter an amount equivalent to six and one-half (6½) per cent of the gross receipts derived from the furnishing of such garbage collection services within the City for the preceding quarter. Quarters shall terminate on March 31, June 30, September 30 and December 31.

(Ord. 30-C.S., amended by Ord. 1095-C.S., and Ord. 1196-C.S., effective 7-5-72, operative 1-1-73.)

**SEC. 5-5.19. LICENSE FEE AND COLLECTION OF SWILL AND/OR SALVAGEABLE WASTE.** The license fee for the privilege of engaging in the business of collecting swill or salvageable wastes in the City shall be the sum of Twenty-five and no/100ths (\$25.00) Dollars per calendar quarter, or fraction thereof, payable in advance.

(Ord. 30-C.S., amended by Ord. 546-C.S., and Ord. 1095-C.S., effective 4-21-71, operative 1-1-72.)

**SEC. 5-5.20. DELINQUENT LICENSE FEES.**

(a) PENALTY. To all license fees not paid within thirty (30) days following the close of the preceding quarter there shall be added a penalty of five (5%) per cent of the amount of license fees due per month or fraction thereof until paid; the maximum penalty imposed on any one delinquency occurring heretofore or hereafter shall not exceed twenty-five (25%) per cent of the amount of license fees due.

(b) Interest. In addition to any penalties imposed by this section, delinquent license fees heretofore or hereafter occurring shall be subject to interest at the rate of seven (7%) per cent per annum until paid.

(Ord. 30-C.S., amended by Ord. 1095-C.S., and Ord. 1233-C.S., effective 3-27-74.)

**SEC. 5-5.21. APPLICATIONS FOR LICENSES.** Applications for licenses under this chapter shall be submitted in writing to the City Clerk. Each application shall contain the following information:

(a) Name and address of the applicant. If the applicant is a firm or partnership, names of all owners and partners of all classes, limited and general, shall be listed. If the applicant is a corporation, the names and titles of each of the officers and directors shall be listed, and in addition the names of all stockholders owning, holding or controlling five (5%) per cent or more of cor-

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- (b) The type of license sought.
- (c) The number, kind and capacity of the vehicles and other equipment to be used for such purposes.
- (d) A financial statement showing the applicant's financial status and his financial ability to conduct the collection operation proposed in his application.  
(Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72.)

**SEC. 5-8.22. PROCEDURE TO GRANT LICENSE.** Upon receipt of an application for a license hereunder the Council shall pass a resolution declaring its intention to consider the application,

setting forth notice of the day, hour and place, when and where any and all persons may appear before the Council and be heard thereon. The time fixed for such hearing shall be not less than ten (10) days nor more than thirty (30) days after the date of the passage of said resolution.  
(Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-8.23. PROTESTS MAY BE FILED.** At any time not later than the hour set for the hearing, any person interested may make written protest stating objections against the granting of such license. Such protest must be signed by the protestant and delivered to the City Clerk.  
(Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-8.24. HEARING.** At the time set for the hearing, the Council shall proceed to hear the matter, and all persons shall be given opportunity to be heard. The Council may adjourn said hearing from time to time.  
(Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-8.25. COMPETITIVE BIDS.** The Council may in its discretion, in lieu of considering applications for licenses, advertise for competitive bids for licenses hereunder.  
(Ord. 30-C.S., amended by Ord. 476-C.S. and 814-C.S., Ord. 859-C.S., Ord. 1058-C.S. and 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-8.26. GRANTING LICENSES.** Upon consideration of an application or bids for a license, the Council may refuse to grant the requested license, or may grant a license to any such applicant or bidder as may appear from said application or bids to be in its opinion best qualified to render proper and efficient collection service.

Every license granted by the Council pursuant to the provisions of this chapter shall cover the following matters:

- (a) The name and address of the person, firm or corporation to whom the license is issued.
- (b) The type of collection service authorized.
- (c) Whether the license is exclusive or non-exclusive; limited or unlimited.
- (d) The term for which the license is granted.
- (e) Such other conditions as the Council may provide.

(Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-8.27. LIMIT ON NUMBER OF LICENSES.** In order to preserve the health, safety and welfare of the people in the City, the Council hereby retains the authority to limit the number of licenses for the collection of garbage, swill, industrial garbage and salvageable waste which will be issued under this chapter.  
(Ord. 30-C.S., amended by Ord. 859-C.S., and Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-8.28. INSURANCE REQUIREMENTS.** No license shall be issued under the provisions of this chapter, nor shall any such license be valid after issuance unless there is at all times in force and effect to provide protection against liability for damages which may be imposed for the negligence of the licensee or his employees or agents, a liability insurance policy or policies approved by the City Clerk and issued by an insurance company authorized to do business in the State of California.

Such policy or policies shall provide protection against liability of the licensee for the payment of damages in amounts of

In the amount of One Hundred Thousand and no/100ths (\$100,000.00) Dollars on account of bodily injuries to, or death of, one person.

In the amount of Three Hundred Thousand and no/100ths (\$300,000.00) Dollars against the total liability of the licensee on account of bodily injuries to, or death of, more than one person as a result of any one accident.

In the amount of Twenty-five Thousand and no/100ths (\$25,000.00) Dollars for one accident resulting in damage or destruction of property, whether the property of one or more than one claimant.

A liability insurance policy required by this section shall insure to the benefit of any persons who shall be injured or who shall sustain damage to property proximately caused by the negligence of the licensee insured by such policy, his employees or agents.

Satisfactory evidence that the liability insurance required by this section is at all times in full force and effect shall be furnished the City Clerk by each licensee required to provide such insurance.

The policy of insurance shall contain a provision against cancellation except upon ten (10) days' prior written notice thereof to the City Clerk.  
(Ord. 30-C.S., amended by Ord. 859-C.S. and 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.29. FAITHFUL PERFORMANCE BOND BY GARBAGE COLLECTORS.** Each person granted a license to collect garbage pursuant to the provisions of this chapter shall file with the City Clerk a faithful performance bond or other form of security satisfactory to the City in an amount required by the license. Said bond or security shall be conditioned upon the faithful performance of all of the terms and conditions of said license and the provisions of this chapter, insofar as they are applicable to said licensee.  
(Ord. 30-C.S., amended by Ord. 1095-C.S., 1134-C.S., and Ord. 1196-C.S., effective 7-5-72, operative 1-1-73)

**SEC. 5-5.30. TRANSFER OF LICENSES.** No license granted by the Council pursuant to the provisions of this chapter and no ownership interest in any grantee of such a license can be sold, transferred, leased, assigned, mortgaged, pledged, hypothecated, or otherwise encumbered or disposed of, in whole or in part, directly or indirectly, whether voluntarily or by operation of law, or through any stock transfer, transfer in trust, change in control, consolidation or merger of any company or corporation, without the prior written consent of the City Council granted after a public hearing in accordance with the procedures specified in Sections 5-5.21, 5-5.22, 5-5.23 and 5-5.24 of this chapter. The Council may grant or deny such a request, and may impose such conditions as it may deem to be in the public interest. Any attempted disposition made without such consent shall be void.  
(effective 7-5-72, operative 1-1-73)  
(Ord. 30-C.S., amended by Ord. 1095-C.S., and Ord. 1196-C.S., effective 7-5-72, operative 1-1-73)

**SEC. 5-5.31. REVOCATION OF LICENSES.** Any license granted by the Council pursuant to the provisions of this chapter may be revoked by the Council, if after conducting a public hearing on said revocation, the Council finds and determines that the person doing business by virtue of such license has failed to comply with any of the terms of said license, or this chapter, or has failed to render satisfactory collection services.  
(Ord. 30-C.S., amended by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.32. CHARGES.** (a) Charges to customers for garbage service shall be set by the City Council by resolution for a licensee, or upon acceptance of a bid received for a licensee. Said charges may be revised by the Council from time to time after the holding of a public hearing thereon.

(b) The basic minimum rate in the schedule of charges adopted by the City Council shall provide for the collection of one (1) standard container of garbage per week per occupied premises by the collector.

(c) Charges for industrial garbage service shall be as negotiated between the collector and the customer and shall not be subject to City review and mediation.

(d) The Council may impose, in addition to the basic charge for garbage service, a separate solid waste recycling program charge. If such a charge is imposed, it shall be added to the charge for garbage service collected by the licensee and transmitted to the City. The method of accounting for the amount of such recycling program charges collected by the licensee and the time and manner of transmitting them to the City shall be as determined by the Director of Finance.

(Ord. 32-C.S., amended by Ord. 1095-C.S., and Ord. 2073-C.S., effective 10-1-81)

**SEC. 5-5.33. CUSTOMER MAY CONTRACT FOR EXCESS COLLECTION.** Any owner or occupant of any premises may contract with the licensee, or his agents or assignees, for special haul services for the removal of garbage or rubbish in excess of services provided by the licensee under regular collection fees established by the City Council.  
(Added by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.34. LIABILITY FOR PAYMENT OF GARBAGE CHARGES.** Every person occupying, owning, controlling or maintaining any premises or place within the City where garbage service is required by this Chapter is liable for the payment of the garbage charges therefor.

Owners of multiple dwelling buildings or apartments are responsible for the payment of charges for garbage services rendered to premises owned by them, although payments will be accepted from tenants.  
(Added by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.35. COLLECTION OF GARBAGE CHARGES.** Any license granted by the Council pursuant to the provisions of this chapter for the collection of garbage, except industrial garbage, shall specify whether the charges for garbage service shall be billed and collected by the City and/or by the licensee. If a license specifies that any or all of the charges for garbage service shall be billed and collected by the City, it shall also specify the fees to be paid to the City by the licensee for such billing and collection service.  
(Ord. 1095-C.S., amended by Ord. 1196-C.S., effective 7-5-72, operative 1-1-73)

**SEC. 5-5.36. METHOD OF COLLECTION OF GARBAGE CHARGES BY CITY.** If a license granted by the Council pursuant to the provisions of this chapter or an agreement entered into between the City and a licensee specifies that any or all of the charges for garbage service shall be billed and collected by the City, then the following provisions shall be applicable to and determine the method of collection of such garbage charges by the City of Modesto.

(a) The charge for garbage service shall be added to the charges for water service and/or sewer service and payment of the total amount must

be made in accordance with Section 11-1.14 of this Code regulating the payment of water service charges, and Section 5-6.11 of this Code regulating the payment of sewer service charges.

(b) Delinquent payment of charges for garbage service shall be treated in the same manner as delinquency for payment of water service

charges and/or sewer service charges, as specified in Sections 11-1.14 and 5-6.11 of this Code. Discounts for advance payment of garbage charges shall be made in the same manner as discounts for advance payments of water service charges and/or sewer service charges in accordance with Sections 11-1.14 and 5-6.11 of this Code.

(c) All charges for garbage collection shall be billed to the following persons:

(1) In the case of any person whose premises are connected with the municipal water system, then to the person who requested such connection to the municipal water system or his successor in interest, or to any person requesting that such bill be charged to him.

(2) In the case of any person whose premises are not connected to the municipal water system, then to the person who requested the connection to the sewage system or his successor in interest, or if no such request was made, then to the owner of record of such premises on the date on which such premises are required hereby to commence garbage collection services, or to the successors in interest to such person, or to any person requesting that such bill be charged to him.

(d) Each charge for garbage collection service levied pursuant to this section on any premises within the City of Modesto is hereby made a lien upon such premises, and any steps authorized by law may be taken by the City to enforce payment of such lien.

(e) In each case where a bill for garbage collection service shall become delinquent, the Director of Finance shall cause the premises to be disconnected from the municipal water and/or sewage system. Whenever premises have been disconnected from either or both the municipal water system and the municipal sewage system for the nonpayment of garbage collection charges, such premises shall not be reconnected to either the municipal water system or the municipal sewage system until all delinquent fees, charges and rates have been paid, together with such reasonable charges for reconnection as may be established from time to time by resolution adopted by the City Council.

(Ord. 105-C.S., amended by Ord. 1196-C.S., and Ord. 2090-C.S., § 1, effective 5-7-81)

**SEC. 5-5.37. RECORDS REQUIRED.** Each person granted a license pursuant to the provisions of this chapter shall maintain detailed records of all receipts and expenditures received or incurred in the operation of such business, including all fees collected for services rendered. The City, its officers and employees shall be entitled to inspect, audit and copy such books and records upon notice at all reasonable times.

(Added by Ord. 1095-C.S., effective 4-21-71, operative 1-1-72)

**SEC. 5-5.38. ANNUAL FINANCIAL REPORT BY GARBAGE COLLECTORS.** Each person granted a license to collect garbage or industrial garbage pursuant to the provisions of this chapter shall file each year with the Director of Finance a detailed financial statement, including a balance sheet and profit and loss statement. Said statement shall be filed on or before the date set forth in said license for the fiscal or calendar year specified in said license. Any person granted such a license who fails to file said statement on or before said date shall pay a penalty of five dollars (\$5.00) a day for each calendar day, or part thereof, until said statement is filed.

This section shall not apply to septic or salvagable waste collectors.  
(Ord. 1086-C.S., amended by Ord. 1196-C.S., and Ord. 1339-C.S., effective 3-27-74)

**SEC. 5-5.39. INSPECTION AND ENFORCEMENT.** The Health Officer and the Director of Public Works may, from time to time, inspect all premises within the City to determine compliance with and to enforce the provisions of this chapter.  
(Ord. 1086-C.S., amended by Ord. 1175-C.S., effective 3-15-72)

**SEC. 5-5.40. APPLICATION OF OTHER PROVISIONS OF THIS CODE.** Except for the provisions of Article 3 thereof, the provisions of Chapter 1 of Title VI of this Code shall not apply to persons licensed under the provisions of this chapter.  
(Added by Ord. 1086-C.S., effective 4-21-71, operative 1-1-72)