

## Chapter 5.60

### GARBAGE COLLECTION AND DISPOSAL

#### Sections:

- 5.60.010** Definitions.
- 5.60.020** Long-term contracts authorized--Procedure.
- 5.60.030** Execution, contents of contracts.
- 5.60.040** Contracts not to affect right to amend.
- 5.60.050** Use of containers required.
- 5.60.060** Location of containers.
- 5.60.070** Owners of multiple dwellings to furnish facilities, pay for collection.
- 5.60.080** Burning, burying garbage.
- 5.60.090** Disposal of rubbish, trash.
- 5.60.100** Using, transporting garbage for chicken feed.
- 5.60.110** Who may collect, transport--Generally.
- 5.60.120** Permits to collect, transport--Authorized.
- 5.60.130** When collecting, transporting without permit authorized.
- 5.60.140** Emergency removal.
- 5.60.150** Exemptions: Disposition of solid waste having value; Donated recyclables; Source-separated recyclables; Construction and demolition debris; Lawn and garden trimmings.
- 5.60.160** Collection by contractor unless otherwise specified.
- 5.60.170** Sanitation of collection vehicles.
- 5.60.180** Marking of contractors' vehicles.
- 5.60.190** Marking of permittees' vehicles--Duty to exhibit permit.
- 5.60.200** Frequency of collections by contractor.
- 5.60.210** Collection hours in downtown area.
- 5.60.220** Collection rates.
- 5.60.230** Enforcement.
- 5.60.240** Ownership and collection of recyclable materials; Unauthorized collection prohibited; Enforcement by contractor.

#### **5.60.010** Definitions.

As used in this chapter:

"Commercial and business establishments" includes all hotels, motor courts, restaurants, offices or office buildings, stores, warehouses, factories and all other premises used for other than dwelling houses.

"Construction and Demolition Debris and Wastes" include the waste building materials, debris, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial and industrial buildings and other structures and improvements.

"Contractor" means any person authorized by the council to collect garbage, trash, rubbish or recyclable material from others within the city limits in accordance with the provisions of Sections 5.60.020 through 5.60.040.

"Garbage" means that solid waste which includes kitchen refuse, offal, swill, and other matter that attends the preparation, dealing in or handling of food-stuffs. It shall also include all other refuse, other than sewage, except rubbish, trash and recyclable material, as hereinafter defined.

"Generate" shall mean to bring into existence or create, or to use, maintain or possess an item, material or product, the result of which such creation, bringing into existence, use, maintenance or possession is that the item, material or product first becomes, or is converted, transformed, evolved to, or deemed as, garbage, trash, rubbish or recyclable material subject to this chapter. "Generate" shall not mean or include any form of activity, program, service of

business by which garbage, trash, rubbish or recyclable materials are in any manner collected or accumulated from another person, business, entity or establishment of any kind.

"Recyclable material" shall mean that material which otherwise would become or be treated as solid waste but which, by means of a process of collecting, sorting, cleansing, treating and reconstructing, may be returned to the economic mainstream in the form of finished or source material for new, reused or reconstituted products which may be used in the market place, and shall include, but shall not be limited to, paper, books, magazines, cardboard, boxes, plastic, metal, glass and other similar materials authorized by the city for collection by the contractor.

"Residential establishments" includes all single-family dwellings, multiple-family dwellings and apartments.

"Rubbish" means those non-putrescible solid wastes including all dry refuse such as tree trimmings, ashes, dead plants and lawn and yard clippings, except to the extent such materials are exempt under Section 5.60.150 E.

"Solid waste" means all putrescible and non-putrescible solid, semi-solid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge, manure, vegetable or animal solid and semi-solid wastes, and other discarded and solid and semi-solid wastes, but does not include hazardous waste, low-level radioactive waste regulated by California Health and Safety Code Sections 25800 et seq., or medical waste.

"Source and type-separated recyclable materials" shall mean those recyclable materials which satisfy each of the following requirements: (1) have been segregated from solid waste for handling different from that of solid waste by or for the generator thereof; (2) have been further segregated so that various types of recyclable materials, such as glass, metals, styrofoam, cardboard, etc., are not co-mingled; and (3) after such segregation, contain no more than 5% by weight (measured by each load being transported, collected and/or disposed) of any residual or contaminant material which cannot be recycled, composted or similarly utilized, and which instead must be disposed of as solid waste or otherwise.

"Trash" includes papers, paperboard boxes, scrap wood and other combustible packing materials. (Prior code §§ 12-26 -- 12-31, Ord. No. O98-019, Amended, 10/06/1998)

#### **5.60.020 Long-term contracts authorized--Procedure.**

A. The council is authorized to enter into contracts for the collection of garbage within the city for a term not exceeding twenty years by competitive bidding by adopting the following procedure:

1. The council shall, by resolution, call for sealed bids for such contract and notice thereof shall be given by the city clerk by two publications not less than five nor more than eight days apart in a newspaper of general circulation within the city and such bids may be received and opened not more than twenty nor less than five days after the second publication.

2. Bids shall be sealed and each shall be accompanied by cashier's check or certified check payable to the city, or cash, in the amount determined by the city attorney and public works director, which sum shall be forfeited to the city if award is made to the bidder sending it, and if the bidder thereafter fails or refuses to enter into the contract within thirty days after receiving notice of the award.

3. Bidding shall be on the basis of a percentage of the gross receipts from collections in the city to be paid by the contractor to the city in monthly installments as collections are made.

4. The council shall have the right to reject any and all bids and also to accept a bid other than the highest bid if the council determines that, because of experience, financial responsibility or some other factor, the acceptance of such lower bid is for the best interest of the city.

5. All contracts awarded on this basis may contain such terms and conditions as the council may approve including those hereinafter listed.

6. By its resolution calling for bids, the council shall prescribe the terms and conditions to be included in the contract awarded and a record of such terms and conditions to be included shall be kept in the office of the city clerk for examination by prospective bidders.

7. The call for bids issued by the city clerk shall refer to the record on file with the city clerk for a statement of the exact terms and conditions upon which the contract will be made.

B. Notwithstanding any other provision of this section, the council may, subject to such terms and conditions it determines to be in the public interest, extend the term of any contract for the collection of garbage without competitive bidding. (Prior code § 12-34)

**5.60.030 Execution, contents of contracts.**

All garbage collection contracts shall be executed on behalf of the city by the mayor and the city clerk. Any contract issued under this chapter may include the following provisions or any of them:

- A. Provision for a faithful performance bond by contractor;
- B. Provision as to place and manner of disposal of garbage by contractor;
- C. Provision for public liability and compensation insurance;
- D. Provision requiring the contractor to keep records and for auditing thereof;
- E. Provision for termination in event of default;
- F. Provision for regulating hours for contractor's operations, manner of operations and type of equipment;
- G. Provision that the rights of the contractor for the collection of garbage and rubbish shall be exclusive, except as provided in Section 5.60.110 through 5.60.170;
- H. Provision for the disposition of the city's own garbage and rubbish;
- I. Provision obligating contractor to provide dumping facilities for trash and rubbish of citizens of the city and fixing charges, if any, therefor;
- J. Provisions giving city the option to buy the contractor's equipment and dump, and to terminate the contract;
- K. Any and all provisions which the council considers necessary or desirable for the protection of the city and its citizens. (Prior code § 12-35)

**5.60.040 Contracts not to affect right to amend.**

No contract entered into under this chapter shall bar the council from amending this chapter from time to time in any way considered desirable, including changes in the garbage and rubbish rates herein, prescribed, such amendment to become effective sixty days after passage; provided, however, that in the event that any amendment affects the operations of the contractor, the contract may provide that the contractor shall have the option to terminate the contract, upon giving sixty days' written notice. (Prior code § 12-36)

**5.60.050 Use of containers required.**

All householders and all persons operating commercial, business or other establishments within this city shall deposit all garbage accumulated from their operations in watertight containers of a capacity of not more than thirty gallons each, and with tight-fitting covers, or other approved containers as supplied by the contractor or other containers as approved by the contractor and shall not keep or accumulate, or permit to be kept or accumulated, any garbage except in such containers and such containers shall be kept clean and sanitary at all times and shall be kept covered except when garbage is deposited therein or removed therefrom; provided however, that trash may, if it is separated from all other types of garbage, be kept in other suitable containers. (Prior code § 12-37)

**5.60.060 Location of containers.**

All containers shall be provided and maintained on the premises where the garbage, including trash, is produced, in a place easily accessible to the contractor but where it will not be a public nuisance or otherwise offensive. (Prior code § 12-38)

**5.60.070 Owners of multiple dwellings to furnish facilities, pay for collection.**

In the case of multiple dwelling units, the owners thereof shall provide for all tenants adequate facilities and space for the disposition of garbage as herein stated and further shall pay for collection thereof if such collection is not otherwise paid for. (Prior code § 12-39)

**5.60.080 Burning, burying garbage.**

No person shall burn or bury any garbage within this city except that combustible garbage may be disposed of by burning inside buildings in stoves for that purpose to the extent permitted under laws of the state, and except that trash may be disposed of by burning to the extent hereafter provided. (Prior code § 12-40)

**5.60.090 Disposal of rubbish, trash.**

No persons shall keep, accumulate, or permit to be kept or accumulated, any rubbish within this city except in suitable containers accessible to the contractor and suitable for removal by the contractor. Nothing herein contained shall prevent a person from burning rubbish and trash or disposing of rubbish in a compost pile or by burying to the extent permitted under existing laws, ordinances and regulations. (Prior code § 12-41)

**5.60.100 Using, transporting garbage for chicken feed.**

It shall be unlawful for any person to feed kitchen or table refuse, bones, meat or vegetable refuse to chickens within this city, without having first obtained a permit to do so from the health officer. It shall be unlawful for any person to remove or transport through the streets, alleys or other public places within this city, any garbage fit for consumption by chickens or other fowl without first having obtained a permit to do so from the health officer. (Prior code § 12-42)

**5.60.110 Who may collect, transport--Generally.**

A. No person, business, entity or establishment of any kind shall collect and dispose of any garbage, trash, rubbish or recyclable material from any other person, business, entity or establishment of any kind in this city and no person, business, entity or establishment of any kind shall transport garbage or rubbish on the streets of this city except the contractor duly authorized by the council as hereinafter provided or except as specifically otherwise provided in this chapter.

B. No person, business, entity or establishment of any kind who or which produces, generates or otherwise accumulates garbage, trash, rubbish and/or recyclable material shall pay, reimburse, contract with or in any other way arrange for any other person, business, entity or establishment of any kind, other than the contractor duly authorized by the city council, to collect, transport and/or dispose garbage, trash, rubbish and/or recyclable material except as otherwise expressly authorized in this chapter.

C. No person, business, entity or establishment of any kind shall use any artifice, business structure or other attempt to evade the requirements of this chapter in any manner by collecting and disposing for a fee or charge the garbage, trash, rubbish and/or recyclable materials of another person, business, entity or establishment, except as otherwise expressly authorized in this chapter. (Prior code § 12-43, Ord. No. O98-019, Amended, 10/06/1998)

**5.60.120 Permits to collect, transport--Authorized.**

The health officer is authorized to issue written permits for the transportation and disposal by a particular person of garbage and rubbish produced by him or her and for the collection and transportation of garbage by persons other than the person producing it when it is to be used for the purpose of feeding animals. Such permit shall be revocable at any time and may be subject to conditions and limitations considered desirable by the health officer, including but not limited to such limitations as those upon the type of garbage or rubbish included within the permit, limitations as to place and manner of disposition and limitations as to time and mode of collection and transportation. (Prior code § 12-44)

**5.60.130 When collecting, transporting without permit authorized.**

Any person may, without a permit, collect and transport his/her own garbage, trash, rubbish and recyclable material, but not garbage, trash, rubbish or recyclable material produced, generated, accumulated or collected by anyone else, if the following conditions are complied with:

A. The garbage, trash, rubbish and recyclable material must be suitably packed and loaded and in containers to insure that there is no spillage; and

B. The garbage, trash, rubbish and recyclable material must be so collected and transported for disposition, and must be disposed of, at a dump, transfer station or recycling facility which is appropriately permitted or authorized under applicable health and safety laws and regulations.

C. The collection, transportation and disposal do not violate Section 5.60.110 of this chapter. (Prior code § 12-45, Ord. No. O98-019, Amended, 10/06/1998)

**5.60.140 Emergency removal.**

No provisions of this chapter shall bar any person from removing garbage in an emergency situation where the contractor for any reason is unable to handle said garbage and where such removal is necessary for the protection of public health. (Prior code § 12-46)

**5.60.150 Exemptions: Disposition of solid waste having value; Donated recyclables; Source-separated recyclables; Construction and demolition debris; Lawn and garden trimmings.**

A. No provision of this chapter shall prevent the disposition of recyclable materials for which there are established commercial values, and for which the generator, accumulator or producer actually receives compensation, such as used kitchen fats, but not including garbage for animal feeding, provided said materials are accumulated in a sanitary manner and disposed of through regular commercial channels.

B. No provision of this chapter shall prohibit the donation of recyclable material for which there are established commercial values by the generator, accumulator or producer of such recyclable material to any city-approved drop-off center. Further, notwithstanding any provision of this chapter, recyclable materials may be provided free of charge to any charitable, youth, civic, religious or similar person, group or organization, or the collection, transport and/or disposal of such recyclable material by such person, group or organization, provided there is no fee for service paid to such person, group or organization or costs or expenses incurred by the generator, accumulator or producer of said recyclable material.

C. Nothing in this chapter shall prohibit any person, business, entity or establishment of any kind from collecting, disposing or transporting any source and type-separated recyclable materials for which the contractor does not provide recycling services pursuant to the City's approved recycling program to or at any recycling drop-off center or facility which is appropriately permitted or authorized under applicable health and safety laws and regulations. The City's Finance Division shall maintain for public inspection and copying a list of all recyclable materials collected and disposed of by the contractor which are included in the City's recycling program.

D. Nothing in this chapter shall apply to or prohibit the disposition, collection, transport or disposal by any person, business, entity or establishment of construction and demolition debris and wastes.

E. Nothing in this chapter shall prohibit the collection, transportation or disposal of lawn, tree and garden trimmings by any person, business, entity or establishment of any kind as an incidental part of a landscaping or gardening service by that person, business, entity or establishment. (Prior code § 12-47, Ord. No. O98-019, Amended, 10/06/1998)

**5.60.160 Collection by contractor unless otherwise specified.**

A. Except as specifically otherwise provided in this chapter, all garbage, trash, rubbish and recyclable material within this city shall be collected by the contractor. It shall be unlawful for any person, business, entity or establishment of any kind to fail to deliver such garbage, trash, rubbish and recyclable material to said contractor, or to subscribe to service, as provided by this chapter. It shall further be unlawful for any person, business, entity or establishment of any kind otherwise to pay, reimburse, contract with or otherwise arrange for any other person, business, entity or establishment of any kind, other than the contractor, to collect, transport or dispose of garbage, trash, rubbish and/or recyclable material generated, produced or otherwise accumulated within the city. The contractor shall charge persons, businesses, entities and establishments from whom garbage, trash, rubbish and recyclable material is collected at the rate hereinafter established, and such persons, businesses, entities and establishments shall pay the contractor therefor. It shall be unlawful for any person, business, entity or establishment of any kind willfully to refuse or fail to pay the contractor for such charges within ten (10) days after such charges are due.

B. Notwithstanding any other provision of this chapter, but subject to the express exceptions set forth in this section, the following persons and businesses shall be required to receive garbage, trash, rubbish and recyclable material collection services from the contractor pursuant to any contract under this chapter: (1) all existing owners and occupants receiving garbage collection service from the city's contractor as of the effective date of this section; (2) all owners and occupants of any residential structure constructed after the effective date of this section; and (3) all new owners and occupants of any structure (a) existing as of the effective date of this ordinance and (b) not receiving garbage collection services from the contractor at the time of any change of ownership and occupancy of such structure. The contractor shall have the duty to collect garbage, trash, rubbish and recyclable materials from such structures at each of the foregoing times. The owners and occupants of such structures shall be liable to the contractor for the cost of such collections at the rates authorized by the City Council pursuant to this chapter.

C. This section shall not require the following persons to receive garbage, trash, rubbish and recyclable material collection services from the contractor: (1) all existing owners and occupants of structures who, as of the effective date of this section, own and/or occupy a structure which does not receive garbage, trash, rubbish and recyclable material collection services from the contractor, provided such owners and occupants continue to own and/or occupy such structure; (2) all owners and occupants of structures who demonstrate and certify to the satisfaction of the city manager or his or her designee that such garbage, trash, rubbish and recyclable material collection service is not needed because the owner or occupant satisfies any of the following criteria: (a) the owner or occupant does not generate sufficient garbage, trash, rubbish and recyclable material to require service and timely and appropriately transports his/her garbage, trash, rubbish and recyclable material to a permitted disposal facility; or (b) the owner or occupant otherwise has arranged for shared garbage, trash, rubbish and recyclable material disposal with the owner or occupant of another structure receiving garbage, trash, rubbish and recyclable material collection service from the contractor, and such shared service does not involve an undue accumulation or improper storage of garbage, trash, rubbish and recyclable material. (Prior code § 12-48, Ord. No. O98-019, Amended, 10/06/1998; Ord. No. O1999 22, Amended, 08/03/1999)

**5.60.170 Sanitation of collection vehicles.**

It shall be unlawful for any person to use any vehicle for the conveyance of garbage or swill, unless the same is perfectly staunch, tight and constructed so as to wholly prevent leakage and unless the same be provided with a canvas cover, securely fastened over the top thereof and each such vehicle shall be kept neat, clean and painted. (Prior code § 12-49)

**5.60.180 Marking of contractors' vehicles.**

It shall be unlawful for any person holding a contract with the city for the removal of garbage, to fail or neglect to place, on a conspicuous place on each side of each vehicle used in transporting such garbage the words "City Garbage." (Prior code § 12-50)

**5.60.190 Marking of permittees' vehicles--Duty to exhibit permit.**

It shall be unlawful for any person holding a permit from the health officer to remove and transport garbage, to fail or neglect to place on each side of each vehicle used for the conveyance of such garbage, the words "Permit No." together with the number of the permit issued therefor, or to fail or neglect to produce and exhibit the permit issued therefor, whenever requested by any police officer or the health officer. (Prior code § 12-51)

**5.60.200 Frequency of collections by contractor.**

The contractor shall collect garbage once a week from all establishments within the city and from commercial and business establishments within the city as such more frequent intervals as the quantity of garbage produced and the interest of public health and safety require. Any person desiring the removal of special accumulations of garbage or rubbish shall notify the contractor thereof and the contractor shall remove the same within a reasonable time. (Prior code § 12-52)

**5.60.210 Collection hours in downtown area.**

The contractor shall not collect garbage, trash, rubbish or recyclable material from commercial or business establishments in the portions of the downtown district for which parking meters have heretofore been or are hereafter installed pursuant to this code, between the hours of two p.m. and six p.m. of any day unless by reason of inadequacy of equipment or for other reasons it is impracticable for the contractor to operate on this basis, in which case the health officer is empowered to issue a written permit authorizing downtown collections during these hours. (Prior code § 12-53, Ord. No. O98-019, Amended, 10/06/1998)

**5.60.220 Collection rates.**

A. The rates charged by the contractor for the collection of garbage, trash and rubbish within the city shall be set by resolution in accordance with the "Refuse Disposal Process Guide" procedures adopted by the council and incorporated in this ordinance.

B. The effective date of the rate adjustment resolution shall be no earlier than October 1st of each year in which a request is first submitted for a rate review and subsequently allowed by the council in accordance with the adopted procedures.

C. Napa Garbage Service shall make no charge for collection of the containers used by the city for collection of its existing garbage and refuse from city facilities and operations presently being serviced by Napa Garbage Service.

D. Hazardous waste shall be picked up and disposed of by contractor at an hourly rate to be negotiated at the time of the order. Said rate shall apply from the time the contractor leaves the main facility until it returns to its point of origin. The disposal fee made at the disposal site will be added to the contractor's charge and shall be in addition thereto.

Hazardous waste for purposes of this section shall be defined as any material required to be disposed of beyond a Class 2 fill. The contractor reserves the right to refuse to provide transportation or disposal service for any type of hazardous waste at any time.

E. Recycling containers shall be provided to customers by contractor. (Prior code § 12-54, Ord. No. O94-020, Amended, 06/06/1994)

**5.60.230 Enforcement.**

A. It shall be the duty of the health officer to enforce the provisions of this chapter relating directly to health and sanitation.

B. The city shall be authorized to enforce, and seek any legal or equitable remedies for violation of this chapter, including but not limited to damages and injunctive relief.

C. Violation of any provision of this chapter shall be deemed a public nuisance.

D. The city shall be entitled, in addition to any and all other remedies and relief, to recover all direct and indirect costs and expenses of any kind incurred in enforcing the provisions of, obtaining compliance with and establishing violations of this chapter. Such costs and expenses shall include, but shall not be limited to, staff and personnel time, consultant and expert fees, investigative charges and attorneys' fees.

E. The city may, in its discretion, undertake to enforce this chapter pursuant to the provisions and procedures set forth in Napa Municipal Code Chapter 8.16.

F. The city shall have the authority to inspect, review and copy the books, records and documents of any person, business, entity or establishment of any kind to determine and establish whether there has been compliance with or violation of this chapter, and every person, business, entity and establishment of any kind shall, upon request by the City provided with ten (10) days written notice, produce such books, records or documents for inspection, review and copying by the City or its agent, designee or representative. The City shall have the authority in its discretion to issue administrative subpoenas, and/or to obtain subpoenas from a court of competent jurisdiction, to require the production of books, records and documents and to compel testimony under oath in order to determine and establish compliance with or violation of this chapter.

G. The City shall have the authority to inspect materials being transported or disposed to determine compliance with or violation of this chapter, and shall further have the authority to issue administrative subpoenas and/or obtain subpoenas from a court of competent jurisdiction to require such inspection.

H. The remedies authorized in this section are cumulative and shall be in addition to, and not in lieu of, other remedies, rights and relief available at law and in equity. (Prior code § 12-32, Ord. No. 098-019, Amended, 10/06/1998)

**5.60.240 Ownership and collection of recyclable materials; Unauthorized collection prohibited; Enforcement by contractor.**

A. Recyclable materials which are placed at the curbside or other collection location designated by the city or the contractor for collection by the contractor in containers provided by the contractor shall be collected solely by the contractor.

B. No person, business, entity or establishment of any kind, other than the contractor, shall remove recyclable material which has been placed at the curbside or other designated collection location for removal by the contractor in containers provided by the contractor.

C. It shall be unlawful for any person, business, entity or establishment of any kind, to burn, break, destroy, scatter, scavenge, collect or take any recyclable material placed at the curbside or other designated collection location for collection by the contractor, without the consent of either (1) the resident, owner or occupant of the premises or establishment which generated the recyclable materials or (2) the authorized contractor.

D. It shall be unlawful for any person, business, entity or establishment of any kind, other than (1) the resident, owner or occupant of the premises or establishment which generated the recyclable materials; (2) the City or any authorized representative thereof; or (3) the authorized contractor, or any designee thereof, to remove any approved recycling container provided by the contractor from the curbside or other designated collection location.

E. Nothing in this chapter shall limit the right of an individual person, organization or entity to donate, sell or otherwise dispose of recyclable materials, provided that any such conduct is otherwise in accordance with the provisions of this chapter. (Ord. No. 098-019, Enacted, 10/06/1998)