

Agenda Item # 8
December 3, 2014
File No OR14-
OR14-
450-10
(810-10)

Mammoth Lakes Town Council Agenda Action Sheet

Council Meeting Date: December 3, 2014

Date Prepared: November 23, 2014

Prepared by: Peter Bernasconi, Sr. Associate Civil Engineer
Grady Dutton, Public Works Director

Title: Council consideration of Ordinance Amending *Municipal Code Chapter 8.12 – Refuse Disposal and addition of Chapter 8.14 - Solid Waste Recycling*

Agenda: Policy

Recommended Motion: Waive the first reading and introduce by title only:

1. an Ordinance amending Municipal Code Chapter 8.12 Solid Waste Management (new title)
2. an Ordinance adding Chapter 8.14 Solid Waste Recycling to the Municipal Code

Background Information:

The State of California mandates, sets targets for, and monitors compliance with waste diversion and recycling, with the goal of progressively reducing the amount of waste that is sent to landfills. AB 341 was adopted in 2011 and took effect January 2012. The legislation mandates that commercial and multi-family properties institute recycling programs beginning July 1, 2012. The Town is responsible on a local level to enforce and facilitate the implementation of AB 341, which seeks to increase landfill diversion rates to 75 percent by 2020, based on guidelines established by the State and implemented through its agency, the California Department of Resources Recycling and Recovery (CalRecycle). This Municipal Code update of Chapter 8.12 and the addition of Chapter 8.14 is the next step in the Town's ongoing best efforts with CalRecycle to increase diversion rates in the Town and provide added tools to help with compliance with State law related to recycling for businesses, multifamily residential projects, and large events.

- Chapter 8.12 amendments provide clarifications and additional enforcement tools for nuisance properties with noncompliance in control of dumpsters with lids that are required to be closed and other public hazardous or unhealthful accumulated materials.
- New Chapter 8.14 adds recycling programs specifically requested by CalRecycle to improve and increase diversion rates in the Town from businesses, multifamily residential projects, and major events.

This item was presented to the Planning and Economic Development Commission (PEDC) in draft form on November 12, 2014. The PEDC recommended this be presented to the Town Council for adoption.

Funds Available: N/A

Account #: N/A

Reviewed by:

MM Town Manager ✓ Public Works ✓ Town Attorney ✓ Planning Manager

Public Works Staff Report

Subject: Council consideration of Ordinance Amending *Municipal Code Chapter 8.12 – Refuse Disposal and the Addition of Chapter 8.14 - Solid Waste Recycling*

Written by: Peter Bernasconi, Sr. Associate Civil Engineer

RECOMMENDATION:

After receiving the staff report and receiving public comment, staff recommends the Town Council waive the first reading and introduce by title only the attached Ordinances amending Municipal Code Chapter 8.12, Solid Waste Management (new title), and adding Chapter 8.14 Solid Waste Recycling.

BACKGROUND:

The State of California mandates, sets targets for, and monitors compliance with waste diversion and recycling, with the goal of progressively reducing the amount of waste that is sent to landfills. AB 341 was adopted in 2011 and took effect January 2012. The legislation mandates that commercial and multi-family properties institute recycling programs beginning July 1, 2012. The Town is responsible on a local level to enforce and facilitate the implementation of AB 341, which seeks to increase landfill diversion rates to 75 percent by 2020, based on guidelines established by the State and implemented through its agency, the California Department of Resources Recycling and Recovery (CalRecycle). This Municipal Code update of Chapter 8.12 and the addition of Chapter 8.14 is the next step in the Town's ongoing best efforts with CalRecycle to increase diversion rates in the Town and provide added tools to help with compliance with State law related to recycling for businesses, multifamily residential projects, and large events.

- Chapter 8.12 amendments provide clarifications and additional enforcement tools for nuisance properties with noncompliance in control of dumpsters with closed lids and other public hazardous or unhealthful accumulated materials.
- New Chapter 8.14 adds recycling programs specifically requested by CalRecycle to improve and increase diversion rates in the Town from businesses, multifamily residential projects, and major events.

This Municipal Code Update is a follow-up from the update to the Code in 2013 and solid waste information updates to Town Council several times over the last few years. The Town has been working closely with CalRecycle over the past several years to implement recycling programs and measures that are effective locally in our visitor-

based, rural economy. The Town has many challenges that most of California does not, including a large resident bear population and other wildlife, large fluctuations in population with a transient nature, and snow, just to mention a few. CalRecycle has recognized many of these challenges and has been incrementally working in a partnership basis rather than a compliance basis which could have entailed potential fines for noncompliance.

The State of California has been engaged for many years in efforts to reduce the flow of solid waste to landfills through diversion and waste reduction, including working with the Town and other local jurisdictions to report and monitor their efforts, and implement progressively more aggressive standards for waste diversion. CalRecycle is the agency responsible for regulation, monitoring and enforcement to ensure compliance with relevant State law; the agency also provides resources and technical assistance to help local communities meet established targets.

Increasing statewide solid waste diversion and recycling and waste diversion has been identified by the State as an important goal. Benefits stated by CalRecycle include:

- Opportunities for businesses or multifamily residential complexes to save money.¹
- Creating jobs in California by providing materials for recycling manufacturing facilities.
- Reducing greenhouse gas emissions.
- Keeping valuable materials out of landfills.
- Creating a healthy environment for the community and future generations by recovering natural resources.

AB 341 was adopted by the State in October 2011; among its provisions are mandates for commercial and multi-family properties to institute recycling programs beginning July 1, 2012. The Town is responsible on a local level to enforce and facilitate the implementation of AB 341, based on guidelines established by the State through CalRecycle. The goal of AB 341 is to increase recycling rates from the current target of 50 percent, to a 75 percent rate by 2020, an equivalent of 3 million tons of solid waste state wide annually.

In February 2011 CalRecycle initiated a formal review of the Town's solid waste recycling programs, based on a number of concerns that had been previously raised. CalRecycle then provided notice of potential non-compliance, and enforcement actions that might be necessary, based on the Town's failure to meet mandated diversion rates. At the time the notice was issued, the Town's diversion rate was only 27 percent, compared to the (then) target rate of 50 percent set by the State. To address identified issues, CalRecycle asked the Town to demonstrate progress to implement measures that would move the Town closer to compliance with State diversion requirements.

¹ It should be noted that CalRecycle defines a multifamily residential complex as five or more units for purposes of requiring recycling opportunities to be available, while the Town defines a multifamily residential project as two or more units for purposes of zoning. Due to this, the Amendments to Chapter 8.12 will apply to projects with four or more units and the new Chapter 8.14 will apply to multifamily complexes with five or more units.

Updating Chapter 8.12 and Chapter 8.14 are items CalRecycle has requested the Town implement. Through the site visits, CalRecycle has been informed about some of the unique compliance challenges faced by the Town, particularly due to the large transient population and the number of second homeowners. CalRecycle has taken these factors into consideration as they work with the Town towards achieving compliance. Staff will be bringing forward the proposed Chapter 8.13 for Construction and Demolition Recycling in the near future.

Public/Stakeholder Involvement

Most of the changes proposed in these chapters are already required by State law and bring the enforcement to the local level. Staff has reviewed these updates with Mammoth Disposal and Sierra Conservation Project who have both provided input. These changes were reviewed by the Planning and Economic Development Commission at the November 12, 2014 meeting and the Building Advisory Board at their November 19, 2014 meeting. The proposed ordinances have been updated and a proposed Chapter 8.13 will be presented to the Town Council in the future which will provide more detail for construction and demolition projects rather than just referencing the Green Building Code. The Town Council public meeting will provide another appropriate opportunity for public comment.

Update Methodology

The ordinance update was developed by staff and the Town Attorney over the past year. The process included research of the best practices and recycling efforts that can be performed locally with our current service level. The updates regarding improved enforcement tools are intended to be for the problem customers that are repeat offenders in keeping their dumpsters closed to prevent bear and other animals from spreading debris and for nuisance properties accumulating materials that are a public health or safety risk.

ANALYSIS/DISCUSSION

1. Chapter 8.12 – Refuse Disposal (proposed to be changed to “Solid Waste Management”)

As part of the proposed Amendment to Chapter 8.12, it is proposed to change the name of the chapter to “Solid Waste Management.”

The California Integrated Waste Management Act of 1989 as amended, commonly referred to as Assembly Bill 939 (“AB 939” or the “Act”), codified in substantial part at Public Resources Code § 40000 et. seq., authorizes cities to regulate the manner of collection and disposal of solid waste. To implement the requirements of the Act, the Mammoth Lakes Town Council has adopted ordinances codified in Chapter 8.12 of the Mammoth Lakes Municipal Code regulating solid waste collection. There have been several updates over the past years; most recently in 2013 adding requirements for “bear-proof containers”.

The proposed amendments to Chapter 8.12 are in the interest of the public health, sanitation, safety and welfare of all residents of and visitors to the Town of Mammoth Lakes to regulate the accumulation, preparation, storage, collection, transportation and disposal of municipal solid waste, yard waste, and recyclable materials. It is also desired that solid waste be handled in a safe, sanitary, routine and efficient manner so as to maximize the reduction, reuse, recycling and composting of materials that otherwise would become municipal solid waste. By diverting solid waste from the landfill it will preserve and maximize landfill disposal capacity. The chapter also provides requirements to maintain the good condition, cleanliness and safety of Town rights-of-way, comply with State law, to prevent the harboring and breeding of rodents and insects and other pests, to reduce contamination of the environment by the unauthorized burying, burning, or putrefaction of such materials and to prevent the spread of diseases associated with unsanitary conditions.

The Town has been working and cooperating with CalRecycle for many years. Currently CalRecycle visits the Town twice a year to review compliance with State requirements and provide input and suggestions in areas where they believe the Town may be able to improve diversion, public education, or other programs. One of the issues CalRecycle has noted is the lack of enforcement in the solid waste area as well as the lack of recycling at many of the events the community hosts. The intent of the amendments in Chapter 8.12 is to provide additional tools that will make enforcement more effective and to require recycling for large community events.

3. Chapter 8.14 – Solid Waste Recycling (New)

Chapter 8.14 will promote recycling to enable the Town of Mammoth Lakes to comply with State of California waste diversion requirements and to work toward future State policy goals for waste diversion rates. This chapter meets this purpose by requiring businesses and multi-family housing projects to make efforts to separate recyclable materials from all other solid waste, and by implementing State laws concerning recycling of waste generated at large events and large venues.

Staff began implementing some of the provisions of the recycling component for large event venues this summer. Most of the large events contract with the Sierra Conservation Project to implement their recycling program. Although these large events are a small component of the Town's overall waste stream, they do provide an opportunity to educate and train our guests that attend events that recycling opportunities are available and are being implemented.

Current Town Solid Waste Contracts

The Town currently has a franchise agreement with Mammoth Disposal for exclusive collection of solid waste in the community. Mammoth Disposal provides collection service, a cardboard recycle route to businesses requesting the service, and they operate the transfer station on Commerce Drive. They also collect, package as required, and ship solid waste and recyclables to the landfill or reprocessing facilities on a daily basis. In addition, they operate the buyback center, the recycling program at Vons and at the

transfer station, and provide other services related to the overall solid waste management program including picking up nuisance waste in the right of way and near dumpsters. The Town also contracts with the Sierra Conservation Project (SCP) to provide recycling pickup services at Town offices and facilities. SCP provides recycling services to many businesses in town and the Town Staff is working with SCP to implement a grant recently received from CalRecycle to expand recycling with new bear resistant collection containers.

FINANCIAL CONSIDERATIONS:

Costs associated with implementing these new ordinances will be part of the Public Works work program to monitor and maintain the Towns solid waste program in compliances with State requirements. The ordinances also have provisions that allow fees to be collected to cover the Towns cost of implementing the programs.

STAFFING CONSIDERATIONS:

Staffing for management of the solid waste program will be included in the Public Works Engineering Services work program.

ENVIRONMENTAL CONSIDERATIONS:

Adoption of Municipal Code changes and additions are exempt pursuant to Public Resources Code section 21080(b)(15) and State CEQA Guidelines Section 15060(c)(2) – not a project.

LEGAL CONSIDERATIONS:

The Town Attorney has reviewed the solid waste chapter updates and his comments have been incorporated into the document.

Attachments:

- (1) Attachment 1: Planning and Economic Development Commission
Resolution 14-12
- (2) Attachment 2: Draft Ordinance Amending Chapter 8.12 – SOLID WASTE
MANAGEMENT
- (3) Attachment 3: Draft Ordinance Adding Chapter 8.14 – SOLID WASTE
RECYCLING

RESOLUTION NO. PEDC 14-12

**A RESOLUTION OF THE TOWN OF MAMMOTH LAKES PLANNING AND
ECONOMIC DEVELOPMENT COMMISSION
RECOMMENDING TO TOWN COUNCIL ADOPTION OF
OF AN ORDINANCE AMENDING CHAPTER 8.12 - REFUSE DISPOSAL AND AN
ORDINANCE ADDING CHAPTER 8.14 - SOLID WASTE RECYCLING TO THE
MUNICIPAL CODE OF THE TOWN OF MAMMOTH LAKES, CALIFORNIA.**

WHEREAS, the Planning and Economic Development Commission conducted a noticed public meeting on amending Chapter 8.12 and adding Chapter 8.14 of the Municipal Code on November 12, 2014, at which time all those desiring to be heard were heard; and

WHEREAS, the Planning and Economic Development Commission considered, without limitation:

1. The Staff Report to the Planning and Economic Development Commission with exhibits;
2. The General Plan and Municipal Code;
3. Oral evidence submitted at the hearing; and
4. Written evidence submitted prior to or at the hearing.

**NOW THEREFORE, THE PLANNING AND ECONOMIC DEVELOPMENT
COMMISSION OF THE TOWN OF MAMMOTH LAKES DOES HEREBY RESOLVE,
DETERMINE, FIND AND ORDER AS FOLLOWS:**

SECTION 1. FINDINGS

- A. The proposed amendments and additions are not a project and are exempt from CEQA pursuant to Public Resources Code Section 21080(b)(8) and State CEQA Guidelines Section 15273.
- B. The changes are consistent with the goals, objectives and policies of the General Plan and Title 8 of the Municipal Code because the amendments to Chapter 8.12 Refuse Disposal and the addition of Chapter 8.14 Solid Waste Recycling will advance community recycling programs and requirements.
- C. The changes are in the interest of or will further the public health, safety, comfort, convenience and welfare with the adoption of amendments to Chapter 8.12 Refuse and Solid Waste Disposal and Management and the addition of Chapter 8.14 Solid Waste Recycling that will bring the Municipal Code into compliance with the General Plan and will result in improved enforcement tools to promote compliance; and will provide standards with regards to commercial, multifamily residential projects (5 units or more), and large scale venue recycling.

SECTION 2. PLANNING AND ECONOMIC DEVELOPMENT COMMISSION ACTIONS

The Planning and Economic Development Commission hereby takes the following actions:

1. Recommend to the Town Council adoption of the required CEQA finding; and
2. Recommend to the Town Council adoption of the General Plan findings; and
3. Recommend to the Town Council adoption of the Ordinances amending Chapter 8.12 - Refuse Disposal (Attachment 2, including the name change to Solid Waste Management) and adding Chapter 8.14 Solid Waste Recycling (Attachment 3), generally as set forth in Attachments 2 and 3 but with updates from the Town Attorney and Town staff.

PASSED AND ADOPTED this 12th day of November 2014, by the following vote,
to wit:

AYES: Brown, Harvey, Tenny, Grahek, Vanderhurst

NAYS: none

ABSENT: none

ABSTAIN: none

ATTEST:

Sandra Moberly
Planning Manager

Madeleine "Mickey" Brown, Vice-Chair
of the Town of Mammoth Lakes Planning and
Economic Development Commission

NOTE: This action is subject to Chapter 17.104 of the Municipal Code, which specifies time limits for legal challenges.

ORDINANCE NUMBER 14-_____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA,
AMENDING THE MUNICIPAL CODE BY THE ADOPTION OF
AMENDMENTS TO CHAPTER 8.12 REFUSE DISPOSAL**

WHEREAS, the California Integrated Waste Management Act of 1989 as amended, commonly referred to as Assembly Bill 939 ("AB 939" or the "Act"), codified in substantial part at Public Resources Code § 40000 et. seq., authorizes cities to regulate the manner of collection and disposal of solid waste; and

WHEREAS, pursuant to its authority under the Act, the Mammoth Lakes Town Council has adopted ordinances codified in Chapter 8.12 of the Mammoth Lakes Municipal Code regulating solid waste collection; and

WHEREAS, it is hereby declared to be in the interest of the public health, sanitation, safety and welfare of all residents of the Town of Mammoth Lakes ("Town"), and the policy of the Town, that the accumulation, preparation, storage, collection, transportation and disposal of municipal solid waste, yard waste, and recyclable materials in the Town be handled in a safe, sanitary, routine and efficient manner so as to maximize the reduction, reuse, recycling and composting of materials that otherwise would become municipal solid waste; to preserve and maximize landfill disposal capacity; to maintain the good condition, cleanliness and safety of town rights-of-way; to comply with state law; to prevent the harboring and breeding of rodents and insects and other pests; to reduce contamination of the environment by the unauthorized burying, burning, or putrefaction of such materials; to prevent the spread of diseases associated with unsanitary disposal practices; and

WHEREAS, the Town has been working with the California Department of Resources, Recycling and Recovery ("CalRecycle") and making "best efforts" to increase solid waste diversions to meet State diversion requirements; and

WHEREAS, CalRecycle has identified several areas where improvements and public education can be improved in the Town overall solid waste program; and

WHEREAS, the Town Council wishes to amend Chapter 8.12 to incorporate additional definitions, provide additional enforcement tools, and improve the current practices for solid waste collection; and

WHEREAS, the Town Council has determined that the public health, safety and welfare of the residents of the Town will be promoted and the environmental quality of the Town and surrounding areas will be preserved and maintained through these amendments to Chapter 8.12.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The above recitals are all true and correct.

Section 2. Adoption of Amendments. The Town Council hereby amends the Mammoth Lakes Municipal Code by amending Chapter 8.12 thereto by: (i) retitling the chapter as “Solid Waste Management”; (ii) amending sections 8.12.010, 8.12.020, 8.12.170, 8.12.210, 8.12.330, 8.12.350, and 8.12.360; and (iii) enacting new sections 8.12.011 and 8.12.370, all as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance, or any part thereof, is held invalid or unconstitutional, then such decision shall not affect the validity of the remaining sections or portions of this ordinance or part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the fact that any one or more sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 4. Effective Date. The Mayor shall sign and the Town Clerk shall certify passage and adoption of this ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this ordinance shall take effect thirty days after its final passage.

ADOPTED, SIGNED and APPROVED this ____ day of December, 2014.

JO BACON, Mayor

ATTEST:

JAMIE GRAY, Town Clerk

EXHIBIT "A"
ORDINANCE NUMBER 14-____

**AMENDING CHAPTER 8.12 OF THE
TOWN OF MAMMOTH LAKES MUNICIPAL CODE**

1. The title of Chapter 8.12 is hereby changed from "Refuse Disposal" to "Solid Waste Management".
2. Section 8.12.010 of the Mammoth Lakes Municipal Code is hereby amended to read in full as follows:

8.12.010 – Definitions.

Whenever in this chapter the words defined in this section are used, they shall, unless the context requires otherwise, be deemed to have the following meanings:

"AB 939" means the California Integrated Waste Management Act of 1989, codified in Public Resources Code Section 40000 et seq., as it may be amended from time to time.

"Bear box" means a metal or other similar durable material structure or container used to house one or more garbage cans and designed to prevent bears and other wildlife from accessing the enclosed garbage can or cans.

"Bear-resistant container" means a securable container constructed of solid material capable of withstanding energy applied by direct impact and not having any unsecured openings that would allow a bear to gain entry by biting or pulling with its claws.

"Bulky Waste" means large items of solid waste such as appliances, furniture, large auto parts, and other similar waste, materials with weights and volumes greater than those allowed in waste collection bins, carts or other containers.

"Collection" means the operation of gathering together and transporting to the point of disposal or processing any garbage, refuse, rubbish, solid waste, recyclable, transformable, or compostable waste materials.

"Collection Premises" means every improved property, including but not limited to, every Single-Family Unit and Multi-Family Unit usable for human habitation

whether or not inhabited, and all commercial and industrial premises usable for business purposes.

“Commercial Solid Waste” includes all types of solid waste generated by commercial, industrial, governmental and other non-residential sources, which have been placed in an authorized Solid Waste container used for the temporary storage of Solid Waste awaiting pickup. The term “Commercial Solid Waste” does not include Hazardous Substances or Medical and Special Waste.

"Combustible rubbish" includes paper, rags, discarded household bedding, excelsior or other packing materials, cartons, boxes and containers of wood or fiber, sawdust or shavings from lumberyards, mills, factories or ships, lumber scraps, wood or wooden articles, grass, trees, plants, vines and the prunings thereof, but shall not include dirt, sweepings, plaster or other building materials, whether combustible or noncombustible, resulting from the repairing or demolishing of old buildings or resulting from new construction.

"Cooking waste" means fats, oil, grease, and other substances generated by restaurants and other establishments and used in the preparation of food, which cannot be disposed of with other garbage and must be collected separately from other garbage.

“Contractor” means the company or entity the Town has contracted with or authorized to provide solid waste services to collect, remove, transport, process or dispose of solid waste or recyclable materials within the Town Municipal Boundaries.

"Garbage" means all animal and vegetable refuse from kitchens of households, restaurants, stores, markets, warehouses and delivery vehicles, all household waste which has been prepared for or used for food, or has resulted from the accumulation of animal, vegetable and other matter that attends the preparation, consumption, decay, dealing in or storage of meats, fish, fruits or vegetables, and shall include all garbage which shall have resulted from the sorting or the commercial preparation or processing of food products by any food manufacturer or distributor.

"Garbage can" means a watertight, durable metal or plastic container with a tight-fitting lid designed to temporarily store garbage, waste or rubbish.

“Hazardous Waste or Materials” means any and all of the following:

(a) Wastes, materials or substances defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act, as amended, including the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.) as amended from time to time, regulations promulgated thereunder, or other Title 6-10 applicable federal law;

(b) Wastes, materials or substances defined or characterized from time to time as hazardous waste by any agency of the State of California having jurisdiction over hazardous waste generated by facilities within the State, and pursuant to any other applicable government regulations;

(c) Wastes, materials or substances, the storage, treatment, transportation or disposal of which is subject to regulation under the Toxic Substances Control Act, 15 U.S.C. §2601-2654, as amended from time to time, regulations promulgated thereunder, or other applicable federal law.

(d) Radioactive wastes, materials, substances or items, the storage, treatment, transportation or disposal of which is subject to governmental regulations; and

(e) Wastes, materials, substances or items which contain polychlorinated biphenyls.

The term "Hazardous Waste" will be construed to have the broader, more encompassing definition where a conflict exists in the definitions employed by two or more governmental entities having concurrent or overlapping jurisdiction over hazardous waste.

"Industrial Solid Waste" means all Solid Waste and semi-solid waste which results from industrial processes and manufacturing operations.

"Medical Waste" means solid waste or other materials, substances or items which may be reasonably considered infectious, pathological or bio hazardous, originating from hospitals, public or private medical clinics, departments of research laboratories, pharmaceutical industries, blood banks, forensic medical departments, medical offices, mortuaries, veterinary facilities and other similar facilities, and includes, without limitation, equipment, instruments, utensils, fomites, laboratory waste (including pathological specimens and fomites attendant thereto), surgical facilities, equipment, bedding and utensils (including pathological specimens and disposal fomites attendant thereto), sharps (hypodermic needles, syringes, etc.), dialysis unit waste, chemotherapeutic waste, animal carcasses, offal and body parts, biological materials (vaccines, medicines, etc.), and other similar materials, but excluding any such waste which is determined by evidence reasonably satisfactory to the Town to have been rendered non-infectious, non-pathological and non-bio hazardous.

"Multi-Family Units" mean a dwelling which includes four or more individual living units under single or multiple condominium project ownership. NOTE: this definition applies for purposes of this Chapter 8.12 only; Title 17 of this Code defines multi-family units differently for purposes of zoning and land use.

"Noncombustible rubbish" includes, among other things, ashes weighing not over seventy pounds with container, bottles, broken glass, crockery, earthenware, tin cans, tin ware, wire, wire netting, and other articles of discarded metal or stone of less than twenty pounds in weight each, automobile tires and tubes, batteries, metal kegs, barrels, or casks, but shall not include dirt sweepings, rocks or stones as such, or bricks, plaster, mortar or other building materials, whether combustible or noncombustible, resulting from the repairing or demolishing of old buildings or resulting from new construction.

"Owner" shall conclusively be deemed to be the person to whom the taxes on the property are assessed as shown on the last equalized assessment roll of the County, or

alternatively, from such records of the County assessor or tax collector as contain more recent information.

“Occupant” means any person actually occupying any premises within the territorial boundaries of the Town either as owner or tenant, by contract or otherwise, including persons or businesses occupying or using any industrial or commercial premises.

“Recyclables or Recyclable Material” means used residential or business materials which may be returned to the economic mainstream as commodities for reuse, or for reprocessing to create new or reconstituted products, which, if not segregated from solid waste, would otherwise become solid waste consistent with the requirements of AB 939. These materials include but are not limited to glass, metal, paper, cardboard, plastic or other materials which have been segregated from garbage and rubbish for the purpose of depositing at a designated collection location, including a curbside location, for collection and transportation to recycling or transfer station facilities.

“Residential Solid Waste” means all types of Solid Waste, which originate from Single-Family Units and from Multi-Family Units.

“Single-Family Unit” means a single-family dwelling, a two unit dwelling, or a three unit dwelling.

“Solid Waste” means all “Solid Waste” as defined in Section 40191 of the California Public Resources Code, as that section may be amended from time to time, which is generated within the town. Solid Waste means all putrescible and nonputrescible solid, semisolid and liquid wastes, including residential, industrial, commercial and municipal garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, Recyclable Materials, discarded “home and industrial appliances”, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semi-solid wastes, but does not include Hazardous Waste, Medical Waste, and Special Waste.

“Special Wastes” means any designated wastes, as defined in Title 23 California Code of Regulations §2522, and special handling waste generated by industrial facilities or processes, but shall not include “hazardous waste” as defined herein. Special Wastes shall include: asbestos, sewage sludge, water treatment sludge, drilling muds, grease wastes, contaminated soils, shredder waste, agricultural wastes, filter cake/dewatered sludge, spent catalyst fines, refinery ash and byproducts; except where any such wastes are deemed to be hazardous waste.

“Yard Waste” means any leaves, pine needles, yard trimmings, tree limbs and dry grass (not green or wet) that is no more than four (4) feet in length and four (4) inches in diameter.

3. Section 8.12.020 of the Mammoth Lakes Municipal Code is hereby amended to read in full as follows:

8.12.020 – Disposal Restrictions and Unlawful Acts.

A. It is unlawful for any person to place or dump or procure any other person to place or dump any garbage, swill, refuse, cans, bottles, paper or vegetable matter, or the carcass of any dead animal, or offal from any slaughter pen or butcher shop, or other trash or rubbish, or any wrecked or abandoned vehicle, or any offensive, unsightly or decaying matter of any kind whatsoever on the right-of-way of any public highway, street or thoroughfare, or upon any camping place or public grounds, or into or upon the banks of any stream or dry watercourse within the Town, or the property of any person, or any other site except an approved dump, garbage pit or refuse transfer station.

B. Except as authorized by this chapter or other Town ordinance or regulation:

1. No person shall interfere with or obstruct the authorized activities of a solid waste collector, authorized recycling collector, in the collection, transportation or disposal of solid waste.
2. No person shall deposit or permit to be deposited on, over, or along, any public road, highway, right of way or public or private property within the boundaries of the Town any solid waste or litter except in containers or in areas lawfully provided for or permitted for that use.
3. The existence or accumulation, without the authority of the Town, of solid waste, litter, trash, scrap materials, junk parts, garbage or refuse of any kind upon private property shall be prohibited. It shall be unlawful to allow accumulations of wastepaper, litter or combustible or flammable waste materials or rubbish of any kind to remain in any court, yard, vacant lot, or open space.
4. It shall be unlawful for any owner, manager, or employee of a commercial establishment or institution to deposit solid waste from the establishment or institution in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.
5. No person shall dump, deposit, or otherwise dispose of any hazardous or medical waste onto land, into soil, rock, air, or water or at unauthorized disposal sites, transfer stations, resource recovery facilities, transformation facilities, buy back centers, drop off recycling centers, or any container to be collected and ultimately deposited, unless otherwise approved in advance and in writing by the Town.
6. No person shall burn or incinerate solid waste except as permitted by the Mammoth Lakes Fire Protection District or other agencies having jurisdiction.
7. No person shall tamper with, modify, remove from, or deposit solid waste or recyclable materials in any container which has not been provided for his/her use, without the permission of the container owner.
8. No person shall store or accumulate any solid waste, nor permit the storage or accumulation of any solid waste within or upon any property or place owned, leased or rented by such person or in such person's possession or control.

9. No person shall place any solid waste in or upon any premises in the Town other than the collection premises where such solid waste is generated.
10. No person shall permit any premises owned, leased or rented by such person or in such person's possession or control to be used for the storage or accumulation of any solid waste other than solid waste generated on such premises.
11. No person shall place any solid waste on or in any public place or public property including without limitation any street, way, sidewalk, gutter, stream or creek or the banks thereof.
12. No person shall dispose of any solid waste, nor permit the disposal of any solid waste, on any premises owned, leased or rented by such person or in such person's possession or control.
13. No person shall sort, separate or segregate any solid waste of any kind within or upon any public street or place, unless so authorized by the Town, and then only in the manner, place and time and subject to such restrictions as may be imposed by the Town.
14. No person shall place solid waste upon the land of another, or in a residential or commercial solid waste receptacle of another, or upon premises other than those from which the solid waste originated, for the purpose of making solid waste available for collection and disposal.
15. No person shall, other than the owner or a person or company operating under the authority of a franchise agreement or contract with the Town for the collection of solid waste or recyclable materials, tamper with, modify, or deposit solid wastes into recyclable materials that have been segregated from non-recyclable wastes and placed at a designated collection location for the purpose of collection and recycling. Unless otherwise provided by applicable law, all recyclable materials, which are segregated from non-recyclable wastes for the purpose of recycling, and placed at a designated collection location, may not be removed by anyone other than a person or company operating under the authority of a franchise agreement or contract with the Town for the collection of recyclable materials.
16. Any and all garbage generated within or upon any premises in the Town shall be placed without delay in garbage containers authorized by this chapter, shall be stored in such containers on the premises where generated until disposed of in accordance with the provisions of this chapter.
17. No person shall keep or accumulate, or permit to be kept or accumulated, any solid waste in or upon any premises or place in the Town owned, leased or rented by such person or in such person's possession or control, in such manner that:
 - a. Creates a fire hazard dangerous to persons or property;
 - b. Becomes unreasonably offensive or dangerous to the public peace, health or safety;
 - c. Promotes the propagation, harborage or attraction of vectors;
 - d. Becomes a public or private nuisance; or
 - e. Are a toxic or otherwise contaminated liquid.

C. The following requirements shall apply to the collection and transportation of solid waste:

1. No person shall collect or transport any solid waste within or upon any public streets in the Town, or anywhere in the Town, except in leak-proof containers or vehicles so constructed that no solid waste can leak, fall, or be blown from such container or vehicle.
 2. Vehicles or containers used to collect or transport garbage, rubbish, or other refuse shall be kept completely covered or screened at all times except when solid waste is being actually loaded or unloaded and except when the vehicles are moving along a collection route in the course of collection.
 3. Vehicles used to collect or transport garbage, rubbish, or other refuse shall be labeled with the company's name and telephone number and a unique vehicle number in letters and numbers not less than four inches high painted or stenciled on the vehicle in a location that is clearly visible to the public.
 4. Vehicles used to collect or transport garbage, rubbish, cannery waste, stable matter or swill shall be maintained in such manner as to meet or exceed vehicle emission standards promulgated by the State of California.
 5. Collection and transportation of any solid waste shall be so conducted that no solid waste will spill out of the collecting or transporting container or vehicle. Any person collecting or transporting any solid waste shall immediately pick up all solid waste which spills or is blown from the collecting or transporting container or vehicle, and shall otherwise clean the place onto which any such solid waste was spilled or blown.
 6. No person shall transport or permit to be transported into the Town any solid waste of any kind generated or accumulated outside the Town, for the purpose of storing or disposing of it in the Town, and no person shall store or dispose of any solid waste transported or brought into the Town from outside the Town, except as follows:
 - (a) Solid waste may be transported directly to a solid waste disposal facility for final deposition at such facility site.
 - (b) Solid waste may be transported directly to a solid waste transfer/processing station in order to transfer it directly from smaller to larger vehicles for transport, or for temporary storage, separation or other processing of the materials in the solid waste.
4. Section 8.12.011 is hereby added to the Mammoth Lakes Municipal Code to read in full as follows:

8.12.011 Authority of Town to Classify Materials.

The Town shall have the authority and discretion to designate from time to time the materials or types of materials that shall be classified and collected as municipal solid waste, recyclables and yard waste, respectively, if it determines that such designation or re-designation is in the public interest, including but not limited to a determination that such designation or re-designation would be prudent in light of changes in methods, technology and/or markets for materials recovery.

5. Section 8.12.017 of the Mammoth Lakes Municipal Code is hereby amended to read in full as follows:

8.12.017 Collection from residential establishment.

Any parcel containing one or two dwelling units shall be required to pay and utilize either the residential bin program or the transfer station self-haul disposal program as described in the agreement between the Town and the refuse disposal contractor and shall have the option of subscribing to curbside or side yard pick-up service. Any parcel that contains three or more dwelling units shall be required to subscribe to commercial bin service. All condominium projects, trailer parks, mobile home parks, planned unit developments and townhouses shall be required to subscribe to commercial bin service. All motels, hotels, lodges and inns shall be required to subscribe to commercial bin service.

6. Section 8.12.210 of the Mammoth Lakes Municipal Code is hereby amended to read in full as follows:

8.12.210 Covers on receptacle required.

All containers or receptacles for the collection of recyclable materials and other solid waste which are not located inside a bear box shall be bear-resistant and shall be kept secured at all times, except when recyclable materials or other solid waste is being deposited therein or removed therefrom, and shall at all times be protected against the access of wildlife. The owner, occupant(s), and/or manager of the property where a container or receptacle is located shall be jointly and severally responsible for compliance with these requirements.

7. Section 8.12.330 of the Mammoth Lakes Municipal Code is hereby amended to read in full as follows:

8.12.330 Fee Payment Liability.

A. Each owner, occupant or person in possession, charge or control of a parcel of property upon which there exists a residential unit or units or commercial enterprise within the town is made liable for the payment of the refuse disposal fees levied against such premises for required refuse disposal, irrespective of the actual use of the refuse collection services provided by the town or its authorized removal contractor. Services made available to those premises required to receive such services shall be considered as services utilized. It shall be the duty of the owner of such premises to provide for payment of the refuse collection and disposal fees to the authorized contractor. Citations issued under this chapter for violations by occupants, tenants, lessees, or sub lessees of the collection premises, or agents, guests, or other representatives of the property owner, may be issued to the property owner for disposition and collection of fees and or fines, and may be personally delivered to the recipient or sent by certified

mail to the address of the property in question or to the address of the owner of the property as shown on the county tax roll.

B. Nothing in this section shall prevent an arrangement for the continuance of an existing arrangement under which payments of refuse collection fees are made by a tenant or tenants or any agent on behalf of the owner. Any such arrangement will not affect the owner's obligation to the town or its authorized removal contractor.

8. Section 8.12.350 of the Mammoth Lakes Municipal Code is hereby amended by amending paragraph A thereof to read as follows:

A. The town manager, or his designee, acting in behalf of the town, shall determine exemptions to mandatory service where there is no possibility that solid waste will be generated by or upon a parcel or unit of real property. Exemptions shall not be granted unless there is evidence showing that the granting of the exemption will not be contrary to the intent of this chapter nor to the public health, safety and welfare, and, due to the special conditions or exceptional characteristics of the property or its location, the strict application of this chapter would result in practical difficulties and unnecessary hardships. No exemption will be granted for a vacant residential, commercial, or industrial unit, and no exemption shall be granted for a period longer than one year. The expiration of an exemption shall not be deemed a revocation for purposes of paragraphs C and D of this section.

9. Section 8.12.360 of the Mammoth Lakes Municipal Code is hereby amended to read in full as follows:

8.12.360 – Violations.

(a) All violations of any portion of this chapter are declared to be a public nuisance and may be abated by the Town in such manner as provided by law. All violations of any portion of this chapter are declared to be misdemeanors or infractions, pursuant to section 1.12.010. The remedies set forth in this chapter are non-exclusive and the town may seek any and all legal and equitable relief permitted by law in addition to those remedies set forth in this chapter.

(b) Whenever necessary to make an inspection of any building, structure or premises for the enforcement of this chapter, or whenever the Town Manager has cause to believe that there exists any condition which endangers the public health, the Town Manager or his/her designee is authorized to request entry to such building, structure or premises at all reasonable times to inspect the same and to exercise any power or authority or to perform any duty imposed under this chapter.

(c) The right to request entry authorized by this section shall be subject to the following requirements:

- (i) If the building, structure or premises is occupied, the Town Manager or his/her designee shall first present proper credentials, explain the purpose for which entrance is desired, and request entry. In all cases entry shall be permitted to areas open to the public generally;
- (ii) If such property is unoccupied, a reasonable effort to locate the owner or other persons having charge or control of the property shall be made to present proper credentials, explain the purpose for which entrance is desired, and request entry; and
- (iii) In no case shall the Town Manager or his/her designee enter upon areas of private property not open to the public without the consent of the owner, a lawful occupant, or an authorized representative of the owner or a lawful occupant. If consent cannot be obtained, a search warrant, abatement warrant, or other court-issued authority for entry shall be obtained prior to entry.

10. Section 8.12.370 of the Mammoth Lakes Municipal Code is hereby added to read in full as follows:

“8.12.370 – Composting.

Waste organic matter may be composted provided that the composting:

- (a) Is conducted in accordance with accepted composting practices;
- (b) Is conducted in accordance with applicable federal, state and local laws and regulations;
- (c) Does not generate offensive odors or provide a source of food or harborage for vermin; and
- (d) Does not create a public or private nuisance.

Any individual generator may choose to compost their own organic material in compliance with this section without reliance on the town’s solid waste or recycling franchisee or contractor.

ORDINANCE NUMBER 14-_____**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
MAMMOTH LAKES, COUNTY OF MONO, STATE OF
CALIFORNIA, AMENDING THE MUNICIPAL CODE BY THE
ADOPTION OF CHAPTER 8.14 SOLID WASTE RECYCLING**

WHEREAS, the California Integrated Waste Management Act of 1989 as amended, commonly referred to as Assembly Bill 939 (“AB 939” or the “Act”), codified in substantial part at Public Resources Code § 40000 et. seq., authorizes cities to regulate the manner of collection and disposal of solid waste; and

WHEREAS, pursuant to its authority under the Act, the Mammoth Lakes Town Council has adopted ordinances codified in Chapter 8.12 of the Mammoth Lakes Municipal Code regulating solid waste collection; and

WHEREAS, it is hereby declared to be in the interest of the public health, sanitation, safety and welfare of all residents of the Town of Mammoth Lakes (“Town”), and the policy of the Town, that the accumulation, preparation, storage, collection, transportation and disposal of municipal solid waste, yard waste, and recyclable materials in the Town of Mammoth Lakes be handled in a safe, sanitary, routine and efficient manner so as to maximize the reduction, reuse, recycling and composting of materials that otherwise would become municipal solid waste; to preserve and maximize landfill disposal capacity; to maintain the good condition, cleanliness and safety of Town rights-of-way; to comply with state law; to prevent the harboring and breeding of rodents and insects and other pests; to reduce contamination of the environment by the unauthorized burying, burning, or putrefaction of such materials; to prevent the spread of diseases associated with unsanitary disposal practices; and

WHEREAS, the Town of Mammoth Lakes has been working with California Department of Resources, Recycling and Recovery hereafter referred as (“CalRecycle”) and making “best efforts” to increase solid waste diversions to meet State diversion requirements; and

WHEREAS, CalRecycle has identified several areas where implementation of programs and public education can be improved in the Town’s overall solid waste program and in diversion efforts that are required by State law; and

WHEREAS, the Town Council wishes to add Chapter 8.14 to reflect the current requirements for solid waste collection and recycling; and

WHEREAS, the Town Council has determined that the public health, safety and welfare of the residents of the Town will be promoted and the environmental quality of the Town and surrounding areas will be preserved and maintained through the adoption of Chapter 8.14.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The above recitals are all true and correct.

Section 2. Adoption of Amendments. The Town Council hereby amends the Mammoth Lakes Municipal Code by adding Chapter 8.14 thereto, as set forth in Exhibit "A" attached hereto and incorporated herein by reference.

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance, or any part thereof, is held invalid or unconstitutional, then such decision shall not affect the validity of the remaining sections or portions of this ordinance or part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the fact that any one or more sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 4. Effective Date. The Mayor shall sign and the Town Clerk shall certify passage and adoption of this ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this ordinance shall take effect thirty days after its final passage.

ADOPTED, SIGNED and APPROVED this ____ day of December, 2014.

JO BACON, Mayor

ATTEST:

JAMIE GRAY, Town Clerk

EXHIBIT “A”

CHAPTER 8.14 - SOLID WASTE RECYCLING

8.14.010 Purpose.

It is the intent and purpose of this chapter to require recycling to enable the Town of Mammoth Lakes to comply with State of California waste diversion requirements and to work toward enhancing the Town’s ability to meet future State policy goals for waste diversion rates. This chapter meets this purpose by requiring businesses and multi-family housing complexes to make efforts to separate recyclable materials from all other solid waste and by implementing state laws concerning recycling of waste generated at large events and large venues.

8.14.020 Definitions.

Whenever in this chapter the words defined in this section are used, they shall, unless the context requires otherwise, be deemed to have the following meanings:

"Alternative recycler" means a firm, partnership, corporation or other entity, other than an authorized contractor, with which a customer contracts for the removal from the customer's premises of specified recyclable materials generated by the customer and which pays the customer for the recyclable materials, or which accepts donations of recyclable materials from customers; in no case shall an alternative recycler charge or collect any fee or charge from a customer for the collection or processing of recyclables.

"Approved recycling container" means a recycling cart or other wheeled container, front-load bin, or other container provided by an authorized contractor or an alternative recycler or approved by the Town for the collection and removal of recyclable materials.

"Authorized contractor" means a firm, partnership, corporation or other entity authorized under and by virtue of a contract with the Town to collect recyclable materials within the town limits.

"Business" means any commercial or public entity, including, but not limited to, a firm, partnership, proprietorship, joint-stock company, corporation, or association that is organized as a for-profit or nonprofit entity, property complex containing two or more commercial entities, industrial facility, special district or a federal, local, or regional agency or facility. In addition, to the extent that applicable law allows the Town to regulate the disposal of waste by schools, school districts, and state agencies, such organizations shall be considered businesses for the purpose of this chapter.

"Commercial solid waste" means all types of solid waste, including recyclable materials, that are discarded from businesses (as defined) but does not include industrial waste.

"Covered generator" means an entity that is subject to the Town's commercial recycling program requirements and includes:

- (a) Any business as defined in this chapter that generates four cubic yards or more of commercial solid waste per week; and
- (b) Any multi-family residential property as defined in this chapter.

"Customer" means:

- (a) A residential property owner or occupant; or
- (b) A business or multi-family residential property owner or generator that contracts for recyclable material removal services with an authorized contractor or alternative recycler. Where several businesses or multi-family residential properties share waste containers or service, "customer" refers only to the party that enters into a contract for removal services.

"Generator" means each residential property owner or occupant, business, or multi-family residential property that generates recyclable materials as a result of its activities.

"Industrial waste" means the solid wastes and semi-solid wastes that result from industrial processes and manufacturing operations.

"Multi-family residential property" means five or more residential dwelling units (as described by Title 14 Section 18836(a)(2) of the California Code of Regulations) located on a single parcel of land, including any mobile home park, located within the town.

"Recyclable material" means material such as, but not limited to, newspapers, glass, metal and aluminum cans, plastic bottles, corrugated cardboard and used motor oil which is separated from other waste or refuse for the purpose of recycling.

"Recycling" means the process of collecting and turning used products into new products by reprocessing or remanufacturing them.

"Recycling center" means an operation, including a place, mobile unit, reverse vending machine, or other device, which is certified by the state of California and which accepts from consumers, and pays or provides the refund value for, empty beverage containers intended to be recycled.

"Self-hauling" means a covered generator transporting its own waste and/or recyclable materials rather than contracting with an authorized contractor or an alternative recycler for that service.

"Self-hauling/exemption form" means the form provided by the Public Works Director or his or her designee on which a covered generator certifies that it is exempt from the requirements of the commercial recycling program as set forth in Section 8.14.040, it is using an alternative recycler, or it will be self-hauling and its activities will be completed in accordance with the provisions of this chapter and any other applicable law or regulation.

"Source separating" or "source separation" means the process of removing recyclable materials from solid waste at the place of generation, prior to collection, and placing them into separate containers that are separately designated for recyclable materials.

8.14.030 General provisions.

(a) **Ownership of Recyclable Material.** Recyclable material placed at the curbside or other location for collection by an authorized contractor is the property of the customer until such time as it is collected for disposal, at which time it becomes the property of the authorized contractor.

(b) **Recyclable Material Collection and Service.**

(1) No person other than an authorized contractor or an alternative recycler shall remove recyclable materials which have been placed in an approved recycling container at the curbside or on the customer's premises. Any and each violation thereof from one or more recycling collection locations shall constitute a separate and distinct offense punishable as provided in this chapter.

(2) Subject to the limitations contained in Section 8.14.050, the Town Council may require all residents or any class of residents to obtain recyclable collection service from one or more authorized contractors. The Town Council may make such election by resolution or in any solid waste collection agreement entered by the Town and subject to such terms and conditions as the Town Council may prescribe.

(c) **Destroying, scattering, scavenging, or collecting recyclable material without the consent of the owner is prohibited.** It is unlawful for any person to burn, break, destroy, scatter, scavenge, collect, contaminate, or take any recyclable materials without the consent of the owner of the recyclable materials.

(d) **Approved Recycling Containers—Ownership and Unauthorized Removal.** It is unlawful for a person other than:

(1) The customer or his/her designee; or

(2) The Town; or

(3) An authorized agent of the Town; or

(4) The authorized contractor or alternative recycler to remove any approved recycling container from the customer's premises or curbside.

(e) **Right of Individual to Dispose of Recyclable Material.** Nothing in this chapter shall modify, limit, or abrogate in any manner the right of any individual person, organization, or any other entity to donate, sell, exchange at fair market value or otherwise dispose of recyclable material, provided that any such disposal is in accordance with the provisions of this chapter.

(f) **Placement of Recycling Containers.** No recycling containers or bins within the town shall be placed or located in such a manner that blocks or impedes vehicular or pedestrian traffic, falls within the designated visibility triangles (site distance), or obstructs egress from any building or property, whether or not such building or property may be abandoned or otherwise not in use.

(g) **Source Separation of Recyclable Material.** All residents and covered generators in the town shall make reasonable efforts to remove from the general waste stream by source

separation any material designated by the Town and/or an authorized contractor as recyclable material.

(h) Contamination of Recyclable Material.

(1) Recycling containers provided by the authorized contractor or the alternative recycler may not contain ten percent or more of non-recyclable materials (contaminants). Any customer which violates this requirement may be charged at the solid waste disposal rate for the disposal of that container. Any customer whose recyclable material was not collected because it contained contaminants is responsible for properly separating recyclable materials from the non-recyclable materials for collection and proper recycling.

(2) It shall be unlawful for an authorized contractor or alternative recycler to combine materials in solid waste bins or carts with materials in recycling bins or carts in one collection vehicle.

(i) Civil Action by Authorized Contractor or Alternative Recycler. Nothing in this chapter shall be deemed to limit the right of a person or entity under contract to the town to remove solid waste or recyclable materials, and/or an Alternative Recycler, to bring a civil action against any person who violates the above described sections of the chapter, nor shall a conviction for such violation exempt any person from a civil action brought by an authorized contractor.

8.14.040 Commercial recycling program—Requirements for covered generators.

(a) Each covered generator shall be responsible for ensuring and demonstrating compliance with the following requirements:

(1) Source separation of recyclable materials from the solid waste they are discarding;

(2) Providing for a basic level of recycling service that includes, at a minimum, the collection of recyclable materials; and

(3) Entering into a service agreement with an authorized contractor for the collection of recyclable materials; or completing a self-hauling/exemption form. The requirements for self-hauling may include, but are not limited to, maintaining written records demonstrating that all self-hauling activities have been completed in accordance with the standards imposed by the Town in this chapter.

(b) Each covered generator shall provide containers for designated recyclable materials in common areas where recyclable materials may be collected.

(c) Each covered generator shall ensure that designated recyclable materials generated at its site will be taken only to a recycling center, and not to a landfill for disposal, by complying with all the requirements of this chapter.

(d) Each covered generator shall prominently post and maintain one or more signs where designated recyclable materials are collected that set forth what materials are required to be source separated, in addition to collection procedures for such materials.

(e) No covered generator shall be liable for the failure of an authorized contractor or alternative recycler to deliver designated recyclable materials to a recycling center.

8.14.050 Exemptions to requirements for covered generators.

(a) Notwithstanding the requirements of this chapter or any other provision herein, a business with less than four cubic yards of waste per week or a residential property that is not a multi-family residential property as defined in this chapter shall not be subject to the requirements of Section 8.14.040.

(b) Any covered generator seeking to be exempted from the commercial recycling program requirements of Section 8.14.040, intending to conduct self-hauling of recyclable materials, or intending to contract with an alternative recycler instead of an authorized contractor must complete a self-hauling/exemption form annually. The Town Council may adopt a fee in conjunction with the self-hauling permit to cover associated review and State reporting costs. See Section 8.14.060 for self-hauling and self-hauling/exemption form requirements. The application for exemption shall be submitted to the Public Works Director, and/or his or her designee.

(c) A covered generator may be exempted by the Public Works Director, and/or his or her designee, if it demonstrates to the Public Works Director and/or his or her designee that there is no collection service or other system available within a reasonable area for recycling the waste material generated. If the Public Works Director, and/or his or her designee, determines that such a collection service or other system is available within a reasonable area, the Public Works Director and/or his or her designee may deny the exemption request, and the covered generator will be responsible for compliance with this chapter.

(d) A covered generator may be exempted by the Public Works Director, and/or his or her designee, if it is determined through a site visit requested by the covered generator:

(1) That there is not adequate storage space for approved recycling containers for recyclable materials on site and that it is infeasible for the covered generator to share approved recycling containers for designated recyclable materials with another covered generator on an adjoining property; or

(2) That compliance with this chapter results in a violation of the Town's zoning code, including Town zoning regulations for minimum parking spaces.

If the Public Works Director, and/or his or her designee, determines that it is feasible for recycling containers to be placed on site or shared with an adjoining generator, the covered generator will be responsible for compliance with this chapter.

(e) A covered generator may be exempted if utilizing other recycling efforts as approved by the Public Works Director, and/or his or her designee.

8.14.060 Self-hauling requirements for covered generators.

(a) A covered generator may transport the recyclable materials generated and collected at its premises by self-hauling to a recycling center, rather than using an authorized contractor or alternative recycler only if an owner, generator or employee of the covered generator completes this activity by utilizing a vehicle owned by either an employee or the entity.

(b) A covered generator that transports recyclable materials generated and collected at its premises to a recycling center without the utilization of an authorized contractor or alternative recycler must complete a self-hauling/exemption form that certifies that all

self-hauling activities will be completed in accordance with the provisions of all applicable laws and/or regulations. At a minimum, the covered generator shall provide the following information on the self-hauling/exemption form:

- (1) The name, address and telephone number of the covered generator that is signing the self-hauling/exemption form;
 - (2) A list of the types of recyclable materials being self-hauled;
 - (3) For each type of recyclable material, the estimated amount that is being taken to a recycling center quarterly;
 - (4) The name and address of the recycling center(s).
- (c) The self-hauling/exemption form shall contain a written statement signed by the covered generator's owner or manager certifying that the covered generator is in compliance with the requirements of this chapter.
- (d) Approval requirements for self-hauling may include, but are not limited to, requiring applicants to maintain written records demonstrating that all self-hauling activities have been completed in accordance with the standards imposed by the Town's commercial recycling program, as described in this chapter. These records shall be made available to the Public Works Director and/or his or her designee for review upon request.
- (e) The Public Works Director, and/or his or her designee, may restrict or prohibit self-hauling by a covered generator if the Public Works Director, and/or his or her designee, determines that the person's self-hauling activities violate the provisions of this chapter or any other applicable law or regulation.

8.14.070 Appeal upon denial of self-hauling/exemption application.

- (a) Within thirty days of written notification of denial of a self-hauling/exemption application, or within sixty days of Public Works Director's and/or his or her designee's failure to act on the application, the applicant has the right to meet with the Public Works Director, and/or his or her designee, to review the items cited in the written notice and provide any additional evidence to support approval. Within fifteen days of such meeting, the Public Works Director, and/or his or her designee, will make a final, written determination of the application based on the reviews of additional evidence, together with the original application. The Public Works Director, and/or his or her designee, will send a copy of all final, written determinations, including reasons for denial, if any, to both the applicant and the Town Manager.
- (b) Within ten days after receiving the final denial from the Public Works Director and/or his or her designee, the applicant may request that the Town Manager reconsider the determination by submitting a written appeal to the Town Manager. If the applicant's appeal includes a request for a meeting, the applicant has the right to meet with the Town Manager within thirty days of the written request to review the materials related to the application and the denial. The applicant shall have the burden of proof to show facts demonstrating that the applicant does, in fact, meet the requirements of this chapter. The Town Manager will provide the applicant with a written explanation of his or her determination on the application within thirty days of such meeting or, if no meeting is requested, within thirty days of receipt of the applicant's request for Town Manager review. The Town Manager's decision is final.

8.14.080 Large event and large venue recycling.

A. This section is intended to implement the requirements of California Public Resources Code Section 42648 et seq.

B. When issuing a permit to the operator of a venue or event which will serve or be attended by an average of more than 2,000 individuals for each day of operation (including both workers and guests or customers), the Town shall provide information to the operator on programs that can be implemented to reduce, reuse, and recycle solid waste materials generated at the venue or event. Each such venue or event shall submit a plan to the Town demonstrating that at least 50% of the solid waste generated by the venue or event shall be diverted from landfills through reuse or recycling. The Town may refuse to issue a permit for any event that fails to submit such a plan, and may require a deposit in the amount of \$500.00 prior to issuing a permit for such a venue or event to secure compliance with the diversion requirement set forth herein.

C. The Town may require each operator of a venue or event described in paragraph B above to submit, within 30 days following the end of the event, written documentation of waste reduction, reuse, recycling, and diversion programs implemented at the venue or event, and the type and weight of materials diverted and disposed at that venue or event. If the venue or event operator has failed to implement such programs or has failed to divert from landfills at least 50% of the solid waste generated at the venue or event, the operator shall include an explanation for failure as part of its report to the Town. The venue or event operator shall submit the requested information to the Town no later than one month from the date of the Town's request for the information. The Town shall refund the deposit described in paragraph B above for any venue or event which has achieved the diversion goal set forth herein, and may retain the deposit provided for any venue or event which has failed to achieve the diversion goal.

D. The Town may, by resolution adopted by the Town Council, impose a fee on the operator of any venue or event described in paragraph B above to recover the Town's costs incurred in complying with its obligations under state law regarding recycling at such venues and events.

8.14.090 Enforcement.

(a) Authority. The Public Works Director, and/or his or her designee is authorized to administer and enforce the provisions of this chapter. To the extent permitted by law, the Public Works Director and/or his or her designee may inspect any collection container, collection vehicle load, or receiving facility for collected trash or recyclable materials.

(b) Remedies. It is unlawful to violate any provision or requirement of this chapter. The failure to comply with any requirement of this chapter constitutes a violation of this

chapter. Each instance of a violation of this chapter is a separate offense. Violations of the provisions or requirements of this chapter may be prosecuted as an infraction or misdemeanor subject to the penalties provided in this code or the Public Works Director may issue an administrative citation as provided in this code.

(c) Remedies Cumulative. Remedies under this section are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(d) Strict Liability. Violations of this chapter shall be treated as strict liability offenses regardless of intent.

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