



AGENDA

Regular City Council Meeting

Council Chambers, Chowchilla City Hall
130 S. Second Street, Chowchilla, CA 93610

Tuesday, November 23, 2021

NO CLOSED SESSION

Open Session: 7:00 p.m.

City Hall is now open to the public for business. The City Council Chamber is **OPEN** to the public for City Council meetings, using the current COVID-19 prevention provisions.

City Council meetings will also be available to view and participate via [Zoom](#). **Please read Page 3 of this agenda packet for Zoom login and participation information.**

Agendas for all City Council meetings are posted at least 72 hours prior to the meeting in the kiosk just outside of City Hall, 130 S. Second St., Chowchilla, CA 93610.

Any writing or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection on the city website at www.CityofChowchilla.org.

The City of Chowchilla complies with the Americans with Disabilities Act (ADA of 1990). The Council Chambers is accessible to the physically disabled. If you need special assistance, please call (559) 665-8615, ext. 102 at least 4 days prior to a regular meeting, 1 day for a special meeting.

CALL TO ORDER/ROLL CALL:

Mayor: Diana Palmer

Mayor Pro Tem: Ray Barragan

Council Members: Waseem Ahmed, John Chavez, Kelly Smith

City staff and contract employees present at the meeting will be noted in the minutes.

CONSIDERATION OF APPROVAL OF AGENDA

Additions and/or Deletions:

OPEN SESSION – 7:00 PM

PLEDGE OF ALLEGIANCE

INVOCATION:

PRESENTATIONS/WORKSHOP - Section 1

PUBLIC ADDRESS

This time is reserved for members of the audience to address the City Council on items of interest that are **not** on the agenda and that are within the subject matter jurisdiction of the Council.

It is recommended that speakers limit their comments to **no more than 3 minutes** each and it is requested that no comments be made during this period on items on the Agenda.

Members of the public who are joining the meeting via Zoom and would like to address the Council on items on the agenda should **follow the policy on page 3 of this agenda packet.**

The Council is prohibited by law from taking any action on matters discussed that are not on the agenda. No adverse conclusions should be drawn if the Council does not respond to public comment at this time.

COUNCIL AND STAFF VERBAL REPORTS – Section 2

2.1 COUNCIL VERBAL REPORTS

Legislative, Collaborative Agency, Ad Hoc

2.2 STAFF VERBAL REPORTS

CONSENT CALENDAR – Section 3

3.1 Approval of the November 9, 2021 City Council Meeting Minutes (McClendon)

3.2 Second Reading, with the Option to Waive the Second Reading, and Adoption of an Ordinance Amending Title 8 of the Chowchilla Municipal Code and Adding Organic Waste Disposal Reduction Requirements Within the City of Chowchilla (Rogers)

3.3 Consideration and Approval of a City Council Resolution Authorizing Continued use of Remote Teleconferencing Provisions (AB 361 and Government Code section 54953) (McClendon)

PUBLIC HEARINGS – Section 4

DEFERRED BUSINESS – Section 5

NEW BUSINESS – Section 6

ANNOUNCEMENTS – Section 7

NOV 25-26	THANKSGIVING DAY HOLIDAY – CITY OFFICES CLOSED
NOV 30	PLANNING COMMISSION SPECIAL MEETING, CITY HALL, 7PM
DEC 4	CHAMBER WINTERLAND DINNER, CHOWCHILLA FAIRGROUNDS, 5:30PM
	CHRISTMAS TREE LIGHTING CEREMONY, VETERANS MEMORIAL PARK, 5:30PM
DEC 6	JOE’S PREMIUM CAR WASH RIBBON CUTTING CEREMONY, 10AM
DEC 14	CITY COUNCIL MEETING CITY HALL, 7:00 PM
DEC 15	EMPLOYEE SERVICE AWARDS, CITY HALL, NOON

ADJOURNMENT

I, Joann McClendon, CMC, City Clerk, do hereby declare under penalty of perjury that the foregoing agenda was posted at Chowchilla City Hall, 130 S Second Street, Chowchilla, CA and made available for public review on this 18th day of November, 2021 at or before 9:00pm.

SPECIAL NOTICE REGARDING PUBLIC PARTICIPATION DUE TO COVID-19

Public meetings are still open to the public to attend in-person. However, if you wish to attend remotely, please read the message below.

Consistent with AB 361 and Government Code section 54953, this meeting will be held remotely. Members of the public may access the meeting using the following information:

Zoom login instructions

Use the following url to start Zoom:

<https://us06web.zoom.us/j/81722413198?pwd=TVo3S3BMeVdMaTd5QjdzNk16MEU0Zz09>

Passcode: 72 08 32

To participate by phone, dial: 1-877-853-5247

Webinar ID: 817 2241 3198

Passcode: 72 08 32

Staff highly recommends that participants log into Zoom 15 minutes before the meeting begins to perform an audio check and to make sure you have optimal internet connection.

Options to participate / view / and listen to the meeting:

- **If you wish to speak to the Committee on an item using the Zoom platform on your computer/laptop or smart phone**, please use the “raise hand” icon and you will be unmuted when it is your turn to speak. Please provide your name when unmuted. You will be able to speak to the Committee for up to 3 minutes.
- **If you are calling in to the meeting only (no camera/video) and you wish to make a comment**, press *9 to “raise your hand” and *6 to unmute yourself.



MINUTES

Regular City Council Meeting

Council Chambers, Chowchilla City Hall
130 S. Second Street, Chowchilla, CA 93610

Tuesday, November 9, 2021

Closed Session: 6:00 p.m.

Open Session: 7:00 p.m.

Item 3.1

[CLICK HERE
TO RETURN TO
THE AGENDA](#)

CALL TO ORDER/ROLL CALL: 6:01 PM

Mayor: Diana Palmer

Mayor Pro Tem: Ray Barragan

Council Members: Waseem Ahmed, John Chavez, Kelly Smith

City staff and contract employees present: City Administrator Rod Pruett, City Attorney Mary Lerner, Police Chief David A. Riviere, Jr., Fire Chief Fred Gaumnitz, Public Works Director Jason Rogers, Community & Economic Development Director Mark Hamilton, Recreation and Community Engagement Manager Stacy Wisener, IT system Administrator Kurt Wlodarczyk, City Clerk Joann McClendon

CONSIDERATION OF APPROVAL OF AGENDA

Additions and/or Deletions:

Motion by Council Member Ahmed, Seconded by Mayor Pro Tem Barragan to Approve the Agenda as Presented. Motion passed unanimously by roll call vote.

PUBLIC ADDRESS – CLOSED SESSION

No one spoke.

CLOSED SESSION – 6:03 PM

- 1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant Exposure to Litigation Pursuant to Paragraph (2) or (3) of Subdivision (d) of Section 54956.9
Potential cases: 2
- 2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Initiation of Litigation 54956.9** – Pursuant to Government Code Section 54956.9 Paragraph (4) Subdivision (d) (deciding whether to initiate litigation)
Number of Cases: 2
- 3. PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Pursuant to Government Code Section 54957**
Title: City Administrator

OPEN SESSION – 7:01 PM

PLEDGE OF ALLEGIANCE: John Kirwin

INVOCATION: Jennifer Hooker

CLOSED SESSION REPORT: A Motion was made by Mayor Pro Tem Barragan, and seconded by Mayor Palmer to extend the Salters Tolling Agreement. The motion passed unanimously by the following vote: Ayes: 5, Barragan, Palmer, Ahmed, Chavez, Smith; Noes: 0; Abstain: 0; Absent: 0.

PRESENTATIONS/WORKSHOP - Section 1

1.1 Proclamation: Veteran's Day Proclamation

1.2 Caltrans Presentation: Clean California Initiative Grant (Rogers)

PUBLIC ADDRESS

No one spoke.

COUNCIL AND STAFF VERBAL REPORTS – Section 2

2.1 COUNCIL VERBAL REPORTS

Legislative, Collaborative Agency, Ad Hoc

Council Member Chavez attended a Rotary Club dinner.

Council Member Ahmed met with the Economic Development ad hoc staff to plan for the upcoming ICSC conference, attended the Rotary Club dinner, LAFCO meeting, and attended a Madera County Economic Development Commission meeting.

Mayor Palmer attended the (Pheasant Run) Well ad hoc meeting and ICSC Committee meeting preparing for the upcoming conference.

2.2 STAFF VERBAL REPORTS

City Administrator Pruettt attended and /or met with the following: Caltrans meeting along with Madera County Transportation Commission meeting discussing the median beautification project, roundabouts, and other future projects that the City may be looking into; met with a group of people to give input for CESD's new superintendent selection; Finance Director interviews held, second interview completed and an offer was made, and will begin in mid-December or January 2022; attended the mandatory CSJVRMA quarterly meeting in Clovis; participated in the Economic Development Loan Committee meeting; attended Rancho Calera project meetings, nearing end of phase; attended the Community Task Force meeting; along with staff, met with the Water Board regarding Greenhills water well; attended the Pheasant Run Well ad hoc meeting; staff met with the Department of Finance to discuss potential purchasing back of a property to place back on ROPS; City Clerk and I met with our insurance representatives to discuss the new Blue Shield rate; comp and class survey completed, data sheets reviewed; attended the ICSC ad hoc Committee meeting; went over the City's sales tax with Director Hamilton and Muniservices, and our numbers are doing very well; attended a Berenda Reservoir meeting with Madera County and the Chowchilla Water District on responsibilities and desires.

City Clerk McClendon reported on the health insurance rate increase.

Police Chief Riviere thanked and appreciated staff and council regarding the police station fence project. He thanked the council for the employee appreciation luncheon.

Fire Chief Gaumnitz attended the Chowchilla Elementary School District Superintendent recruitment meeting. Staff met with Deide Construction on the Fire Department Expansion project.

Public Works Director Rogers met with stakeholders for the Pheasant Run Golf Course well application and then the Ad Hoc Committee. We are still receiving and reviewing information in order to provide a full assessment. Held a project initiation meeting with Diede Construction, Fire and Building departments. Fire and Building will be managing the project moving forward with Public Works in a support role. The Police Department Fence Project officially started last week with demolition of the parking lots and structures. This week they are performing exploratory boring. They ran into an issue with hard pan 6 feet down but are still on schedule. They will start the block wall footings later this week, which will be the main focus point of work for the next two weeks. As a result, the project is on schedule. He thanked Council for the appreciation lunch.

Community & Economic Development Director Hamilton held a Business Loan meeting, processing a few applications. Rancho Calera specific plan update in process with a Special Planning Commission meeting on November 30 to move the project forward. He updated the Council on additional items.

Recreation & Community Outreach Manager Wisener is working on media print for upcoming conferences.

CONSENT CALENDAR – Section 3

3.1 Approval of the October 26, 2021 City Council/Redevelopment Successor Agency Joint Meeting Minutes (McClendon)

3.2 Approval of the October 26, 2021 City Council Special Closed Session Meeting Minutes (McClendon)

3.3 Consideration and Approval of the September 2021 Check Register Report (Pruett)

Motion by Council Member Smith, Seconded by Mayor Palmer to Approve the Consent Calendar as Presented. Motion passed unanimously by roll call vote.

PUBLIC HEARINGS – Section 4

4.1 Introduction and First Reading, with the Option to Waive the First Reading, of an Ordinance Amending Title 8 of the Chowchilla Municipal Code and Adding Organic Waste Disposal Reduction Requirements Within the City of Chowchilla (Rogers)

Mayor Palmer opened the public hearing at 8:04 p.m.

No one came forward for or against the item.

Mayor Palmer closed the public hearing at 8:05 p.m.

Motion by Mayor Pro Tem Barragan, Seconded by Council Member Ahmed to Waive the First Reading, of an Ordinance Amending Title 8 of the Chowchilla Municipal Code and Adding Organic Waste Disposal Reduction Requirements Within the City of Chowchilla. Motion passed unanimously by roll call vote.

4.2 Continued Public Hearing – Consideration and Adoption of a City Council Resolution to Revoke Conditional Use Permit No. 20-0008 Granted on June 17, 2020, for an

**Automotive Repair Shop Located at 235 W Robertson Boulevard (APN 002-051-010)
(Hamilton)**

This is a continued public hearing; therefore, the comment period has remained open since the last time this item was presented.

Spoke:
Patrick Geary

Motion by Mayor Barragan, Seconded by Mayor Palmer to Continue this Public Hearing to April 12, 2022. Motion passed with Council Member Chavez voting “no”.

DEFERRED BUSINESS – Section 5

NEW BUSINESS – Section 6

6.1 Discussion and/or Direction Regarding a Request from the American Legion to Place Military Service Medallions above the Barragan Stage Located at Veterans Memorial Park (Pruett)

Motion by Mayor Palmer, Seconded by Council Member Ahmed to Approve the Request from the American Legion to Place Military Service Medallions above the Barragan Stage Located at Veterans Memorial Park. Motion passed unanimously by roll call vote.

6.2 Consideration and Adoption of a City Council Resolution (77-21) Approving a Budget Amendment for Fiscal Year 2021/2022 to Measure N Fund to Include the Purchase of a Truck for Code Enforcement and Give Approval for the Chief of Police to Accept up to \$55,000.00 from the Community Corrections Partnership to Pay for the Truck (Pruett)

Motion by Mayor Pro Tem Barragan, Seconded by Council Member Smith to Approve City Council Resolution #77-21, Approving a Budget Amendment for Fiscal Year 2021/2022 to Measure N Fund to Include the Purchase of a Truck for Code Enforcement and Give Approval for the Chief of Police to Accept up to \$55,000.00 from the Community Corrections Partnership to Pay for the Truck. Motion passed unanimously by roll call vote.

6.3 Discussion and/or Direction Regarding the Use of the American Rescue Plan Act (ARPA) Funds (Pruett)

It was the consensus of the City Council to apply ARPA funds towards the construction of a new well and water storage tank option.

6.4 General (Verbal) Update Regarding the State of Emergency and COVID-19; Direction and/or Action (Pruett)

ANNOUNCEMENTS – Section 7

NOV 11	VETERANS DAY HOLIDAY – CITY OFFICES CLOSED VETERANS DAY CEREMONY, VETERANS MEMORIAL PARK, 11AM
NOV 13	4 TH ANNUAL CHRISTMAS BOUTIQUE, CHOWCHILLA FAMILY WORSHIP CENTER, 9AM CHOWCHILLA SPORTSMEN’S FUNDRAISING BANQUET & AUCTION, EASTMAN HALL, 5:30PM
NOV 16	MADERA COUNTY BOARD OF SUPERVISORS BOARD MEETING, CITY HALL, 5PM
NOV 17	PLANNING COMMISSION MEETING, CITY HALL, 7PM CANCELLED

Nov 23 CITY COUNCIL MEETING CITY HALL, 7:00 PM
Nov 30 SPECIAL PLANNING COMMISSION MEETING, CITY HALL, 7PM

ADJOURNMENT

Mayor Palmer adjourned the Tuesday, November 9, 2021 City Council meeting at 9:00 p.m.

ATTEST:

APPROVED:

Joann McClendon, CMC, City Clerk

Mayor Diana Palmer



REPORT TO THE CITY COUNCIL

Meeting of: November 23, 2021

AGENDA SECTION: Consent

SUBJECT: **OPTION TO WAIVE THE SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING TITLE 8 OF THE CHOWCHILLA MUNICIPAL CODE AND ADDING ORGANIC WASTE DISPOSAL REDUCTION REQUIREMENTS WITHIN THE CITY OF CHOWCHILLA**

PREPARED BY: Jason Rogers, Director of Public Works

ATTACHMENTS: Ordinance (redlined)

REVIEWED BY ADMINISTRATOR

REVIEWED BY ATTORNEY

REVIEWED BY FINANCE

RECOMMENDATION:

Staff recommends the City Council waive the second reading and approve an ordinance to update the City of Chowchilla's Municipal Code as it relates to organic waste disposal reduction requirements within the City of Chowchilla.

BACKGROUND:

In 2016, Governor Brown signed into law Senate Bill (SB) 1383, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP) in various sectors of California's economy. SB 1383 is the State's most ambitious waste reduction law in the last 30 years and enacts the following targets to reduce organic waste in landfills:

- Achieve a 50% reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75% reduction by 2025
- Recover at least 20% of currently disposed surplus food by 2025

On July 27, 2021, the City's trash hauler, Mid Valley Disposal, presented an overview of SB 1383 and the new requirements that the City needs to meet in order to comply with SB 1383. As discussed, the State's SLCP strategy includes managing organic waste. Food scraps, green waste, paper, and cardboard are organic materials that account for a significant portion of California's overall waste stream. Increasing food waste prevention, encouraging edible food rescue, and expanding the composting and in-vessel digestion of organic waste will reduce methane from landfill operations. In addition to setting specific emissions reduction goals, SB 1383 mandates cities and counties to:

- Provide organic waste collection services to all residents and businesses
- Develop and adopt an enforcement mechanism or ordinance by January 2022
- Establish an edible food recovery program
- Update the City's procurement policy to purchase recycled content paper and recycled organic waste products (e.g., compost, mulch, and renewable natural gas) at a volume of 0.08 tons/resident

- Provide outreach and education for generators, haulers, facilities, edible food recovery organizations, and municipal departments
- Plan and secure access for recycling and edible food recovery capacity
- Monitor compliance and conduct enforcement
- Maintain accurate compliance records

To meet the SB 1383 regulations, jurisdictions throughout the State are required to adopt an ordinance or other similarly enforceable mechanism by January 1, 2022. The ordinance will mandate that organic waste generators, haulers, and other entities subject to the requirements of SB 1383 regulations and subject to the jurisdiction's authority, comply with SB 1383 regulatory requirements. It will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their edible food, that would otherwise be disposed, be recovered for human consumption.

REASON FOR RECOMMENDATION:

The updated ordinance addresses the SB 1383 regulatory requirements the City needs to enforce on other entities, including requirements for generators to participate in organic waste collection programs; multi-family and business owners and property managers to support organic waste disposal reduction; commercial edible food generators to recover edible food through contracts or written agreements with food recovery organizations and services; and more. It is organized into the following sections:

- Requirements for Single-Family Generators
- Requirements for Commercial Businesses
- Waivers for Generators
- Requirements for Commercial Edible Food Generators
- Requirements for Food Recovery Organizations and Services
- Requirements for Haulers and Facility Operators
- Self-Hauler Requirements
- Inspections and Investigations by City
- Enforcement
- Penalties

Non-compliance with SB 1383 regulations can provide Calrecycle with the ability to engage in enforcement actions of its own against the City if the designated level of compliance is not met. These actions may include:

- The State conducting more frequent inspections;
- Taking over direct enforcement on non-compliant businesses within the City;
- Establishing a schedule for City compliance and a probationary period, requiring a work plan and that the jurisdiction demonstrates it has sufficient staffing to implement the law; and/or
- Administrative penalties against the City of up to \$10,000 per day.

City staff is recommending that the attached amendments be made to the MMC for Organic Waste Disposal Reduction.

FISCAL IMPACT:

City staff time will be spent preparing an information sheet in addition to answering questions and enforcing the ordinance. Once adopted, additional costs to the Solid Waste Fund will be incurred in order to comply with the State's organic waste disposal reduction requirements. At this time, these costs are unknown but will likely result in additional staff time and contracted solid waste hauler costs.

ALTERNATIVES:

No alternatives are recommended.

ACTIONS FOLLOWING APPROVAL:

The updated ordinance will go into effect 30 days after adoption.

ORDINANCE NO. 505-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHOWCHILLA, CALIFORNIA AMENDING TITLE 8 OF THE CHOWCHILLA MUNICIPAL CODE, AND ADDING ORGANIC WASTE DISPOSAL REDUCTON REQUIREMENTS WITHIN THE CITY OF CHOWCHILLA

WHEREAS, in a statewide effort to reduce emissions of short-lived climate pollutants in various sectors of California's economy, California Governor Brown signed into law Senate Bill 1383 in September 2016; and,

WHEREAS, SB1383 established the following methane emissions reduction targets:

- Achieve a 50% reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75% reduction level by 2025
- Recover at least 20% of currently disposed surplus food by 2025; and,

WHEREAS, SB1383 also required that jurisdictions conduct education and outreach on organics recycling to all residents, businesses, haulers, solid waste facilities, local food banks, and other food recovery organizations; and,

WHEREAS, SB1383 requires Jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB1383 Regulations.

NOW THEREFORE, The City Council of the City of Chowchilla Does Hereby Ordain as Follows:

8.04.010 Definitions generally.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this chapter. Words and phrases not ascribed a meaning by this chapter shall have the meaning ascribed by Division 30, Part 1, Chapter 2 of the Public Resources Code, Sections 40105—40200, and the regulations of the California Integrated Waste Management Board, if defined therein, and if not, to the definitions found in the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Sections 6901 et seq. and the regulations implementing RCRA, as they may be amended from time to time.

"Act" means the California Integrated Waste Management Act of 1989, (sometimes referred to as "AB 939") as it may be amended from time to time.

"Authorized recycling agent" means a person, firm, partnership, corporation or other entity licensed, permitted or otherwise authorized by the city to collect recyclable solid wastes in the city. "Authorized recycling agents" are not authorized to collect commingled solid waste containing potentially recyclable solid wastes, as commingled solid waste containing potentially recyclable solid wastes is regarded, for purposes of this chapter, as solid waste.

"Blue Container" has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.

"City" means the city of Chowchilla, California, a municipal corporation, and all of the territory lying within the municipal boundaries of the city as presently existing and all geographic areas which may be added or annexed to the city.

"City administrator" means an individual having that title in the employ of the city or the city administrator's duly authorized representative.

"Collection" means the act of collecting solid waste at or near the place of generation by a contract agent who has made arrangements with the generator for the collection of solid waste on days designated by the contract.

"Container Contamination" or "Contaminated Container" means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

"Contract agent" means a person, persons, local agency, firm, corporation or other entity franchised, permitted, licensed or otherwise authorized by the city to make arrangements with generators for the collection of solid wastes within the city.

"Commercial bins" means bins provided by a contract agent, usually three cubic yards, more or less in capacity, designed for the deposit of solid waste, placed by a contract agent at commercial premises for the collection of commercial solid waste and charged at commercial rates. "Commercial bins" do not include construction and demolition bins placed at residential premises.

"Commercial premises" means all premises in the city, other than residential premises, where commercial solid wastes are generated or accumulated.

"Commercial solid waste" means all types of solid waste, including green waste and recyclable solid waste, generated or accumulated at commercial premises and placed in commercial bins for accumulation and collection. "Commercial solid wastes" does not include residential solid waste or recyclable material.

"Container" means any commercial bin, residential solid waste container, vessel, can or other receptacle used for the temporary accumulation, collection and removal of solid wastes, recyclable solid wastes or green waste.

"Designated Source Separated Organic Waste Facility", as defined in 14 CCR Section 18982(14.5), means a Solid Waste facility that accepts a Source Separated Organic Waste collection stream as defined in 14 CCR Section 17402(a)(26.6)

"Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

"Excluded Waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the Jurisdiction and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in Jurisdictions, or its Designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Jurisdiction, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

(1) “Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.

(2) “Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

(3) “Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

(1) A food bank as defined in Section 113783 of the Health and Safety Code;

(2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,

(3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this ordinance.

“Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

"Food Scraps" means those discarded materials that will decompose and/or putrefy including (i) all kitchen and table food waste, (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs, (iii) discarded paper that is contaminated with food scraps; (iv) fruit waste, grain waste, dairy waste, meat and fish waste; and, (v) non-recyclable paper or contaminated paper. Food scraps are a subset of organic materials.

“Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

"Franchise" means the right and privilege: (1) to make arrangements for the collection of and to collect; (2) to transport to landfills, transformation facilities or other licensed solid waste management facilities; and/or (3) to recycle solid waste collected within the city. Any franchise is subject to all of the provisions and to any rights held by any other solid waste enterprise which may hold rights pursuant to Public Resources Code Section 49520.

"Franchise fee" means the fee or assessment imposed by the city on a contract agent because of its status as a contract agent.

"Front yard" means the front yard of any dwelling or property as defined by Section 18.06.952 of this code.

"Generator" means any person or other entity which produces solid waste.

"Gray Container" has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

"Gray Container Waste" means Solid Waste that is collected in a Gray Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

"Green Container" has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Organic Waste.

"Green waste" (also sometimes referred to as "compostables" or "yard waste") means a form of solid waste composed of leaves, grass clippings, brush, branches and other forms of organic matter generated from landscapes and gardens, separated from other forms of solid waste. "Green waste" includes Christmas trees (cut to lengths of four feet or less if deposited in the green waste container) but does not include stumps or branches exceeding four inches in diameter or four feet in length, or trees (trees or tree branches over four feet in length should be cut to lengths of four feet or less). Palm fronds, palm trees or portions thereof, bamboo, or other fibrous plants or trees as determined by the city will be accepted as green waste in containers provided that they have been cut to a maximum length of one foot or palm fans have been cut in pieces not to exceed one foot in any dimension. Contamination means the depositing of non-green waste into a green waste container. Any non-green waste products that exceed one percent by container volume shall be considered contamination. Any placement of hazardous waste is considered contamination.

"Hazardous waste" means any waste materials or mixture of wastes defined as a "hazardous substance" or "hazardous waste" pursuant to the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., and all future amendments to either of them, or as defined by the California Integrated Waste Management Board. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or solid waste, the term "hazardous waste" shall be construed to have the broader, more encompassing definition.

"Material" shall mean solid waste, segregated recyclables and organic material, including without limitation construction and demolition debris (8.05).

"Noncombustible solid waste" means ashes, bottles, broken crockery, glass, tin cans, metal and metallic substances which will not incinerate through contact with flame of ordinary temperature. "Organic Waste" means those discarded materials that will decompose and/or putrefy including Green Waste material and Food Scraps such as, but are not limited to, green trimmings, grass, weeds, leaves, pruning's, branches, dead plants, brush, tree trimmings, dead trees, small wood pieces, other types of organic yard waste, vegetable waste, fruit waste, grain waste, dairy waste, meat waste, fish waste, paper contaminated with food scrap, pieces of unpainted and untreated wood, and pieces of unpainted and untreated wallboard. No discarded material shall be considered to be organic materials, however, unless such material is source separated from solid waste, recyclable material, C&D debris (8.05), or other materials.

"Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

“Prohibited Container Contaminants” means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the Jurisdiction’s Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Organic Waste for the Jurisdiction’s Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in Jurisdiction’s Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.

"Recyclable material" means a material which has commercial value and which is sold for compensation or donated to an entity other than a solid waste contract agent or enterprise. "Recyclable materials" are not part of the waste stream. "Recyclable materials" lose their character as "recyclable materials" upon being disposed of in the waste stream, and become solid waste subject to this chapter.

"Recyclable solid waste" means a form of solid waste designated as a recyclable solid waste by the city, the California Integrated Waste Management Board, or other agency with jurisdiction, and which has been separated by a solid waste service recipient from nonrecyclable solid waste. "Recyclable solid waste" is a part of the solid waste stream which can be reused or processed into a form suitable for reuse through reprocessing or remanufacture, consistent with the requirements of the California Integrated Waste Management Act. The term "recyclable solid waste" includes both mixed recyclables which have been separated from other solid waste and source-separated single-category recyclable solid waste. "Recyclable solid waste" does not include those potentially recoverable items which are commingled with nonrecyclable solid waste, i.e., commingled solid waste and potentially recyclable articles or materials, or recyclable material.

"Residential" or "residential premises" includes single-family residences and multifamily residences, including apartments and condominiums (in which each unit has separate cooking and bathing facilities) but does not include hotels, motels, rooming houses, hospitals, nursing homes, convalescent centers, dormitories or barracks or other group living places using commercial bins for the temporary accumulation and collection of solid waste.

"Residential basic service" shall mean ninety-six gallons of solid waste, ninety-six gallons of mixed recyclables and ninety-six gallons of organic material, per collection period.

"Residential reduced service" shall mean service for containers with a capacity of less than ninety-six gallons of solid waste, ninety-six gallons of mixed recyclables and ninety-six gallons of organic material, per collection period.

“SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

"Segregated recyclable material" shall mean recyclable material such as beverage containers, glass, aluminum, tin, steel, newspaper, paper products, properly packaged used motor oil, plastics, metals and cardboard source separated by the customer and placed in a designated recyclable materials container to be collected by the authorized collection agent.

“Self-Hauler” means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated by the generator or generator’s own employees using generators own equipment

"Single-family residential" includes residences at which residential solid waste containers (i.e., trash cans, barrels or residential carts), but not commercial or multi-family bins, are used for the collection and temporary accumulation of solid waste.

"Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

- (1) Hazardous waste, as defined in the State Public Resources Code Section 40141.
- (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
- (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

"Source separated" means the segregation, by the generator, of materials designated for separate collection for some form of recycling, processing, recovery, or reuse.

(Ord. 412-99 § 1, 1999; Ord. 394-95 § 1, 1995; Ord. 387-94 § 1, 1994)

(Ord. No. 484-17, § 5, 8-22-2017)

8.04.020 Reserved.

Editor's note(s)—Ord. No. 484-17 Editor's note(s)—, § 6Editor's note(s)—, adopted Aug. 22, 2017, repealed former § 8.04.020Editor's note(s)— which pertained to containers— required—specifications—location, and derived from prior code § 10-5; Ord. No. 231-72, § 2Editor's note(s)—, adopted in 1972; Ord. No. 387-94, § 2Editor's note(s)—, adopted in 1994; and Ord. No. 412-99, §§ 2Editor's note(s)—4, adopted in 1999.

8.04.025 All persons subject.

No person shall dispose of any material to be collected by the authorized cart/bin collection agent or authorized container collector or shall keep any material other than as indicated in this section.

- A. Removal of Solid Waste, Recyclables, Organic Materials, and C&D Debris. Except as provided herein, every responsible person of any service location where there is any accumulation of material shall place the material at the service location in the appropriate container for collection at least once each week or otherwise lawfully dispose of such material; or as otherwise determined by the director pursuant to the authority granted to the city administrator in Section 8.04.010. No collection shall be performed by a person other than an authorized recycling agent.

B. Collection and Disposal Rules for Residential Service Locations.

1. All material shall be loosely placed for collection in covered collection containers conforming to requirements of this article.
2. No container shall be loaded beyond the capacity as specified by the city in Section 8.04.010 of this Chapter 8.
3. All material shall be stored in containers conforming to the requirements of this article. Material from each residential customer must be placed for collection on a weekly basis in the appropriate solid waste, green waste, segregated recyclable, and organic waste furnished by an authorized recycling agency or in a container furnished by an authorized container for temporary service of C&D debris, solid waste, green waste, segregated recyclable, and organic waste.
4. No material from any service location shall be deposited in a container of, or set out for collection at, any other service location except that this provision shall not apply to material deposited or set out for collection by any customers lawfully sharing a container; and, except that temporary service locations may be established by the city administrator in instances where the city administrator has been notified of construction, demolition as in accordance with Section 8.05, or other temporary obstacles which prevent the use of or access to permanent service locations and has agreed to deviations.
5. Each service location shall be provided with sufficient containers to adequately store for collection the normal periodic accumulation of material. In cases where an abnormal accumulation cannot be stored until the next regular collection in a manner conforming to this article, the customer shall order a special haul and pay for that service at the rates established in the master fee schedule currently in effect of this article, or shall transport the material to a lawful disposal site, in compliance with all applicable laws and regulations mandated by all federal, state or local agencies.
6. No material or containers shall be kept or handled in such a manner as to become a nuisance. No material shall be allowed to become odoriferous or a producer of vermin. Lids on containers shall remain closed at all times while stored or placed for collection. Residential composting operations shall be exempt from this subsection; provided, that only vegetation grown on the premises is being composted and that the city administrator determines that the operation is sufficiently capable of being aerated to preclude noxious or offensive odors being perceived from adjacent properties.
7. No live or hot coals, ashes, or other things, which can cause a fire in a collection container or vehicle shall be placed in or with any material set out for collection. Cold ashes and coals placed for collection shall be contained in such a manner as to retard their blowing and flying on being emptied into the collection vehicle.
8. Except as provided herein, no human or animal excrement shall be placed for collection. Solid animal excrement may be placed for collection within the solid waste container provided said excrement is placed properly containerized in a plastic or paper bag, to secure contents.
9. Automated-containers shall be placed within two feet of the curb, unless otherwise specified by city administrator, in a manner such as to be in front of any fence or other barrier or enclosure and readily accessible from the street or alley on which

the collectors conduct their route. Automated containers shall be placed at least three feet from any obstruction, including another automated container. In the event material collection is made by driving the collection vehicle on to the premises, residential material shall be placed at the service location. Further, in the event a responsible person produces a medical doctor's statement that he/she is physically unable to comply with this provision, together with such responsible person's affidavit certifying that no able-bodied person residing on his premises is available to effect compliance with this provision, the director shall arrange with the responsible person for special service at no additional expense.

10. Container in view requirements: No material container shall be stored in the front yard or side yard on a street as said yards are described in [Sections] 18.06.952 and 18.069.960 of this code, unless the container is screened from view from the street in accordance with that article of the code, provided that upon written request the city administrator in his/her discretion may grant relief from screening requirement based upon facts and circumstances showing undue hardship and provided that roll-off containers supplied by an authorized roll-off collector for use on a temporary basis not to exceed thirty days may be exempt from the view screening requirements. At his/her discretion, the city administrator may extend the thirty-day exemption period for containers on a case-by-case basis. Containers shall be placed for collection as described in subsection (B)(11). No material or container shall be stored or placed for collection within public walkway, roadway, or any other traveled way in a manner which impedes traffic or drainage or in any manner which creates a hazard.
11. Placement for collection shall conform to the following: Automated containers shall be placed for collection before 5:30 a.m. of the collection day, but not before 6:00 p.m. of the preceding day. The containers shall be moved back to their normal storage location by not later than 8:00 p.m. of the collection day unless authorized by the city administrator. Roll-off containers are exempt from the requirements of this subsection.
12. Except as expressly authorized by city, no more than two hundred eighty-eight gallons or three, ninety-six-gallon containers will be collected from each separately owned residential service location.
13. It shall be the customer's responsibility to keep their containers used for the storage and collection of material generated on their premises in a clean and sanitary condition.

If the customer disagrees with the decision of the city administrator, the customer may appeal the decision of the city administrator to the city council. The customer shall receive written notice at least ten days prior to the city council's consideration of the restoration of green waste container, segregated recyclables and organic waste collection service to the customer. The council will hear and consider any written and oral evidence of the customer concerning the restoration of the green waste, segregated recyclables and organic waste containers and collection service prior to making a decision.

(Ord. No. 484-17 , § 7, 8-22-2017)

8.04.030 Containers—Removal or interference with contents prohibited when.

It is unlawful for any person other than the owner or any officer or any employee of the city or any employee of any person or persons holding a contract with the city for the collection or

removal of garbage to interfere in any manner with any receptacle used for the accumulation or handling of garbage or to remove any such receptacle from the location where it shall have been placed by the owner or persons lawfully in control thereof or to remove the contents from any such receptacle. It is unlawful for any person to take or pilfer, for his own use or benefit, the rubbish or any part of it of any other person, without the consent of the owner thereof. The customer owns all garbage, solid waste, green waste, segregated recyclable, and organic waste until possession thereof is taken by the city at which time ownership shall pass to the city.

(Ord. 387-94 § 3, 1994; prior code § 10-7)

(Ord. No. 484-17 , § 8, 8-22-2017)

8.04.035 Ownership of recyclable solid waste placed for collection.

- A. Upon placement by the owner of recyclable solid waste at a designated recycling collection location, or placement of recyclable solid waste or recyclable material in a container provided by an authorized recycling agent for collection of recyclable solid wastes, the recyclable materials and recyclable solid wastes become the property of the authorized recycling agent, by operation of state law. P.R.C. Section 41950(c).
- B. The disposal or recycling of any recyclable solid waste which has become part of the solid waste stream by having been discarded shall be in accordance with the provisions of this chapter.
- C. Except as provided below, nothing in this chapter shall limit the right of any person, organization, or other entity to sell recyclable material owned by that person, organization or other entity or to donate recyclable material to a charity or any other entity other than a solid waste enterprise or contract agent.
- D. Recyclable material which is mixed with solid waste shall be considered to have been discarded and to have become recyclable solid waste.
- E. If the seller or donor of recyclable material pays the buyer or the donee any consideration for collecting, processing, recycling, transporting or disposing of the recyclable material, or providing consultation services which exceed the selling price of the recyclable material, the transaction shall not be regarded as a sale or donation of recyclable material, but as an arrangement for the disposal of solid waste and shall be subject to this chapter.
- F. A person who receives a discount or reduction in the collection, disposal and/or recycling service rates for unsegregated or segregated solid waste shall not be deemed to be selling or donating recyclable material and does not fall within this "donate or sell" exception.

(Ord. 394-95 § 2, 1995)

8.04.040 Conveying or removing garbage—Restrictions.

It is unlawful for any person to remove or convey any solid waste upon or along any public street, alley or other public place in the city; provided, however, that the prohibitions of this section shall not apply to any person employed by such city for the purpose of collecting or removing solid waste or to any person with whom the city has entered into a contract for the collection, removal or disposal of solid waste or to any employee of such contractor during the term such contract shall be in force; provided further, that the provisions of this section shall not apply to any person transporting refuse from premises within the city owned or controlled by him to the county landfill. Such transportation, if for the express purpose of transporting such refuse from the city to the

county landfill is expressly authorized; provided, that all other provisions of this chapter relating to storage, solid waste containers, interference, burial and burning of solid waste shall be complied with.

(Ord. 387-94 § 4, 1994; prior code § 10-8)

8.04.050 Rates for collection.

For the service of collection and disposal of all rubbish and of all garbage and green waste as herein referred to, but not including dead animals, or refuse from the construction or demolition or alteration of buildings, the rates to be charged by the city shall be established by resolution of the city council. The council shall set a rate for collection which takes into account the necessity of a separate collection for solid waste, green waste, segregated recyclable, and organic waste and the disposal of solid waste, green waste, segregated recyclable, and organic waste by the city in some location other than the landfill and, if considered appropriate by the council, the costs associated with educating the public as to the city's curbside recycling program. The rate set by the council shall also take into account all costs associated with providing the services including but not necessarily limited to gate fees to the landfill, penalties under state law for failure to reduce the solid waste stream going to the landfill in a timely manner, special work, service charges and the cost of inspection of premises by the health officer.

(Ord. 387-94 § 5, 1994)

(Ord. No. 484-17 , § 9, 8-22-2017)

8.04.060 Mandatory service—Unauthorized disposal of solid waste prohibited.

- A. The accumulation, collection, removal and disposal of rubbish, solid waste, green waste, segregated recyclable, and organic waste, shall be controlled by the city for the protection of the public health, safety and welfare and to contribute towards the diminution of air pollution in the city. The city council finds that to give practical effect, a comprehensive system for the periodic collection, removal and disposal of rubbish and garbage and the collection, removal and disposal and/or composting of green waste, from all premises in the city is essential and benefits all occupants of premises in the city, and, therefore, all such occupants are made liable for the rubbish and garbage collection charges and the green waste collection charges established by the council for the collection and disposal of garbage and green waste, and each occupant shall pay at least the minimum rate established for such services.
- B. Every person owning or occupying a residence or commercial establishment shall subscribe to solid waste, **organic waste**, and segregated recyclable **collection**.
- C. For residential real properties, nonpayment of collection and/or disposal fees will result in an assessment in the amount of the unpaid fees, being added to the real property tax bill of the owner of the property.
- D. For commercial properties, the city shall retain the right to pursue any and all remedies available against either the property owner or any lessee, whoever may be in possession of the premises.
- E. No person shall throw or deposit, or cause to be thrown or deposited, any solid waste matter in or upon any vacant lot, street, alley, gutter, highway, park or other public place or keep any residential solid waste except in the manner prescribed by this chapter.

- F. No person shall deposit solid waste in the container of another person, or set out solid waste for collection at another person's service location, except as may be established by the city administrator or the city administrator's designee where the city administrator has knowledge of construction, demolition or other temporary obstacles which prevent the use of or access to permanent service locations.
- G. No customer shall permit or consent to another person depositing solid waste in his container or setting out solid waste for collection at his place or premises; except that this provision shall not apply where the city administrator or the city administrator's designee has established a temporary service location because the city administrator has knowledge of construction, demolition or other temporary obstacles which prevent the use of or access to permanent service locations.
- H. It is unlawful for any person to place, put, deposit or burn any rubbish and/or garbage, or cause the same to be placed, put, deposited or burned in or upon any public street, park, lane, place or alley in the city.
- I. No person shall burn solid waste of any kind in a home heating furnace, fireplace or wood stove, excepting that nonplasticized waste paper may be used for kindling of fires in wood burning appliances.

(Ord. 387-94 § 6, 1994)

(Ord. No. 484-17 , § 10, 8-22-2017)

8.04.065 Requirements for Source Separating Solid Waste.

- A. In order to be compliant with SB1383, all residential and commercial generators of Solid Waste shall be required to source separate materials into Grey, Blue, and Green containers.
- B. Generators shall place Source Separated Organic Waste, including Food Waste, in the Green Container; Segregated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.
- C. Generators shall not place Prohibited Container Contaminants in any container. City and City's authorized recycling agent reserve the right to inspect containers to determine if Prohibited Container Contaminants are present and issue a warning or assess penalties and fines under this chapter

8.04.066 Waivers for Certain Generators

- A. De Minimus Waiver: City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described below. Commercial Businesses requesting a de minimis waiver shall:
 - (1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section (a)(2) below.
 - (2) Provide documentation that either:

- (a) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - (B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.
 - (3) Notify Jurisdiction if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 - (4) Provide written verification of eligibility for de minimis waiver every 5 years, if Jurisdiction has approved de minimis waiver.
- B. Physical Space Waiver: City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the Jurisdiction has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of this ordinance.

A Commercial Business or property owner may request a physical space waiver through the following process:

- (1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
- (2) Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.
- (3) Provide written verification to Jurisdiction that it is still eligible for physical space waiver every five years, if Jurisdiction has approved application for a physical space waiver.

8.04.067 Requirements for Commercial Edible Food Generators.

- A. Tier One Commercial Edible Food Generators must comply with the requirements of this Section 8.34.050 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- C. Commercial Edible Food Generators shall comply with the following requirements:
 - 1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 - 2) Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.

- 3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - 4) Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
 - 5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- D. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

8.04.068 Requirements for Food Recovery Organizations and Services.

- A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - 1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - 2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 - 3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - 4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established

under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

- 1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - 2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - 3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than July 30th and upon the City's request.
- D. Food Recovery Capacity Planning
- 1) Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, City, special district that provides solid waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

8.04.070 Contract agent.

- A. In order to protect public health, safety and well-being, to control the spread of vectors, and to limit sources of air pollution, noise and traffic within the city, the city council may authorize one or more contract agents to make arrangements with generators of solid waste, including recyclable solid waste, green waste, segregated recyclable, and organic waste for the collection, transfer, recycling, composting and disposal of solid wastes within and throughout the city.
- B. Manner, Time and Frequency of Collection. Contract agents who arrange for the collection of solid wastes shall make arrangements with their customers specifying the manner in which integrated waste management services are provided, subject to the requirements of this chapter, and the city's duty to protect public health, safety and well-being and to limit sources of noise and air pollution within the city by prohibiting the collection of solid wastes between certain hours and on certain holidays.
- C. Categories. In order to carry out its duties to plan for the management of vehicular traffic and mitigate adverse air quality effects, the city council may determine waste management collection categories, including but not limited to, e.g., residential, single-family residential, multifamily residential, commercial, industrial, special, special event, household hazardous waste, recyclables, green waste and other and may make or impose franchise, license, contract or permit requirements which vary for such categories.

(Ord. 394-95 § 3, 1995)

(Ord. No. 484-17 , § 11, 8-22-2017)

8.04.080 Fees, franchises and licenses.

- A. Pursuant to Division 30, Part 3, Chapter 8 of the Public Resources Code, Section 41900 et seq., the city may levy fees upon contract agents and premises for planning and program development and administration regarding solid and household hazardous waste, recyclable solid wastes, green waste, segregated recyclable, and organic waste planning, and for access to collection service, for collection service, inspection, auditing, transfer and disposal and the planning for and response to releases and spills of solid wastes which have the characteristics of hazardous substances.
- B. Residential Solid Waste Collection Franchises, Permits and Licenses. The city council may award one or more franchises, permits, licenses or other form of authorization (collectively "license") for collection of solid wastes, including recyclable solid wastes and/or green waste from all or a portion of residential premises in the city. Any such license shall be granted by the city council by resolution, upon a determination that the public health, safety and well-being so require.
 1. Franchises, permits, licenses or other forms of authorization shall be granted by resolution on such terms and conditions as the city council shall establish, in its sole discretion, as matters of local concern. At a minimum, franchises, permits, licenses or other forms of authorization shall provide:
 - a. The franchisee, permittee or licensee or entity with another form of authorization (collectively "licensee") shall comply with the provisions of this chapter; and
 - b. The licensee shall be required to protect, defend, indemnify and hold the city harmless from liability, including, specifically, liability under the Resource Conservation and Recovery Act of 1976 ("RCRA") (42 U.S.C. Section 6901 et seq.) and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., as they may be amended from time to time and all regulations implementing these acts; and
 - c. The licensee shall be required to cooperate with city in solid waste disposal characterization studies or other waste stream audits and to submit information required by city to meet the reporting requirements of AB 939 and to implement measures consistent with the city's source reduction and recycling element in order for the city to reach the diversion and other goals mandated by the California Integrated Waste Management Act of 1989, as it may be amended from time to time;
 - d. The licensee shall be required to collect and dispose of the refuse, garbage and rubbish in the city, or collect and dispose of and/or compost the green waste in the city, in the manner in which this chapter provides, and shall not charge any amount in excess of the rate specified by the council under the authority granted to it in this chapter, subject to a discount, in an amount to be determined by the council, on garbage and green waste collection fees for seniors and disabled customers;
 - e. The licensee shall be required to furnish surety bond to the city in the sum of ten thousand dollars conditional upon the faithful performance of the contractor and the provisions of the chapter;
 - f. Each licensee shall be required to dispose of all such refuse or garbage and rubbish at the site agreed to by the city, or the green waste disposed of at the site or composting facility agreed to by the city, and provided further, that such disposal shall have the approval of the health officer and the State Board of Health;

2. In addition to a city business license, each contract agent shall possess a current city-issued contract agent's franchise, permit, license or other form of authorization (collectively "contract agent's license") for the collection of solid waste. Each contract agent shall comply with all requirements set forth in the contract agent's license and this chapter. These requirements include, but are not limited to, payment of the annual city business license and contract agent's license fees, adherence to a schedule of fees to be charged to service recipients for specific services (as may be adopted by the city council) and any other requirements that the city council may impose. All city requirements shall be established or modified by city council ordinance or resolution.
3. Any person or entity, other than a contract agent licensed, permitted, franchised or otherwise authorized by the city, which engages in collection of commercial solid waste or which places a commercial bin for the accumulation of solid waste in the city shall be guilty of a misdemeanor punishable as provided generally for violations of the Chowchilla Municipal Code. Each day in which a person or entity engages in the collection of commercial solid waste in the city or places a commercial bin for the accumulation of solid waste, or permits a commercial bin to remain, in the city without a franchise, permit, license or other authorization granted by the city, or fails to display a current city-issued decal, shall be a separate offense.

(Ord. 394-95 § 4, 1995)

(Ord. No. 484-17 , §§ 12, 13, 8-22-2017; Ord. No. 485-17 , § 2, 9-26-2017)

8.04.090 Revocation and suspension of licenses.

A. Revocation and Suspension of Licenses—Grounds.

1. Any franchise, permit, license, or other city-issued authorization (collectively referred to as "license") issued under this chapter is subject to revocation or suspension for cause.
2. In addition to the grounds provided elsewhere in this chapter, the following shall constitute a basis for the revocation or suspension of a contract agent's or authorized recycling agent's license:
 - a. When the continuance of the operations of the licensee under such license shall be contrary to the public health, safety, well-being, peace, welfare or morals, or shall be found to constitute a public nuisance;
 - b. If the holder of the license violates any federal or state law, the regulations of the California Integrated Waste Management Board, a local enforcement agency, this code, or any condition of the license;
 - c. If the holder of a license practices, or attempts to practice, any fraud or deceit upon the city, or makes or uses any false, fictitious or fraudulent statements or representations, or practiced any fraud or deceit or made any false, fictitious or fraudulent statements or representations in connection with the issuance or renewal of the license;
 - d. If the holder of the license becomes insolvent, unable or unwilling to pay its debts, or a receiver or trustee is appointed to take over and conduct the business of the licensee whether in a receivership, reorganization or bankruptcy proceeding;

- e. If the holder of the license fails to provide or maintain in full force and effect the workers compensation, liability and indemnification coverages or cash bond as required; or
 - f. If the holder of the license violates any order or ruling of any regulatory body with respect to solid waste collected within the city, except that such order or ruling may be contested by appropriate proceedings conducted in good faith, in which case no violation shall be deemed to have occurred until a final decision adverse to the holder of the license is entered.
- B. Revocation of Licenses—Procedure for Notification of Deficiencies and Suspension or Revocation.
1. If city administrator determines that the performance of an entity holding a franchise, permit, license or other form of city-issued authorization (collectively "licensee") may not be in conformity with the California Integrated Waste Management Act including, but not limited to, requirements for implementing diversion, source reduction and recycling, or any other applicable federal, state or local law or regulation, including but not limited to, the laws governing transfer, storage or disposal of solid and hazardous waste, or this chapter, the city administrator shall advise the holder of the license in writing of such suspected deficiencies. The city administrator, in any written notification of deficiencies, shall set a reasonable time within which the licensee is to correct the deficiencies and respond. Unless otherwise specified, a reasonable time for response and correction of deficiencies shall be thirty days from the receipt of such written notice by the holder of the license.
 2. At the expiration of the time set for response from the licensee, the city administrator shall review the record, including any written response from the licensee to the notice of deficiencies and resolve the matter in favor of the licensee, order remedial action to cure any breach, terminate the license, and inform the licensee in writing, of the resolution. A decision or order of the city administrator shall be final and binding unless the licensee files a notice of appeal to the city council with the city clerk (with copy to the city administrator and city attorney) within thirty days of receipt of the decision or order of the city administrator. A notice of appeal shall state the legal basis and all legal and factual contentions of the licensee and shall include all evidence, including affidavits, documents, photographs and videotapes. A notice of appeal shall not be accepted by the clerk for filing unless accompanied by a notice of appeal filing fee in an amount to be set by the city council, by resolution.
 3. If a notice of appeal to the city council is timely filed, the city council may set the matter for an administrative hearing and act on the matter. If the city council elects to hear the matter, the city clerk shall give fourteen days written notice of the time and place of the administrative hearing. At the hearing, the city council shall consider the administrative record, including the notice of deficiency, the licensee's response, the statement of resolution by the city administrator and the licensee's notice of appeal to the city council and shall give the licensee, or its representatives and any other interested person, a reasonable opportunity to be heard. The proceedings before the council shall be an informal administrative hearing and the rules of evidence, as generally applied in judicial proceedings, shall not be applicable.
 4. Based on the administrative record, the council shall determine by resolution whether the decision or order of the city administrator should be upheld. If, based upon the record, the city council determines that the performance of the licensee is in breach of any material provision of any applicable federal, state or local statute or regulation, or

other cause for termination of the license, the city council, in the exercise of its sole discretion, may order remedial actions to cure the breach, or terminate forthwith the license or other form of authorization. The decision of the city council shall be final and conclusive.

5. Termination shall become effective upon the date specified in the written notice to the holder of the franchise, permit, license or other authorization by the city. Such notice shall state the grounds for termination.
- C. Transfer Restricted. A franchise, permit, license or other form of city-granted solid waste collection authorization shall not be transferable, except as follows:
1. A franchise, permit, license or other form of city-granted solid waste collection authorization (collectively "license") shall not be transferred, sold, sublet or assigned, nor shall any of the rights or privileges therein be leased, assigned, sold or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, either by act of the holder of the license nor by operation of law without the prior written consent of the city expressed by resolution. For purposes of this chapter, any sale, dissolution, merger, consolidation or other reorganization of the holder of the license or the sale or other transfer of an accumulative ten percent or more of the voting stock of a corporate licensee by any person, or group of persons acting in concert, who already own less than fifty percent of the voting stock of the holder of the license shall be deemed a change in control. Any attempt of the holder of the license to assign the license without the prior written consent of the city shall be void.
 2. An application for a transfer of a license shall be made in a manner prescribed by the city administrator. The application shall include a license transfer application fee in an amount to be set by city by resolution of the council, to cover the anticipated cost of all reasonable and customary direct and indirect administrative expenses including consultants and attorneys, necessary to adequately analyze the application and to reimburse city for direct and indirect expenses. In addition, the holder of the franchise, permit, license or other authorization granted by city shall reimburse the city for all reasonable consultants', attorneys' and staff costs not covered by the license transfer application fee, whether or not the city approves the application for transfer. The city's request for reimbursement shall be supported with evidence of the expenses and costs incurred. The holder of the license and the applicant for transfer shall be jointly and severally liable for the payment of any reasonable consultants', attorneys' and staff costs not covered by the license transfer application fee.
 3. The applicant for a transfer of a license shall have the burden of demonstrating that it has the operational and financial ability to meet all obligations of the franchise, license, permit or other form of city authorization.
 4. The city shall not unreasonably withhold its consent to a transfer of the license.
 5. Notwithstanding the above, the holder of a license shall be entitled to pledge, encumber or grant any security interest in the license provided that the holder shall first notify and obtain city consent to such transaction, subject to the following conditions:
 - a. Any consent so granted shall not be deemed a consent to the exercise by such pledgee, encumbrancer or secured party of any rights of the holder under the franchise, permit, license or other authorization unless so noted by the city;

- b. Any consent so granted shall not be deemed a consent to any subsequent transfer or assignment. Any subsequent transfer or assignment shall be deemed an assignment of the franchise, permit, license or other authorization within the meaning of this section and shall be void without the prior written consent of the city expressed by resolution; and
- c. The pledgee, encumbrancer or secured party shall execute and deliver to city a written instrument, in a form satisfactory to the city attorney, expressing agreement to be bound by the provisions of the franchise, permit, license or other authorization.

(Ord. 394-95 § 5, 1995)

8.04.100 Collection equipment.

- A. To protect public health, safety and well-being, any truck used for the collection or transportation of solid waste within the city shall be leak proof and equipped with a close-fitting cover which shall be affixed in a manner that will prevent spilling, dropping or blowing of any waste upon the public right-of-way during collection or transportation.
- B. Each contract agent shall maintain its commercial bins within the city in a manner to protect public health and safety and prevent the spread of vectors. Each contract agent shall maintain its commercial bins in a manner as to insure that they are free from any exterior paint or markings (commonly referred to as "graffiti" or "tagging").
- C. Each contract agent shall post each commercial bin with a notice that the commercial bin is not to be used for the disposal of hazardous waste.
- D. No person shall park, or cause to be parked within the city any vehicle containing solid waste unless the vehicle is free from odor and in a sanitary condition.
- E. To protect the public health, safety and quiet enjoyment of the residents of the city, the noise level for the collection vehicles during the stationary compaction process shall not exceed seventy-five dB(A) at a distance of twenty-five feet from the collection vehicle and at an elevation of five feet from the horizontal base place of such vehicles.

(Ord. 394-95 § 6, 1995)

8.04.110 Deposit and storage specifications and restrictions.

- A. It is unlawful for any person to place, deposit or keep any refuse on any street, alley, sidewalk, public way or any public place on property or on any premises other than those upon which it was produced, or to bury any refuse except as provided in this chapter.
- B. It is unlawful for any person to place, deposit or keep any garbage or rubbish on any premises, except in a suitable container except for the following three exceptions:
 - 1. Brush must be tied in bundles that one man can handle, and the bundle must not be over four feet long.
 - 2. Leaves may be put at the gutter line in November and December.
 - 3. Brush (any length) may be stacked during the last full weeks of November, December and January.

- C. It is unlawful for any person to keep any accumulation of rubbish either in or out of a container if such accumulation is or may become a menace to health or a fire hazard or otherwise dangerous or offensive.
- D. It is unlawful for any person to place, depositor keep in any garbage or rubbish container any of the following: Dead animals; wearing apparel, bedding or other rubbish from any home or other place where any infectious or contagious disease has prevailed. The owner or occupant of any premises wherein or whereon such items are located shall forthwith notify the city health officer and shall dispose of the same in accordance with his direction.
- E. This section shall not be construed to prevent the feeding of garbage to chickens, hogs or other animals in proper amounts for immediate consumption and in such a manner that such garbage shall not accumulate.

(Ord. 231-72 § 1, 1972: prior code § 10-2)

8.04.120 Burning rubbish prohibited—Exceptions.

It is unlawful for any person to cause or permit to be burned any rubbish; provided, that the prohibition of this section shall not apply to any person lawfully in possession of a permit duly issued under the provisions of the Fire Prevention Code as adopted by the city.

(Prior code § 10-4)

8.04.130 Burying garbage prohibited.

It is unlawful for any person to place or bury garbage in any hole or excavation.

(Prior code § 10-3)

8.04.140 Enforcement—Right of entry authorized when.

The city administrator or authorized representative shall enforce all ordinances of the city and all statutes of the state of California pertaining or relating to garbage and refuse control and dumping, and other tasks related to solid waste control and shall have the right to enter into and upon premises, except within private dwelling houses, for the purpose of ascertaining as to the sanitary condition thereof and as to whether the provisions of this chapter are being complied with. The city administrator or authorized representatives are hereby authorized to make arrests for violations thereof in the manner provided by California Penal Code Section 836.5.

(Ord. 279-77 § 6, 1979: prior code § 10-15)

Violations of the provisions in this chapter shall be subject to penalties and fines as described in 14 CCR Section 18997.2

8.04.150 [Scavenging in solid waste containers prohibited.]

A. Scavenging Prohibited.

1. It is unlawful for any person to engage in the act of scavenging. For purposes of this section, "scavenging" means engaging in any of the following activities:
 - a. Tampering or meddling with a container for solid waste, including recyclable materials;

- b. Tampering or meddling with the contents of any container for solid waste, including recyclable materials;
 - c. Removing the contents of any container for solid waste, including recyclable materials;
 - d. Removing any container for solid waste, including recyclable materials, from the location where the container has been placed by the owner of the container or owner's agent or employee; or
 - e. Removing, tampering, or meddling with any solid waste, including recyclable materials, set out for collection, pursuant to the provisions of this Chapter 8.04, on private property or on any sidewalk, street, or public right-of-way.
2. The provisions of this section do not apply to:
- a. A contractor or its agents or employees performing under the authority of its contract;
 - b. A city agent performing within the authority of the city; or
 - c. The owner of the solid waste or of the container, including the owner's authorized agents and employees.
3. It is declared to be an infraction for any person, other than those individuals listed in subsection 2., to violate any provision of this section.
- B. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this section, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section. The city council hereby declares that it would have adopted this ordinance [from which this section derives], and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

(Ord. No. 477-16 , 3-22-2016)

PROVED, PASSED, and ADOPTED this ___ day of _____, 2021.

APPROVED:

Mayor Diana Palmer

ATTEST:

Joann McClendon, CMC
City Clerk

I, Joann McClendon, City Clerk of the City of Chowchilla, California, do hereby certify that the foregoing Ordinance number 505-21 was duly introduced for the first reading on November 9, 2021 and adopted at a regular meeting of the City Council of the City of Chowchilla on _____ XX, 2021.

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS THEREOF, I hereunto set my hand and affix the official seal of the City of Chowchilla on this ___ day of _____, 2021.

Joann McClendon, CMC
City Clerk



REPORT TO THE CITY COUNCIL

Meeting of: November 23, 2021

AGENDA SECTION: Consent

SUBJECT: Consideration of a Resolution Authorizing Continued Use of Remote Teleconferencing Provisions Pursuant to AB 361 and Government Code Section 54953

PREPARED BY: Joann McClendon, City Clerk

ATTACHMENTS: Resolution

REVIEWED BY ADMINISTRATOR

REVIEWED BY ATTORNEY

REVIEWED BY FINANCE

RECOMMENDATION:

That the City Council adopt a resolution authorizing the continued use of remote teleconferencing provisions pursuant to AB 361 and Government Code section 54953.

BACKGROUND:

On September 16, 2021, the California legislature passed Assembly Bill ("AB") 361, which amends Government Code, section 54953 and permits a local agency to use teleconferencing to conduct its meetings in any of the following circumstances:

(A) the legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; or

(B) the legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or

(C) the legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

REASON FOR RECOMMENDATION:

In order for the City Council to continue use of teleconferencing as allowed by AB 361, it must first adopt the resolution allowing the City Council to conduct teleconferenced meetings for a period of thirty (30) days. In addition, AB 361 requires the City to continue to make specified findings every thirty (30) days thereafter.

FISCAL IMPACT:

None foreseen at time of report.

ALTERNATIVES:

Not adopt the resolution and revert to the original Brown Act rules for posting agendas when a member of the council remotely joins a City Council meeting.

ACTIONS FOLLOWING APPROVAL:

Continue to place the item on the City Council meeting agenda every 30-days to continue with the AB361 guidelines without disruption.

COUNCIL RESOLUTION # -21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHOWCHILLA, CALIFORNIA AUTHORIZING CONTINUED USE OF REMOTE TELECONFERENCING PROVISIONS (AB 361 AND GOVERNMENT CODE SECTION 54953)

WHEREAS, the City Council of the City of Chowchilla (“City Council”) is committed to open and transparent government, and full compliance with the Ralph M. Brown Act (“Brown Act”); and

WHEREAS, the Brown Act generally requires that a public agency take certain actions in order to use teleconferencing to attend a public meeting virtually; and

WHEREAS, the City Council recognizes that a local emergency persists due to the worldwide COVID-19 pandemic; and

WHEREAS, the California Legislature has recognized the ongoing state of emergency due to the COVID-19 pandemic and has responded by creating an additional means for public meetings to be held via teleconference (inclusive of internet-based virtual meetings); and

WHEREAS, on September 16, 2021, the California legislature passed Assembly Bill (“AB”) 361, which amends Government Code, section 54953 and permits a local agency to use teleconferencing to conduct its meetings in any of the following circumstances: (A) the legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; (B) the legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or (C) the legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, in order for the City Council to use teleconferencing as allowed by AB 361 after October 1, 2021, it must first adopt findings in a resolution, allowing the City Council to conduct teleconferenced meetings for a period of thirty (30) days; and

WHEREAS, Governor Gavin Newsom declared a state of emergency for the State of California due to the COVID-19 pandemic in his order entitled “Proclamation of a State of Emergency,” signed March 4, 2020; and/or

WHEREAS, the California Occupational and Safety Health Administration (OSHA) continues to recommend certain social distancing requirements, as described in detail in California Code of Regulations Title 8, section 3205 Covid Prevention; and/or

WHEREAS, Madera County Health Officer, Dr. Simon Paul issued a letter on October 8, 2021 recommending physical distancing measures by way of utilizing teleconferencing options for public meetings to facilitate participation in public affairs and encourage participants to protect themselves and others from the COVID-19 virus; and

WHEREAS, on October 26, 2021, the City Council continued use of the remote teleconferencing provisions originally adopted on September 28, 2021;

WHEREAS, the City Council hereby finds that the state and local emergencies have caused and will continue to cause imminent risks to the health or safety of attendees; and

WHEREAS, the City Council is conducting its meetings through the use of telephonic and internet-based services so that members of the public may observe and participate in meetings and offer public comment.

NOW THEREFORE, BE IT RESOLVED, that the recitals set forth above are true and correct and fully incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED, that the City Council is conducting meetings during a state of emergency and the County of Madera and OSHA recommend measures to promote social distancing.

BE IT FURTHER RESOLVED, that the City Council has determined that given the state of emergency, holding in-person only meetings would present imminent risks to the health or safety of attendees.

BE IT FURTHER RESOLVED, that the actions taken by the City Council through this resolution shall be applied to all City committees governed by the Brown Act unless otherwise desired by that committee.

BE IT FURTHER RESOLVED, the City Council authorizes the City Manager or their designee(s) to continue to take all actions necessary to conduct City Council meetings in accordance with AB 361 and Government Code section 54953(e) and all other applicable provisions of the Brown Act, using teleconferencing for a period of thirty (30) days from the adoption of this Resolution after which the City Council will again reconsider the circumstances of the state of emergency.

PASSED AND ADOPTED by the City Council of the City of Chowchilla this 23rd day of November, 2021 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Mayor Diana Palmer

ATTEST:

Joann McClendon, CMC
City Clerk

