SUBJECT: SET PUBLIC HEARING FOR CONSIDERATION OF SOLID WASTE ORDINANCE REVISIONS

SOURCE: COMMUNITY DEVELOPMENT AND SERVICES DEPARTMENT - FIELD SERVICES DIVISION

COMMENT: The purpose of chapter 13 of the City of Porterville Code is to regulate the collection, transportation, and disposal of solid waste (Garbage and Refuse) in order to protect the public safety, health and welfare and to enhance the environment of the people of Porterville.

Revisions to the ordinance are required from time to time in order to facilitate modifications to the City’s solid waste programs such as state mandates on waste diversion and recycling. Some of the ordinance changes deal with the collection and disposition of recyclable materials generated within the City and to establish reporting requirements and guidelines to minimize the amount of such recyclable material going to the landfill.

Other changes to the ordinance include updating language to industry standard terminology and corresponding definitions thereof, the creation of non-exclusive franchise for recycling haulers; the creation of fees for green waste contamination and special service requests from the citizens of the community and an expansion in the identification of unlawful acts; and establishing minimum levels of service in order to protect public safety, health and welfare.

Ordinance revisions require a public hearing to solicit comments on such matters. Staff recommends Council set a public hearing for September 17, 2002 to allow for the required notification of the public.

RECOMMENDATION: That the City Council: Set a public hearing for September 17, 2002 to consider changes to Chapter 13, Garbage and Refuse, of the City’s Municipal Code.

Attachments: (1) Ordinance
(2) Staff Report
ORDINANCE NO. _________

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF PORTERVILLE TO REGULATE THE COLLECTION,
TRANSPORT, AND DISPOSAL OF SOLID WASTE AND RECYCLABLES

Sec. 13-1. Declaration of policy.

It is hereby declared to be the purpose of this chapter to regulate the collection, transport, and disposal of solid waste in order to protect the public safety, health and welfare and to enhance the environment of the people of Porterville. Further, it is the purpose of this Ordinance to regulate the collection and disposition of recyclables generated within the City and to establish reporting requirements and guidelines that shall be followed by licensees to minimize the amount of such recyclables deposited into landfills.

Sec. 13-2. Definitions:

For the purpose of this chapter, the following words and phrases shall have the meanings given herein unless their use in the text of this chapter clearly demonstrates a different meaning:

1. Alley service shall mean such service where solid waste containers are placed at the property line in through alleys.

2. Bin container service shall mean a stationary container supported on casters or skids and approved by the Community Development Director City Manager, or his designee, for mechanical handling by the collection trucks.

3. Compacted Waste shall mean solid waste which is mechanically compressed to reduce the dimensions of the waste.

4. Building materials shall mean bricks, stone, mortar, concrete or other debris incident to the construction or demolition of buildings or structures.

Construction and demolition wastes shall mean and include the waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of pavements and structures.

5. Curb service shall mean such service where the solid waste containers are picked up by the City at the front curb line of the customer’s property.

6. Discarded shall mean thrown away, abandoned, worthless, or having lack of economic value.
7. Garbage shall mean the animal and vegetable waste resulting from the handling, preparation and use of foods, including discarded food containers and wrappers and all other abandoned putrescible organic matter.

8. Household hazardous waste shall include those household substances which can be explosive, highly flammable, corrosive, reactive or toxic which pollute the environment through groundwater, surface water, or air when disposed of in a landfill. shall be those wastes resulting from products purchased by the general public for household use which, because of their quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed, or otherwise managed. The Community Development Director City Manager, or his designee, shall determine those substances deemed hazardous for the purpose of the City’s disposal system.

9. Industrial waste shall mean solid wastes or waste material resulting or left over from industrial processes and manufacturing operations, including but not limited to fibers, fabrics, plastics, styrofoam, rubber, resins, metals, slag, wood products such as sawdust and shavings, packing materials, putrescible material from food processing plants and slaughterhouses, condemned foods, cinders and ashes from power plants and incinerators, and miscellaneous manufacturing wastes. Such industrial waste is distinguished from ordinary commercial refuse or so-called trade wastes which emanate from stores, hotels, restaurants, and markets.

10. Multiple-family dwelling shall mean a building designed for residential occupancy and shall include duplexes, triplexes, apartments of four (4) or more units, bungalows in a bungalow court, apartment houses, flats, condominium units, and mobile homes.

11. Recyclables shall include those items defined by the City Council by resolution. shall mean those materials that have value and can be diverted from landfill disposal. Recyclables can further be defined as those materials that by collecting, sorting, cleansing, treating, reconstituting, and processing can be returned to the economic mainstream in the form of raw materials for new, reused, or reconstituted products.

12. Rubbish Refuse shall include wastewater, cardboard, rags, household ashes, wearing apparel, household goods and such worthless, useless, unused, rejected and cast-off matter produced by and as the result of human habitation and the transaction of business within the City, that can be properly and safely collected and transported in a collection vehicle.

13. Single-family dwelling shall mean any detached building or residential condominium unit, designed and used exclusively for occupancy by one (1) family, excluding bungalows in a bungalow court, residential condominium units, and mobile homes.
14. **Solid waste** shall mean garbage, rubbish, or yard waste, but shall not include earth, dead animals, waste oil, liquids, household hazardous waste, certain medical wastes; industrial waste, building materials, heavy or bulky articles or objects such as trees, tree limbs, logs, automobile bodies, large motor vehicle parts, abandoned appliances, or household or business mixtures, or any other substance, material or object that cannot be properly and safely collected and transported in city collection vehicles. shall mean all putrescible and non-putrescible solid and semisolid wastes; including garbage, trash, refuse, paper, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. “Solid waste” does not include hazardous, low-level radioactive, or medical wastes. “Solid waste” as herein defined shall not include materials source-separated by the generator for the purpose of recycling, reuse, repair or composting.

15. **Special pick-up** shall mean the collection of solid waste that exceeds the scope of standard residential or commercial service as set forth in this chapter, or any material not defined in this section as solid waste.

16. **Standard residential container** shall mean roll-out cart(s) container(s) provided by City.

17. **Waste matter** shall include solid waste such as heavy or bulk materials which can be properly and safely collected and transported by special pick-up vehicles. The Community Development Director City Manager, or his designee, shall determine those materials suitable for special pick-up service.

18. **Yard waste** shall include lawn clippings, tree and shrubbery trimmings, and leaves that can be properly and safely collected and transported in a collection vehicle.

Sec. 13-3. Rules established.

The following rules, as contained in this chapter, covering the handling of accumulations of garbage, rubbish refuse, yard waste, and waste matter to be observed by the occupants of places of residence and places of business in the City are hereby established.

Sec. 13-4. Unlawful acts.

It shall be unlawful for any person, owner or occupant of any building, lot or premises in the City to suffer, allow or permit the accumulation of solid waste of any description to become or remain offensive, unsightly or unsafe to public health or hazardous from fire, or to deposit, transport, keep, accumulate or permit or cause any solid waste to be deposited, placed or accumulated upon any lot or parcel of land, or any public or private container, place, street, land, alley or driveway except in the manner prescribed in this chapter.
It shall be unlawful for any person to deposit refuse into containers, bins, or roll-off containers which are not assigned to the property at which the refuse is generated.

It shall be unlawful for any person, other than the City or the City’s designee, to collect or remove materials which have been segregated for the purpose of recycling and placed in a designated recycling receptacle.

It shall be unlawful for any person to willingly place any materials in the recycling receptacles that do not meet the criteria defined under Section 13-2 (k).

It shall be unlawful for any person to take or pilfer, for his/her own use or benefit, the recyclables of any other person.

It shall be unlawful for any person to take or pilfer, for his/her own use or benefit, the recyclables from any City operated drop-off facilities. Recyclables donated to the drop-off facility are considered the property of the City.

It shall be unlawful for any person to dispose of refuse, as defined under Section 13-2 (l2), into or around City operated drop-off facilities.

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

Nothing herein shall prohibit a person from selling, giving away, or otherwise legally diverting their own recyclable materials to a location of their choice.

Sec. 13-5. Mandatory service.

It shall be mandatory for every property owner within the City to receive City disposal service and billing therefor, except those industrial businesses whose volume of waste might exceed what services the City could offer. (Ord. No. 1494A, 7-20-93) Minimum levels of City residential, commercial, and industrial refuse service shall be determined by City Council and set by resolution. City refuse service above the minimum level may be required to protect public safety, health, and welfare, as required by this ordinance. The necessity of such increased levels of service shall be determined by the City Manager, or his designee.

Sec. 13-6. Unlawful disposition of solid waste generally.

It shall be unlawful for any person to engage in or carry on the business of hauling or removing garbage, rubbish, refuse or waste matter within the City without written permission from the City Manager. Any person engaging in or carrying on the business of hauling or removing recyclables must have the written permission of the City
Manager as set forth in Section 13-19. Disputes over whether material should be classified as recyclable or solid waste will be resolved by the City Manager, or his designee.

Sec. 13-7. Residential solid waste collection service.

(a) **Frequency, and amount, and location of collection.** The City shall provide collection service from all dwelling units in the City at frequencies and amounts to be determined by City Council and set by resolution. Residential service shall be at curbside unless otherwise authorized by the City Manager or his designee.

(b) **Responsibilities of curb service customers.** All curb service customers shall place their solid waste containers at the curb or property line and shall remove the empty containers in accordance with time schedules as determined by the Community Development Director City Manager, or his designee.

(c) **Alley service customers; placement of containers.** Alley service will only be provided if criteria developed by the City Manager or his designee is met, and such service is compatible with overall collection service objectives. Customers receiving alley service shall place their solid waste containers at the property line in through alleys and shall remove the empty containers in accordance with time schedules as determined by the City Manager, or his designee.

(d) **Container service.** Bin container service may be used in residential areas for apartments and multiple dwellings and for single-unit dwellings if approved by the Community Development Director City Manager, or his designee.

Sec 13-8. Solid waste receptacles.

The occupant, tenant or lessee of any house, dwelling, flat, apartment building, mobile home, motel, hotel, restaurant or other place of business or residence within the City where solid waste is produced or accumulated and where individual container service is authorized shall keep in a place where it will not constitute a nuisance, a City approved container for receiving and holding all of the solid waste which accumulates on the premises between the time of successive collections.

Sec 13-9. Reserved—Collection and collection points:

(a) All persons occupying or in possession of any premises which abuts an alleyway shall use such alleyway for all waste material disposal, except those alleyways which are too narrow for the passage of a disposal truck, and shall place all standard waste containers in the alleyway at times to be determined by the community development and services director or his designee. All containers shall be kept on private property (off the alley right-of-way) and may be placed in the alley right-of-way on the day of the scheduled collection only.
(b) All persons occupying or in possession of any premises which do not abut an alleyway or those whose alleyways are too narrow for passage shall place all standard waste containers at the curb edge at times to be determined by the community development director or his designee. All containers shall be kept back on private property. No container shall be stored any closer to the street than the required building setback, except on the day of the scheduled collection.

Sec. 13-10. General provisions.

(a) Where commercial collections are made from private alleys and access ways, said approaches shall be maintained in such a manner as not to be a hazard to sanitation collection personnel and equipment, and provide a safe and convenient entrance to and through the premises for the purpose of collecting refuse.

(b) The approach to containers furnished by the City must be kept clear. An inaccessible container will not be dumped at the scheduled time. There will be an extra charge to dump a container other than at the regularly scheduled time, or if it is necessary to return to the collection site due to inaccessibility of the collection container.

(c) Overfilled containers and excess trash on top of containers pose a hazard to collection vehicles and personnel and may not be dumped at the scheduled time. If an overfilled container is able to be dumped, it shall constitute a special haul and will require an extra charge.

(d) Compacted commercial waste requires special handling due to increased weight associated with compaction. Compacted waste will be subject to increased collection charges and may require restrictions on the volume of waste accumulated between collection days.

(e) All persons or businesses utilizing City-owned containers are responsible for the sanitary conditions of each container or receptacle and the proximity thereof and must keep lids and doors closed when not in use. A charge may be assessed when steam cleaning of containers is requested by customers. All persons and businesses will be responsible for burned or damaged containers due to other than normal wear and tear and will be charged for necessary repairs. Bin containers may be fitted with lid locks at the request of the customer. A charge will be assessed for installation and repair of such locks.

(f) Items that are likely to cause damage to regular City containers or the collection vehicles will not be regularly picked up. Such examples are, but are not limited to, timbers or tree trunks larger than four (4) inches in diameter or longer than five (5) feet, engine blocks, heads, transmissions, axles, spring assemblies, tires or draft drive shafts, all of which shall constitute a special haul.

(a) All bin container services shall require a concrete bin pad to ensure that the bin can be conveniently serviced. Each bin-type container, regardless of the cubic yard capacity, shall require a concrete pad four (4) inches thick and six (6) feet by ten (10) feet for each bin. The bin container pad shall be poured to the existing ground level, ensuring that the pad is neither too high nor too low, creating collection problems. There shall be a fence erected around the bin pad storage area. Such fencing shall conform with City specifications as specified by the Community Development Director and Services City Manager, or his designee.

(b) Temporary bin service may be provided at a residential or commercial site at the request of the customer for short-term cleanup activities and do not require a bin enclosure. Temporary bin service shall not be utilized in lieu of permanent disposal service. Temporary bin location and on-site duration may be limited so as not to constitute a public nuisance. Temporary bins determined to constitute a public nuisance may be immediately removed at the discretion of the City Manager, or his designee.

Sec. 13-12. Special pickup, disposal and collection event services.

(a) The removal of dirt, sod, tree stumps, stones, broken concrete, furniture and appliances and other building materials is not considered to be normal household solid waste service. Periodic collection of accumulations of excess solid waste within the City, in addition to that provided for above, shall be made on the request of a resident. These services will be handled on a special pick-up basis for which an extra charge is made. Tree and shrub trimmings which cannot be accommodated in the City-provided yard waste cart shall be handled on a special pickup basis for which an extra charge will be made.

(b) The following services are considered “special requests” and will be charged an additional fee as determined by City Council and set by resolution. Special requests include but are not limited to: extra pick-up of residential, commercial, and industrial containers; same-day delivery, emptying, or removal of temporary bins; same-day delivery, emptying, removal or relocation of temporary or permanent roll-off containers; stand-by time of collection personnel at customer request or to accommodate customer needs; same-day return to empty a container or bin that was inaccessible, overfilled, or contaminated.

(c) The disposal of substances determined to be household hazardous materials shall be restricted to special collection events or sites as approved by City Council.

(d) The Community Development and Services Director City Manager, or his designee shall determine those waste materials suitable for special pick-up service.

Sec. 13-13. Enforcement; powers and duties of the Community Development and Services Director City Manager, or his designee.
(a) The Community Development and Services Director City Manager, or his designee shall supervise the collection and removal of all solid waste by the City and shall enforce the provisions of this chapter. He shall have the right to inspect any and all premises for the purpose of determining whether the provisions of this chapter are being observed. Any person denying or obstructing such inspection shall be subject to the penalties herein provided.

(b) The Community Development and Services Director City Manager, or his designee shall establish routes and days for collection and may change same from time to time. When such routes and days are established or changed, he shall give such notice thereof as he may deem advisable.

(c) In all cases where he shall find practical difficulty in complying with the requirements of this chapter as to the placing of refuse for collection by the City, he shall designate where such solid waste shall be placed or kept for collection by the City and the conditions under which it shall be collected.

(d) The Community Development and Services Director City Manager, or his designee, with the approval of the City Manager, shall make such rules and regulations not inconsistent with the provisions of this chapter as may be necessary, reasonable and proper to effect the expeditious, economical and efficient collection and removal of solid waste by the City. Such rules and regulations may also relate to the required frequency of refuse collection at various locations, the type and number of refuse containers required, and the vehicles used in making such collections. The determination of the Community Development and Services Director City Manager or his designee, with the approval of the City Manager, shall be conclusive.

Sec. 13-14. Charges for collection; time and manner of payment.

(a) Fees and charges for the collection and disposal of solid waste collection by the City will be fixed by resolution of the City Council.

(b) Solid waste collection charges shall be included in the regular City utility bill to customers who also have City water service. When the solid waste customer does not have City water service, a separate bill for solid waste service shall be mailed to the customer who owns or controls the premises serviced.

(c) All charges for solid waste service included on utility bills, or if not a part of the City utility bill, shall be due and payable at the same time as other utility charges. If a bill for solid waste is not paid within thirty (30) days after billing date, a charge of ten (10) percent as a penalty for said delinquency shall be made and added to the amount and become a part of paid delinquent utility bill; and the City may discontinue all City utility service to the premises if the bill should remain delinquent on the forty-fifth day after billing.
(d) All solid waste service charges are the responsibility of the customer whose name appears on the utility billing for the service. If unpaid by the customer billed who controls the premises, they shall be secured at any time by filing for record in the office of the county recorder of any county, a certificate specifying the amount of such charges and the name and address of the customer liable therefor. From the time of recordation of the certificate, the amount required to be paid together with interest and penalty constitutes a lien upon all real property in the county owned by the customer or afterwards, and before the lien expires, acquired by him. The lien has the force, priority, and effect of and shall be regarded as a judgement lien, which may be extended, if unpaid, by the recording of a renewal certificate before the expiration of ten (10) years of the previously recorded certificate.

Sec. 13-15. Building design requirements.

The design of any new, substantially remodeled or expanded building or other facility shall provide for proper storage or handling which will accommodate solid waste and recyclable material removal or collection. The design shall demonstrate to local land use and building permit issuing authorities that it includes the required provisions.

Sec. 13-16. Unlawful to burn solid waste.

It shall be unlawful for any person to dispose of any solid waste by burning the same within the limits of the City.

Sec. 13-17. Penalty for contamination of yard waste.

Any customer whose yard waste container is contaminated with items other than “yard waste” as defined in Section 13-2 (18) may be assessed an additional charge, the amount of which is set by resolution by the City Council.


The City may establish a separate collection service for recyclable materials, including compostable wastes, and establish specific guidelines for such service, which are consistent with the rules and regulations contained within this ordinance. The City may also establish a permit for the collection of recyclable wastes.

Sec. 13-19. Recycling hauler permit requirement and application.

In order to more effectively regulate, control, and monitor the amount of recyclables being deposited in landfills and document the amount diverted from the solid waste stream, it is in the best interest of the City to require those persons desiring to
gather, collect, transport, or otherwise dispose of recyclables to obtain from the City a permit to do so. Said permit to gather, collect, transport, or otherwise dispose of recyclables shall be non-exclusive. Each permit awarded hereunder shall specifically describe the type of recyclable material to be collected and disposed of. Any person desiring to obtain a recycling hauler permit to collect, gather, transport, or otherwise dispose of recyclables shall pay a fee and make an application as set forth in guidelines determined by the City Manager, or his designee.

Sec. 13-20. Refusal to issue permit.

Nothing in this chapter shall be deemed to prevent the City Manager, or his designee, from refusing to grant or renew any application for a recycling hauler permit when it appears that such permittee’s proposed services are inconsistent with the intent of this chapter as defined in Section 13-1, or do not serve the best interest of the people of Porterville.

Sec. 13-21. Term and renewal.

The term of the permit shall become effective upon notification by the granting authority, and shall be through the end of the calendar year it was awarded. A recycling hauler permit may be renewed with the Hauler's business license according to terms set forth by the City Manager, or his designee.

Sec. 13-22. Reporting requirements.

To assist the City in meeting its diversion goals as specified by the California Integrated Waste Management Act of 1989 (AB939) and other state or locals laws, the permittee shall maintain records including the following information:

(a) The description and nature of the material (e.g. bottles, cardboard, grease, etc.) collected.

(b) The name(s) and address(es) of each collection site within the City of Porterville, including amount, weight, or tonnage of the recyclables collected at each site.

(c) Name and address of the site(s) where the above recyclables were disposed.

The permittee shall maintain such records for a period of five (5) years and shall, upon reasonable request, make such records available for the City’s inspection.

The permittee shall also supply additional information when requested by the City Manager, or his designee.

Sec. 13-17. 13-23. Penalty for violation.
Any person violating any of the provisions of this chapter or willfully and knowingly refusing to comply with the rules, regulations and determination of the City Manager shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed five hundred dollars ($500.00) or by imprisonment in the county jail for a period not to exceed six (6) months or by both fine and imprisonment. (Ord. No. 1494A, 7-20-93)
**Staff Report**

Staff is recommending changes to Chapter 13, Garbage and Refuse of the City’s Municipal Code. The changes include updates to industry terminology and corresponding definitions thereof, the creation of non-exclusive franchise for recycling haulers; the creation of fees for green waste contamination and special service requests from the citizens of the community and an expansion in the identification of unlawful acts; establishing minimum levels of service in order to protect public safety, health and welfare. Following is a summary of the proposed changes.

1. **Non-exclusive franchise for Recycling Haulers:** The new ordinance requires a non-exclusive franchise license for all haulers removing recyclables from within the City. It would require them to apply for approval (granted by City Manager) and maintain customer/tonnage records for five years.

2. **Additional Fees:** Many of the refuse related changes to the proposed ordinance deal with additional fees. Many of these fees are “convenience” fees necessitated by customer requests for special services. The ordinance does not address the amount of the fees, simply the ability to charge them. Upon management review of the draft, a proposed fee schedule will be developed. The proposed new fees include:
   
a. **Greenwaste contamination penalty** – Would allow a penalty for contamination of greenwaste. Proposed to be $5.00. Would apply to repeated and/or gross violators after receiving warning. Penalty procedure to be developed.

b. **Driver stand-by time** – Drivers are often requested to stand-by while bins are reloaded, cleaned, etc. Would allow the City to charge for this additional service.

c. **Bin/Can cleaning fee** – Would allow one free cleaning every six months for commercial bins, every 12 months for residential cans. Cleaning requested more often would be subject to a cleaning fee (to be determined).

d. **Return service fee** – Drivers are often required to return numerous times to empty bins (bin inaccessible, gates locked, too heavy, not leveled). Would allow City the discretion to charge when return trips become excessive.

e. **Compacted waste fee** – City currently charges an increased rate per cubic yard for commercial waste in compactor bins. However, several local restaurants (fast food) have begun compacting their waste in their facilities and placing it in an ordinary bin. This creates bins that are excessively heavy. The change would allow any mechanically compressed waste to be billed as compacted waste and would also allow City staff to limit the amount of compacted waste placed in an ordinary commercial bin.

f. **Same-day service fee for temp bins & roll-offs** – Although there is a 24 hour notice policy regarding delivery, emptying, or removal of temp bins and roll-offs, City staff routinely gets requests for same day service. It is often necessary to accommodate these requests due to overfilling/weight and health issues. In an effort to (1) discourage such requests whenever possible, (2) accommodate emergency situations, and (3) to avoid the appearance of providing preferential service, a same-day fee is recommended for this additional service.
g. Lid lock installation and repair – Currently, there is a $40 installation charge for bin lid locks. However, due to their location, many bins require constant repair. Staff recommends charging for lock repair (more than one time per six months/year?).

3. **Other Changes:** These include redefining refuse vs. recyclables, prohibiting the “pilfering” of recyclables from drop-off locations, and setting minimum service levels for commercial accounts. Additionally, we are removing section 13-9, which relates to alley collection. As the City no longer encourages alley collection and other sections deal with collection points, this section is redundant and is proposed to be removed. There are also several small typographical corrections being made.